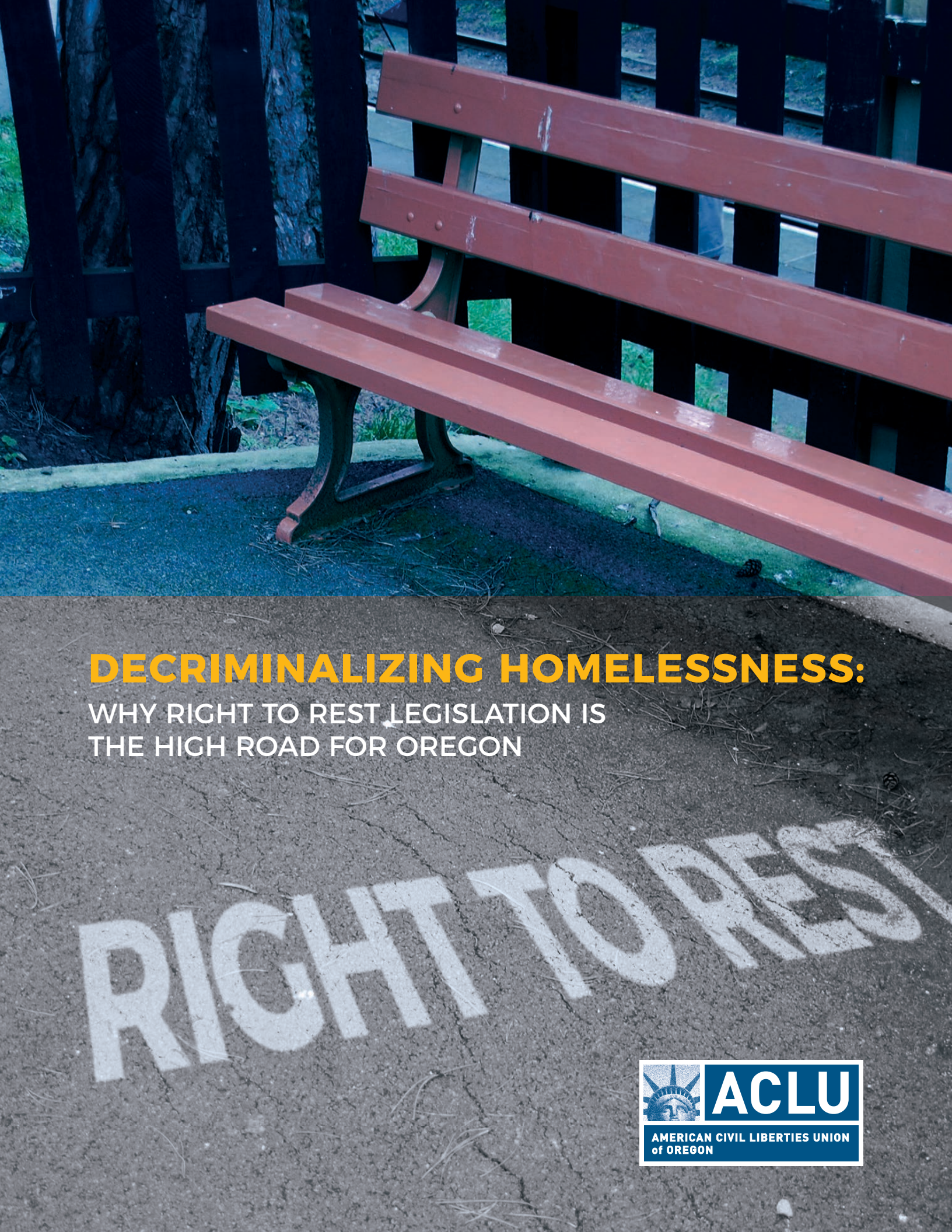

DECRIMINALIZING HOMELESSNESS:

WHY RIGHT TO REST LEGISLATION IS THE HIGH ROAD FOR OREGON

ACLU
AMERICAN CIVIL LIBERTIES UNION of OREGON

ACKNOWLEDGEMENTS

The American Civil Liberties Union of Oregon prepared this report with the assistance of our dedicated staff, volunteers, and community partners. We would like to thank the following individuals for their invaluable contributions to this project.

Heather Marek, a law and sociology student at the University of Oregon, researched and drafted the report.

Katie Sawicki wrote the executive summary and introduction and interviewed people for the spotlights.

Zoe La Du, Corrine Fletcher, Elena Stross, and Franz Bruggemeier helped compile data on municipal and county ordinances.

Special thanks to:
Ibrahim, Mel, Cara, and Dakota for sharing their stories.

Paul Boden, Coral Feigin, and the other staff and volunteers with the Western Regional Advocacy Project which includes Right 2 Survive, Sisters Of The Road and Street Roots in Oregon.

Alision McIntosh of Neighborhood Partnerships.

DECRIMINALIZING HOMELESSNESS:
Why Right to Rest legislation is the High Road for Oregon

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TABLE OF CONTENTS

INTRODUCTION

Individuals, families, and children experience homelessness for many reasons. When enough hardships collide at once—you lose your job, healthcare, food stamps, housing, leave a domestic violence situation—you end up with no place to go. Whether we are one rent increase away from eviction, have a family member living unsheltered, or are unhoused ourselves, homelessness can affect us all. It impacts children, students, military vets, families, people of color, grandparents, women escaping domestic violence situations, LGBTQ youth, and people with disabilities. And once you are unhoused and unsheltered, there are a multitude of new challenges to contend with related to safety, protection from the elements, and living under laws created for public spaces.

Findings from the Western Regional Advocacy Project (WRAP) survey confirm that many of the laws governing public space exponentially increase the challenges placed on an already burdened community. For people desperately trying to get back on their feet, harassment from police and/or community members adds a significant level of stress. The survey conducted of over 565 unhoused Oregonians also noted excessive incidences of citations. This adds yet another economic burden to homelessness and kick starts an entry into the criminal justice system laden with its own set of barriers to life success.

The WRAP survey found that harassment and citations occurred when people were performing basic life sustaining activities. In order to survive while living without a home, a person needs to sleep, eat, bathe, rest, and seek shelter. Instead of sleeping and resting, people were harassed, constantly moved, criminalized, and pushed to new levels of exhaustion and poor health.

We embarked upon a research project that investigated how Oregon city and state laws create barriers to basic survival in public spaces. Our research expanded on two studies, the first was a study of municipal anti-homeless codes in the United States conducted by National Law Center on Homelessness and Poverty ("NLCHP"). The other study, mentioned earlier, was WRAP's survey of unhoused Oregonians, which asked about harassment and treatment while sleeping, resting, seeking shelter, etc. We looked at municipal codes across the state, analyzing a total of 69 of Oregon's most populous cities and 21 counties, representing a cross-section of the state.

Our research reveals an entire legal infrastructure in Oregon that makes meeting basic survival needs illegal in public spaces. We found 224 laws that create clear barriers to performing life sustaining activities and legalize the unfair and harmful treatment of unhoused communities. Key findings show that there is a prevalence and proliferation of local and county municipal codes in Oregon that criminalize unhoused communities.

We also studied the history supporting the reality we see today—laws that criminalize

individuals for systemic inequities, from codes that target poverty to anti-vagrancy laws. While many old statutes are no longer legal, the state's strategy for addressing homelessness has remained the same, failing to address root causes and protect an already vulnerable population.

As housing instability skyrockets for many Oregonians, the line has blurred between the houseless and housed communities. Homelessness in rural and urban Oregon and across the country is on the rise. In fact, Oregon has recently experienced the largest growth of any state in its chronically homeless population. Laws that criminalize poverty and homelessness fuel prejudices and stereotypes and spur further criminalization and community divide.

This report presents the findings of our research and proposes a hopeful way forward. Recently, impacted communities and policy and legal experts collaborated to propose legislation focused on combating the detrimental effects of our current legal reality. The Right to Rest Act protects a person from being criminalized for resting, sleeping in a public space. It acknowledges root causes of homelessness and promotes solutions that lift up people experiencing homeless, rather than punish. It is a first step in addressing many of these reports findings by offering a positive path towards solution making.

IBRAHIM, PORTLAND

"Here in Portland, you can't be in the parks and you can't be covered. They would wake you up in the dead of sleep and you have to walk around in the cold and rain trying to find a new place. When you finally get settled, an hour later, they move you again."

Ibrahim was raised in a family and community where neighbors took care of each other. So when a series of events landed him on the streets, he relied on that same culture and belief system to survive. What he found when he came to Portland, was a series of obstacles that kept him from sleeping, resting, camping, and forming the community he needed to survive.

Most nights were the same. He would finally find a place away from the cold and rain and then the police would wake him up and make him move. And once it was daytime, there was no place to sleep. People are up and about and finding a place to sleep was nearly impossible.

The exhaustion was debilitating. One time, he found himself walking across Burnside and Fourth to get something to eat. He heard honking and yelling behind him and realized he was in the middle of the street holding up a long line of traffic. He was so exhausted that he had fallen asleep while walking.

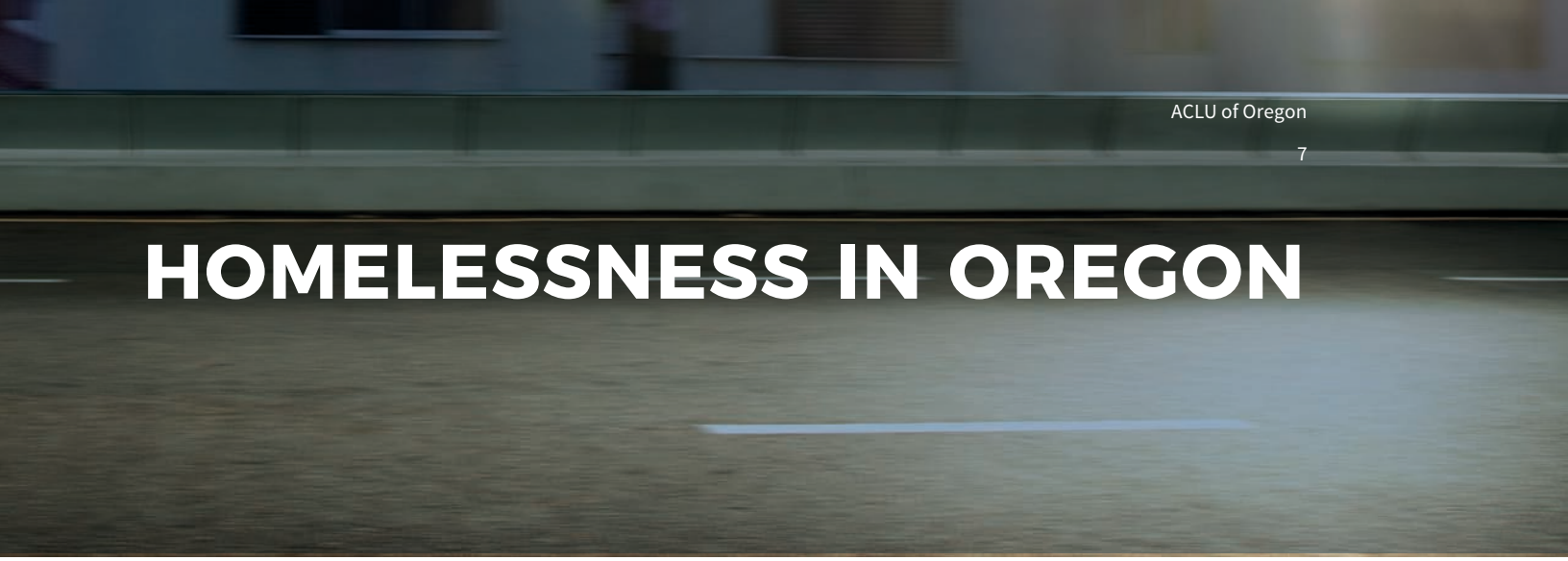
Another time, he was so tired, he sat down on a curb to rest for a minute. The police immediately approached him and began questioning him about drugs.

"When you have no sleep like that, you don't really know what is going on around you. Your whole body is telling you it can't go any more. It's screaming. Your legs won't move. Your eyes won't open. You start developing mental issues. I was so exhausted."

On a few occasions, Ibrahim and some others came together to form a camp. They put the larger tents on the outside to protect the group from the elements. It was also a way to keep people safe. They would huddle in the middle. Here they were able to offer each other support, share food, and talk about job opportunities. But their camp was quickly dispersed due to laws outlawing camping and congregating.

Tensions with police and neighbors are a constant stress. In being removed from camps, police would take sentimental things. One time, people were throwing bottles at him and a few friends as they slept on the sidewalk. He called the police. When the police arrived, they arrested him and his friend for criminal trespassing.

"It's like we can all be neighbors and be getting along. But the moment you lose your housing, people treat you like you have a disease. We should all have the same rights, whether you are living inside or out."



HOMELESSNESS IN OREGON

WHO IS UNHOUSED?[1]

According to the annual point-in-time survey conducted by the U.S. Department of Housing and Urban Development ("HUD"), approximately 13,176 Oregonians are unhoused on a single night in 2015.[2] People of Color are overrepresented in the unhoused population. For example, African Americans and Native Americans comprise 1.8 percent and 1.2 percent of the statewide population respectively, but the groups make up 6 percent and 4.3 percent of Oregon's unhoused population.

We can better understand the situations of unhoused individuals in Oregon by further breaking down the HUD numbers. For example, one out of every ten unhoused people is a military veteran.[3] One-in-seven has been identified by HUD as having a serious mental illness.[4] A fifth of unhoused Oregonians reported being a victim of domestic violence.[5] Nearly a third are families.[6] Ten percent are considered to be chronically homeless,[7] meaning they have disabilities and have been continuously unhoused for at least one year or have experienced four or more episodes of homelessness in the last three years.[8]

There is reason to believe that there are many more Oregonians experiencing homelessness than this. HUD's statistics are widely believed to under-report the problem of homelessness.[9] HUD defines "homelessness" narrowly, encompassing just those people who live in public places, emergency shelters, and transitional housing,[10] and the point-in-time count merely provides a "snapshot" of unhoused individuals counted by volunteers on a particular night in January.[11] Many people who lack safe and stable housing go uncounted, such as those who were unhoused for just some of the year, or those who are doubled up or are sleeping on a friend's couch.[12]

HUD's count also leaves out individuals who are temporarily living in hospitals, treatment centers, and jails, many of whom have nowhere to go after release.[13] Other data confirm that HUD's estimates are far too conservative. For example, the Oregon Department of Education counted 21,340 K-12 students who experienced homelessness at some point in the 2015-16 academic year.[14] That number only accounts for children, and yet it exceeds HUD's count for adults and children combined (13,176) by more than fifty percent. The problem is likely much worse than we realize.

A GROWING STATE OF EMERGENCY

In recent years, due to a severe shortage of affordable housing and the high number of residents with no place to call home, Oregon cities, including Eugene[15] and Portland,[16] have declared a housing and homelessness "state of emergency." Homelessness in Oregon is not what it was during the height of the Great Recession.[17] However, there are signs that the problem is again growing worse. According to HUD, between 2014 and 2015, the number of

unhoused Oregonians increased nine percent, the third highest increase nationwide.[18] In that same time, Oregon experienced the largest growth of any state in its chronically homeless population, sixty percent. Similarly, the Oregon Department of Education reports that the number of students experiencing homelessness grew 9 percent between the 2013-14 and 2014-14 school years.[19]

The outlook is pretty grim. Absent major changes to public policy, we will likely see homelessness continue to grow in the coming years. Housing is becoming scarcer and less affordable in Oregon, and this greatly drives homelessness. Nationwide, more and more people have turned to renting,[20] and the vacancy rate has dropped to its lowest point in nearly two decades.[21] This means that there are fewer and fewer rental units available for those people needing them. The supply of housing—particularly within the price range of lower income individuals—is inadequate to meet the need. Oregon had the lowest rental housing vacancy rate in the nation in 2014,[22] driven, in part, by the large influx of new settlers from out-of-state.[23] Those units that are available are beyond the reach of poorer residents. In Portland, for example, there are less than ten affordable housing units available for every 100 deeply low-income households.[24] People want housing, but there is none to be found. This problem is exacerbated by the fact that insufficient shelter space exists for those who cannot find housing.[25] These trends are pushing people onto the street, particularly those who are more vulnerable, like African Americans,[26] who historically have been disadvantaged, in part, due to severely restricted access to housing, education, jobs, and healthcare.[27]

At the same time, nationwide, rents have skyrocketed.[28] According to the National Low Income Housing Coalition, as of 2016, Oregon was the eighteenth most expensive state for renters (up from 25th in 2015).[29] The median Oregon rent was $943 in 2015,[30] a 19 percent increase from 2010.[31] In Portland, rents appreciated fifteen percent in 2015, the highest increase of any U.S. city.[32] Oregon law prohibits cities from enacting rent control,[33] meaning there are no limits to how much a landlord can raise rents.[34] Meanwhile, wages have lagged behind, unable to keep up with the pace. Between 2010 and 2015, the median income rose just 4 percent.[35] The typical renter in Oregon earns just $13.87 an hour, $5 less than the hourly wage needed to afford a modest two-bedroom apartment at the 'fair market' rate.[36] For Oregonians earning minimum wage, housing is even less attainable. As of 2016, the state's minimum wage was just $9.75, with only modest increases slated for the foreseeable future.[37] Many Oregonians devote the majority of their paychecks to housing,[38] leaving little for other basic necessities. People cannot afford food[39] (in fact, Oregon had the worst spike in food insecurity of all states between 2013 and 2015),[40] and are challenged in the face of medical expenses, car repairs, sudden job loss, or other unforeseen circumstances.[41] With no cushion for emergencies, people find themselves unable to pay rent, in danger of eviction, and homelessness.[41]

Low incomes, high rents, and a lack of units are the leading causes of homelessness.[43] However, the lack of housing availability and affordability are not the only reasons people find themselves without a home. Advocates also cite the lack of tenant protections as a major contributing factor. For example, under Oregon law, landlords can terminate month-to-month leases without cause.[44] This means that tenants often face housing loss for no good reason and with very little notice.[45] The other major forces driving homelessness include domestic violence, unemployment, mental illness and substance abuse, and a lack of needed services.[46] Many people who face personal crises fall through the cracks of the society. Once a person descends into homelessness, a myriad of other barriers hinder their ability to get on their feet again.

Individuals who must live on the streets endure particularly hard circumstances. Many find themselves making difficult choices that have criminal implications, navigating the many basic life-sustaining activities that are criminalized (do I sleep in the public park and violate the city's camping ban, or do I trespass onto private property? Where can I go to the bathroom? Where can I set down my belongings without getting in the way?). The nexus of homelessness and criminalization is particularly strong among those who are unsheltered. More than half of Oregonians who are unhoused fall into this category.[47] They have nowhere to go and are thus forced to engage in these basic life-sustaining activities (like sleeping, urinating, eating, and simply existing) in public places. Oregon has the second highest rate of unsheltered individuals in the country,[48] and it is on the rise.[49] In 2015, Oregon was the only state where more than half of its unhoused families with children were unsheltered,[50] and most of the growth in unhoused children has been among those living in vehicles, tents, and other forms of substandard housing.[51] Three-quarters of Oregon's chronically homeless population is also unsheltered.[52] All of these individuals must survive in the public, but it is often deemed criminal to do so.

CARA, EUGENE

"You are out here by yourself. When you finally get away from downtown and the police harassing you, you then have to worry about other people. And if you got pushed far enough out, you'd have to worry about cougars."

For 14 years, Cara survived the realities of homelessness. When she didn't make it to a shelter on time or a rest stop with other people, she was on her own. Surviving every night was an obstacle. She'd start out at the safe spots she knew in downtown Eugene. Over the course of a night, she'd wake up to a dog barking and a stranger standing over her telling her to move. She'd pack up quickly, often in the rain, and move onto the next spot. Many nights, she was forced out of town towards the wetlands. For someone who had always been scared of the dark and outdoors, the mental toll was immense.

She trusted her dog with her life. Not only was he companionship that kept her sane, he knew the difference between a human walking through the woods and an animal. He alerted her to everything and kept her as safe as he could.

"In my 14 and a half years on the streets, so many things happened to me. I was held captive. I lost my children. I never had a moment to rest. It was beyond exhausting."

HISTORICAL APPROACHES TO DEALING WITH HOMELESSNESS

The United States has a long history of punishing the unhoused poor. Our approaches have largely been a continuation of poor laws dating back to Fourteenth Century England. The poor, particularly those who were transient, were viewed with deep distrust, seen as lazy, criminal, or otherwise sinful. Early poor laws tried to address this perceived threat of poor people, as well as labor shortages and the financial burden of charity.[54] They allowed communities to engage in a variety of tactics, including seizure and forced-labor, branding, banishment, and even execution, of poor people who were able-bodied but without work.[55] Poor laws followed the English into the American colonies, where paupers and vagabonds were expressly denied equal protection under the law,[56] and residency requirements, forced removal, and banishment of poor people were commonplace.[57] Vagrancy laws existed in every state,[58] criminalizing roaming, loitering, idleness, unemployment, begging, and sleeping outdoors.[59]

Oregon was no exception. In fact, vagrancy laws were prevalent. For example, it was a crime to live in idleness or without employment and having no visible means of support.[60] A person could be deemed a vagrant (which was a criminal violation in and of itself) based on the people with whom they associated,[61] or if they were suspected of being a prostitute.[62] It was against the law to beg or be a beggar if otherwise capable of work.[63] It was also prohibited to lodge or sleep outdoors or in buildings other than residences without the permission of the owner or without being able to give a good account of oneself.[64] Other laws targeted people who were roaming with no legitimate or lawful purpose.[65]

Many poor laws were deemed unconstitutional at the federal level over time.[66] Oregon courts and lawmakers similarly rejected laws that criminalized individuals based on state of idleness or vagrancy.[67] Unfortunately, the poor laws have not gone away, but merely taken a new form. Today, “broken windows” policing has largely replaced the poor laws of the past.[68] Simply put, this debunked model is based on the theory that, if you leave a broken window unfixed, you communicate to lawbreakers that crime is allowed, while also communicating to law-abiding citizens that the area is unsafe. As a result, more windows are broken, and the area quickly spirals into a state of deterioration and disorder. The anecdote, then, involves cities showing ‘zero tolerance’ for even the most minor offenses. As a result, cities enact and enforce laws to target street-level misdemeanors. Often, this involves targeting behavior associated with poverty, like panhandling or sleeping in public. Researchers and advocates further note the racist nature of broken windows policing, as it implicitly and explicitly calls for the harassment and removal of racial minorities.[69] These laws—targeting the poor and other undesirables on the street—exist across the country, and they are on the rise.[70]

MEL, EUGENE

"The hardest part for me was when I started working again. I was teaching kids, working in the school district. Having to wake up in the morning, find a shower somewhere and get to work on time was an obstacle every day. Having to be productive was even harder. I was sleep deprived, hungry, and scared that if I couldn't keep it together, I'd lose my job."

Mel was houseless on and off in her life, but one six-month spell in Eugene while she was teaching was especially challenging. The lack of sleep made work nearly impossible. Most days, she had to choose between eating, sleeping or getting to work on time.

Mel tried to stick together with other people for safety. But in order to keep the camps from being broken up, they had to stay in small numbers. The larger the group the more likely you were to be run off.

"We camped together whenever we could. There were too many predators providing shelter to women, offering a place to shower and wash their clothes, and then sexually assaulting them…You would finally start to create a safe space with people you trust. The police would break us up."

Often times her camp got pushed down to the river, which came with a new set of challenges. "The farther away we were pushed, the less safe it was and the more exhausting finding a safe spot became."

THE ENACTMENT OF ANTI-HOMELESS LAWS IN OREGON

METHODS FOR MEASURING CRIMINALIZATION IN OREGON

Oregon's homelessness problem is profound, and one requiring attention. Unfortunately, like many places throughout the country, the response to this crisis has been to further criminalize homelessness, making it against the law to engage in basic life-sustaining activities that are associated with being unhoused. In this section, we present key findings about the prevalence and proliferation of local anti-homeless laws in Oregon, focusing primarily on county and municipal codes.

First, it is important to note that local governments can use state statutes to criminalize homelessness in Oregon. They may do so to supplement their own anti-homeless laws on the books, or in lieu of passing an elaborate code targeting specific conduct. Counties also tend to rely heavily on state statutes. Oregon Revised Statutes have historically been a source for vagrancy laws, such as those prohibiting loitering[71] or vagrancy.[72] Today, Oregon Revised Statutes continue to provide authority for targeting unhoused individuals through laws that purport to focus on specific conduct. For example, ORS 164.255 and ORS 164.245 prohibit trespass, and ORS 166.025 prohibits disorderly conduct. The unhoused are often subject to disparate enforcement of other low level offenses.

Our analysis in this section expands on two studies: first, an examination of municipal anti-homeless codes in the United States conducted by the National Law Center on Homelessness and Poverty ("NLCHP"); and second, interviews conducted by the Western Regional Advocacy Project of 565 unhoused Oregonians. Based on these two analyses, we researched four categories of anti-homeless laws that appeared in both studies:

1. standing, sitting, and resting in public places;
2. sleeping, camping, and lodging in public places, including in vehicles;
3. begging, panhandling, and soliciting; and
4. loitering.[73]

We researched local laws under these categories in Oregon's 75 most populous cities—every municipality with at least 5,000 residents—as well as the 27 corresponding counties.[74] This involved a detailed inspection of electronically published municipal codes. Six cities and six counties in our sample published part or none of their code online. Therefore, our final analysis has just the remaining 69 cities and 21 counties. This sample was not randomly selected, a few considerations influenced our selection criteria. First, it includes those areas where the majority of Oregonians reside, and where anti-homeless laws theoretically impact the most people. Second, this sample represents a cross-section of the state, and is both broad and diverse geographically. The final factor is purely practical: our preliminary work revealed that smaller governments were less likely to have their local codes in

an accessible format, and they often had few government employees to provide them otherwise.

Tracking the enactment of municipal anti-homeless codes is subject to a number of limitations. Oregon municipal codes are not maintained or available in a uniform place or manner. For example, similar codes may fall under different titles and sections from city to city. Furthermore, many cities do not provide the date of enactment for each section of the code, or if they do, it may show several different dates where amendments were made. As a result, it is very difficult to determine a timeline for the passage of laws or decipherable trends. However, when possible, we list the dates of enactment and discuss patterns across time and place.

Future research should examine the enforcement patterns of these laws. In particular, it would be helpful to know how often they are enforced, the contexts of enforcement, and the demographics of those targeted. Additionally, organizations have been able to measure the fiscal impact of enforcement in other states. Such research would be helpful policymakers in fully appreciating the negative effects of criminalization. However, these areas of inquiry are beyond the scope of this particular report.

ANTI-HOMELESS LAWS ARE PREVALENT IN OREGON

Anti-homeless laws are common in a cross-section of Oregon cities today. In the 69 cities studied, we found 224 laws restricting and criminalizing the four categories of activity listed above and associated with homelessness. We provide a more detailed breakdown of the types of laws within a given category, and cities that have particularly high numbers of such laws.

WHEN SLEEPING IS A CRIME

Unhoused Oregonians overwhelmingly report being harassed for sleeping. According to street outreach interviews conducted by the Western Regional Advocacy Project, of the 496 unhoused Oregonians who answered the question, 94 percent reported having been harassed for sleeping in public, and 51 percent had been cited. Of the 240 who answered, 87 percent had been harassed for sleeping in a vehicle, and 41 percent cited. These interviews confirm what people living on the street have always known: sleeping is a crime for unsheltered people in this state.

Sure enough, the vast majority of cities and counties surveyed had laws on the books prohibiting sleeping or camping. Four-fifths of the cities examined restrict sleeping or camping in some capacity. Just fourteen cities appeared to have no such laws. There were approximately 125 anti-sleeping laws. Similarly, nearly three-in-four counties surveyed had such laws.

Even when a person has no place to call home, they must sleep somewhere. When communities have insufficient shelter space, and when friends and families cannot provide a bedroom or couch, the unhoused are forced to sleep in public. This already difficult situation becomes even more challenging when cities prohibit sleeping and camping. In twenty-seven cities, people cannot sleep or camp anywhere in public.[75] In all but one city, these bans apply any time of the day or night (Astoria specifies that its prohibition applies to overnight camping). The laws generally preclude camping on sidewalks, streets, alleys, lanes, public rights-of way, bridges, viaducts, parks, or other places to which the general public has access or that is publicly owned. Overwhelmingly, the laws focus on the act of camping, but Corvallis, Salem, and Grants Pass actually forbid sleeping in public places.[76] Eugene also has a general prohibition on setting up temporary structures or shelters, including tents, in public pedestrian areas downtown.

Forty-six cities prohibit camping in a part of the city, usually parks.[77] Almost all of these cities close parks to the public at night, which constructively prohibits sleeping because people are not allowed in the vicinity during the sleeping hours. More than half of these cities explicitly state that camping or sleeping is simply not allowed, and these broader bans usually apply to any time of the day or night (for example, Grants Pass prohibits sleeping in the parks, without qualification, and Dallas prohibits sleeping on benches). Several cities suggest exceptions could exist for a designated area (i.e. campgrounds which cost money) or with a permit, though they commonly still limit the number of days a person could stay. Park camping restrictions and curfews are the most common type of regulation at the county level. Fifteen counties have variations of these laws on the books.[78]

Some individuals have the security and shelter of a car, bus, trailer, or RV. However, thirty-one cities restrict sleeping in one's vehicle even if it is legally parked.[79] Over half of these cities do so by camping on public property or right-of-way in a vehicle. Eight cities forbid using vehicles for sleeping or lodging purposes.[80] These cities make it clear that it is not merely an issue of parking. Rather, their concern largely has to do with what the occupant is doing within the parked vehicle. For example, Albany restricts using a vehicle for sleeping or housekeeping purposes. In Milton-Freeman, sleeping, eating, or preparing meals is *prima facie* evidence of a violation. Beaverton's law focuses on vehicles that "accommodate sleeping people." Astoria generally prohibits overnight sleeping in vehicles. These laws target the use of vehicles for life-sustaining activity: rest.

Some cities allow parking for very limited timeframes (e.g. 30 minute increments, up to three days in a six month period, 14 days per year, etc.).[81] Cities commonly have other parking restrictions, as well, such as requiring permit or meter payments, imposing time limits and the like. Also, cities often deem it a nuisance for people to park inoperable vehicles. We did not document those laws here. However, it is worth noting that there are many potential ordinances under which one can be penalized for resting in their parked vehicle.

People who are unhoused are often roused, arrested, and displaced to appease housed residents of the community who find their presence undesirable or threatening. This is accomplished, in part, through the enforcement of trespass laws which make it a crime to enter or remain on private property without permission. Trespass is a crime under Oregon law,[82] and twenty-four cities and one county from our sample have prohibited trespass within their municipal code.[83]

However, many property owners want to help. Increasingly, churches, businesses, and private citizens have opened their properties to people who are unhoused, welcoming them to sleep or live there. Yet, doing so can be difficult due to a variety of legal hurdles cities create. Nine cities impose restrictions on when and if a person can camp or sleep on private property.[84] Three cities, Corvallis, Salem, and Hillsboro, have a distinct violation for individuals who sleep on private property without consent of the owner, separate from trespass. The remaining six cities restrict the situations under which a property owner can host a camper, for example, by limiting the duration of stay, limiting the number of consecutive hours (e.g. 48 or 72) or the total days in a given timeframe (e.g. up to seven days in a ninety day period or fourteen days per year).

Other cities impose special requirements. In Eugene, the property owner can provide space for a limited number of people if there is proper sanitation, garbage, and storage for personal items. Even if all of these requirements are met, the City Manager can still prohibit the camping if it is deemed incompatible with adjacent properties, causes a nuisance, or is a threat to public welfare. In Roseburg, the property owner may allow a camper if they are within a

self-contained vehicle, it is more than 500 feet from a residential structure, the area is paved, and proper parking permits are obtained. Many property owners will find these hoops too burdensome to jump through.

It is worth noting, as well, that state law restricts religious institutions from accommodating more than three vehicles with people living in them at one time, and by requiring sanitation facilities be provided. These laws limit the ability of cities and private parties to provide legal and safe sleeping arrangements for their unhoused community members.

Other laws can restrict the ability of individuals to safely sleep at night. For example, forty-four cities and seven counties have curfews that penalize minor youth who are on the streets unaccompanied by an adult during nighttime hours.[86] According to HUD, In 2015, 2,466 persons under 18 were unhoused, one-in-six of whom were unaccompanied by an adult.[87] Eight-in-ten unaccompanied unhoused youth have no shelter,[88] meaning they must find public places to sleep. These youth often have no choice but to be in public without an adult. Curfew laws add another layer of criminality to their conduct.

VESTIGES OF VAGRANCY: ANTI-LOITERING LAWS

According to street outreach interviews conducted by the Western Regional Advocacy Project, of the 439 unhoused Oregonians who answered the question, every single one had been harassed for loitering or hanging out, and nearly half had been cited. Nine cities and one county in our sample have laws on the books pertaining to loitering.[89] These laws were passed in two waves. The first occurred between 1970-1981. The second occurred in the 2007-2012, suggesting renewed interest in targeting people that the state would like to disappear.

Five cities prohibit loitering in or near a school building or grounds without a reason or relationship involving custody of or responsibility for a student; or, upon inquiry by a peace officer or school official, not having a specific, legitimate reason for being there.[90] Oregon Revised Statutes prohibited this exact variation of loitering previously.[91] However, the Oregon Court of Appeals struck down the statute in 1975, finding it to be unconstitutionally vague “because the statutory language is not sufficiently definite to meet the due process requirement of informing those subject to the statute what conduct will render them liable to its penalties and because the statute permits arrests without probable cause.”[92]

Three cities prohibit loitering in, on, or about a public place frequented by children, including swimming pools, school bus stops, playgrounds and parks and public premises adjacent thereto, for the purpose of annoying, bothering or molesting children.[93]

Four cities prohibit loitering or prowling in a public place without apparent reason, and under circumstances which warrant justifiable alarm for the safety of persons or property in the vicinity, and refusing to identify oneself and give a “reasonable credible account of [one’s] presence and purpose" upon inquiry by a peace officer.[94] Lane County has a similar provision in their trespass ordinance, prohibiting loitering or wandering upon County owned premises without a lawful purpose. One city, Eagle Point, has made it unlawful to “loiter, loaf, wander, linger, lurk, stand or remain idle, either alone or in assembly with others, so as to create an unsafe environment or a nuisance.”

LAWS AGAINST PANHANDLING AND BEGGING

According to street outreach interviews conducted by the Western Regional Advocacy Project, of the 309 unhoused Oregonians who answered the question, 93 percent had been

harassed for panhandling, and 43 percent had been cited. Of the 159 who answered the question, 92 percent had been harassed for receiving free food, and over a quarter had been cited.

Twenty cities in our sample have laws restricting panhandling and begging.[95] Some municipalities have multiple laws that restrict panhandling and begging. Blanket prohibitions on begging were popular from 1971-1991. Today, eleven cities have total bans on begging or soliciting alms or other gratuities in public places.[96] These bans sometimes include exceptions for charitable associations or institutions. More recently (particularly since 2011), cities have attempted to avoid constitutional challenges through creative restrictions. We outline below the various forms these laws take.

Four cities prohibit solicitations that are made in a manner deemed to be abusive or aggressive.[97] Solicitation is generally defined as requests for immediate donation of money or other items in public places. These laws specifically exempt passive sitting, standing, or holding a sign. The solicitation becomes abusive or aggressive when it involves other conduct. Typically, these laws prohibit solicitation that is accompanied by any of the following: touching the solicited person without consent; blocking or impeding the passage of the person solicited; or following the person solicited by proceeding behind, ahead, or alongside after they declined the request.

These laws typically include restriction on certain types of speech activity, as well, including: the use of profane or abusive language; using words, signs, gestures, or actions which are threatening (i.e. would place one in reasonable apprehension of imminent physical harm; communication that would make a reasonable person feel fearful or compelled; or words, signs, gestures, or actions that would provoke or likely provoke an imminent violent or disorderly response.

Limitations on time and place. Three cities restrict panhandling during the night and in certain areas of the city, such as bus shelters, public transportation vehicles or facilities, sidewalk cafes, gas stations, or within a certain distance of an automatic teller machine (ATM) or entrance to a bank.[98] In Ashland, the individual cannot be cited unless they disregarded a warning from law enforcement first. Lebanon also restricts panhandling drivers or passengers of motor vehicle near intersections, or panhandling in a public transportation vehicle or near a posted public transportation stop. These restrictions do not apply to circumstances in which a person is having a vehicle towed or seeking emergency repairs. Ashland explains these restrictions: "maintaining a safe and inviting environment in public spaces for all residents and visitors, but especially for tourists, because Ashland's economic vitality depends in large part on its status as a singular destination for tourists."[99]

Unlawful transfer laws. Seven cities have implemented unlawful transfer laws which prohibit drivers and passengers of vehicles from giving money or other tangible personal property to a pedestrian while on a highway, road, or street.[100] These laws also prohibit a pedestrian from accepting such items under those circumstances. These laws attempt to circumvent protections on free speech and expression by focusing the act of offering or receiving an item rather than the request. Sometimes, these laws allow exceptions for when the vehicle is legally parked, police officers acting in their official capacities, disabled vehicles, accidents, medical emergencies, or persons acting under the authority of and in accordance with a permit.

Generally, these laws operate under the guise of traffic safety. However, only one city (Sutherlin) actually requires that the transfer of money or goods actually creates a hazard to become unlawful.

LAWS AGAINST RESTING: "OBSTRUCTING" SIDEWALKS AND STREETS

Forty-eight cities and two counties in our sample have laws prohibiting the obstruction of sidewalks, streets, doorways, or other thoroughfares for pedestrians and vehicles.[101] Laws that restrict blocking traffic can have legitimate purposes. However, they are frequently used to rouse unhoused people who are resting, particularly if they have personal belongings that are considered unsightly or take up additional space.

Most of these cities prohibit obstructing pedestrian or vehicular traffic on any sidewalk, street, or common area. Sometimes, the violation occurs when an officer asks the person to move on. Other times, cities have created an additional violation for individuals who fail to move on or disperse upon a lawful order by police. Multiple cities provide exceptions, including for medical emergencies, delivery of merchandise, public safety, and maintenance. Ashland, Eugene, Salem, and Portland specify that the law will not be construed to prohibit lawful speech and assembly activity.

Three cities prohibit overnight obstructions.[102] These forbid, from sunset to sunrise, permitting any merchandise, equipment, or other obstruction to remain on any sidewalk or street unless it has warning lights. Nine cities prohibit people or groups of people from gathering or standing upon any sidewalk in such ways as to prevent, impede, or obstruct the free passage of traffic.[103] Ten cities outlaw obstructing building entrances.[104] Generally these laws prohibit blocking any entrance to a building or loitering about or near an entrance, stairway, or hall leading to a building.

Some cities prohibit creating obstructions with personal property or other objects.[105] These laws generally proscribe placing, parking, depositing, or leaving on a street, sidewalk, or other public way any article or thing that could prevent, interrupt, or obstruct the free passage of pedestrians or vehicles. Scappoose further prohibits depositing items that tend to "mar the appearance or detract from the cleanliness or safety" of a street or public way. Albany and Portland prohibit placing or erecting a structure on or over a public street or sidewalk without a permit. Portland provides exceptions, including merchandise and personal baggage or luggage within arm's reach.

OTHER LAWS THAT CRIMINALIZE SURVIVAL

There are other laws that make daily life criminal for people living in public spaces.[106] Over half of the cities surveyed make it a crime to urinate and/or defecate in public places. Certainly, human waste presents a variety of health and sanitation concerns, and cities have a clear interest in ensuring its proper disposal. However, when cities fail to provide sufficient facilities to accommodate the public need, people are forced to improvise. Like sleep, urination and defecation are necessary biological functions. When cities invest in police rather than public bathrooms, they are punishing people for being poor and trying to survive on the streets.

Other laws make surviving on the streets very difficult. For example, some cities prohibit using bathrooms or other sources of water to clean oneself.[107] For people who have no access to showers, this may be the only way to ensure some basic level of health and sanitation (particularly for people who may have wounds that need cleaning). Some cities have laws against "theft of services," which means a person may be a criminal for merely charging their cellular telephone in an electrical outlet without permission.[108] Other cities prohibit collecting trash or recycling.[109] Many people sift through waste to find materials that can be recycled—such as beverage bottles or cans—for which they can receive the deposit refund. Cities that prohibit this practice eliminate one of the few innovative ways an unemployed

houseless person may receive a tiny income.

Another common, but often overlooked, form of criminalization involves making one's presence in public spaces itself a violation. Many cities have implemented civil exclusion laws that effectively act as restraining orders, banishing individuals from particular geographic areas such as a government building, parks, neighborhoods, downtown districts, or any public property. Those who violate such orders are often cited for trespass. These laws exist across the state, and take a variety of forms.[110] Usually, an individual is subject to exclusion after being accused of violating some city code or rule. In some cities, the most minor of infractions can constitute excludable offenses. These infractions are often the types of life-sustaining conduct discussed throughout this report, like illegal camping or violating park curfews. In several municipalities, a mere accusation of a violation—without proof or conviction—is considered enough to warrant banishment. Depending on the jurisdiction, these exclusion orders may last anywhere from thirty days to a year. In some cities, the decision to banish an individual may be extrajudicial, falling under the authority of a city manager, chief of police, parks manager, or some other public employee. The process of challenging or requesting a variance to an exclusion order is often quite arduous and complicated, requiring multiple hearings or fees. In these civil proceedings, the accused often lacks rights guaranteed in a criminal trial, such as assistance of counsel or judicial oversight. Exclusion orders allow cities to banish 'undesirables' from the public eye and pretend that problems like poverty and homelessness do not exist. These laws shut out unhoused individuals from vital public resources, as well as safer areas of the city. This makes life on the street more isolated, dangerous, and harsh.

While this report focuses primarily on life-sustaining behaviors necessary to survival, it is worth noting that other types of low-level offenses lead to the disproportionate criminalization of individuals who are unhoused. For example, laws that punish people for possessing or consuming alcohol in public places make a ubiquitous type of conduct—drinking—a crime. Three-fourths of the cities and one-third of the counties in our sample have such restrictions.[111] Seventy percent of Americans drink at least some of the time.[112] Many do so on sidewalks as patrons of restaurants and bars, or in parks with a special permit. However, for a poor person who lacks the means to buy the privilege of drinking in public, this behavior is unlawful and subject to penalties. In Eugene, this classist double standard is particularly obvious, where the City provides special immunity to its alcohol prohibition for people tailgating at football games.[113] Alcohol consumption and possession is only a crime if you do it in public, and even then, it is permitted if you are wealthy enough.

THE IMPACTS OF CRIMINALIZATION

CRIMINALIZATION PUNISHES VULNERABLE PEOPLE AND PERPETUATES POVERTY

Oregon cities regularly enact and enforce laws that criminalize people for being unhoused, and doing so is both cruel and counterproductive. These laws punish and dehumanize people who are already vulnerable and struggling. Furthermore, this approach does nothing to address the causes of homelessness. In fact, it exacerbates an already tenuous situation by creating new hardship and barriers to overcome.

Criminalization does not address the factors that lead to homelessness, such as the lack of affordable and available housing, low incomes, unemployment, and a lack of needed services. It does not create new opportunities for affordable housing or employment. Nor does it provide social services for domestic violence survivors or people suffering from mental or physical health issues.

In fact, criminalization makes escaping poverty and overcoming homelessness more difficult. First, involvement in the criminal justice system is highly disruptive and invasive. Constant ouster and displacement, arrest, jail time, and court appearances get in the way of going to school, finding and maintaining work, attending social service appointments, and other activities that could improve one's situation.[114] Second, incarceration increases the likelihood that a person will become and stay homeless because of its negative effects on employability, family ties, and other defences against homelessness.[115] Third, people who are unhoused rack up criminal records because they are continually forced to engage in basic life-sustaining acts that anti-homeless laws prohibit. Even minor crimes can lead to serious consequences, including the loss of a job or the denial of employment, housing, government benefits, and treatment and services. People are often screened for criminal background as part of the application process for a job, renting a home, or receiving services.[116] Employers and landlords will often choose not to hire or rent to a person who has arrests and convictions on their record. This makes getting a job or finding a home very difficult for someone who has been unhoused.

Fourth, criminalization creates debt. Individuals who are unhoused rack up hefty fees as a result of their involvement in the criminal justice system.[117] These fees frequently exceed the unhoused person's means, and as a result, they fall behind.[118] Oregon courts are authorized to hold the individual in contempt of court and impose fines, incarceration, or other punitive sanctions.[119] Other consequences for failure to pay can include suspension of a driver's license, poor credit, or jail time.[120] These expenses and debts make it all the more difficult to raise sufficient funds to get off the street. For example, many landlords require first and last month's rent plus a security deposit. For a person who is already severely destitute, that kind of money is a fortune. Legal fees make it

that much less obtainable.

Fifth, criminalization leads to seizure, confiscation, and destruction of important personal property. People who have no home or shelter frequently must carry all of their personal belongings with them at all times. Officials often seize this property pursuant to an arrest, or when they discover belongings that are unattended (for example, when the owner leaves to use the bathroom or to attend a social service appointment). This has resulted in the loss of important personal belongings including shelters, identifications, medications, and family memorabilia. Processes for retrieval may be challenging to navigate.[121] Furthermore, officials may not preserve items if they perceive them to be trash or ruined,[122] and this determination is made irrespective of how valuable the property is to its owner. As a result, individuals who are unhoused face further economic hardship, and the loss of those few belongings from which they derive comfort or pleasure.

Finally, there is the physical and psychological toll of not getting a good night's sleep. Unhoused individuals are often roused and ousted throughout the night, having to pick up their camp and move from place to place. It can be difficult, or even impossible, to find a safe place to sleep without interference. Lack of good quality, uninterrupted sleep has a variety of negative effects. In the short term, it leaves the individual feeling exhausted, irritable, and unable to focus.[123] In the longer term, it is linked to serious chronic health conditions, including heart disease, kidney disease, high blood pressure, diabetes, stroke, obesity, and mental health disorders.[124] Sleep is vital for psychological and physical wellbeing, as well as one's ability to navigate school, work, and social situations. People who live on the street are dealing with situations that would be stressful under the best of circumstances. The challenges of severe poverty, insecurity, exposure to the elements, physical disabilities, abuse from housed people, and mental health issues are among the hardships unhoused people face, and they are exacerbated by a lack of rest. Sleep deprivation has been deemed a form of torture among psychologists as well as the international community.[125] Cities torture their unhoused community members by constantly harassing them for simply trying to sleep.

ANTI-HOMELESS LAWS VIOLATE THE RIGHTS AND LIBERTIES OF UNHOUSED PEOPLE

Anti-homeless laws and their enforcement compromise the rights and freedoms of unhoused individuals. Anti-camping ordinances have recently been deemed unconstitutional under the Eighth Amendment. In *Jones v. Los Angeles*, the Ninth Circuit struck down a municipal ordinance prohibiting sitting, lying, sleeping on any street, sidewalk, or other public way between the hours of 9:00 pm and 6:30 am.[126] The Ninth Circuit held it unconstitutional to punish a person for an involuntary act or condition that is the unavoidable consequence of their status.[127] People become and stay unhoused due to a variety of factors beyond their control. Since all human beings need to rest and sleep, people who are unhoused cannot avoid sitting, lying, and sleeping. It is a physiological necessity; people are biologically compelled to rest. Without sufficient alternatives to help people off the streets, people who are unhoused have no choice but to commit these acts in public. For these reasons, the ban was cruel and unusual, and thus a violation of the Eighth Amendment.[128] Drawing from *Jones*, the U.S. Department of Justice reached the same conclusion in a 2015 Statement of Interest.[129] The case dealt with ordinances in Boise, Idaho, that outlawed sleeping and camping in outdoor public spaces.[130] Noting a lack of shelter beds, the DOJ concluded that unhoused people were unable to comply with such ordinances, and therefore punishing their infractions violates the Eighth Amendment.[131] Under such circumstances,

punishment is unconstitutional.

Anti-homeless laws also raise other civil rights and civil liberties concerns. People who are unhoused face restraints on their liberty and freedom of movement when they are ousted, banished, arrested, or incarcerated. Officials may violate the privacy and property rights of unhoused individuals by searching, seizing, and destroying personal belongings. Laws that prohibit begging, panhandling, and solicitation restrict freedom of speech and expression. Finally, many laws are neutral on their face, but applied unequally against people who are unhoused. For example, people who are unhoused frequently receive trespass citations. This is, in part, due to the fact that unhoused people sometimes cross over onto private property because they have nowhere else to go. However, this is also because community members and police find an unhoused person's presence suspicious and question whether the individual 'belongs.' Whatever reasons, laws that are enforced in a discriminatory manner raise equal protection questions.

CRIMINALIZATION COSTS CITIES

There is growing recognition across the nation that criminalizing poverty and homelessness makes no sense. This strategy does nothing to address the root causes of homelessness like lack of affordable housing, unemployment, and insufficient social services. Rather, it wastes precious resources, throwing revenue at expensive law enforcement, jeopardizing federal funding, and exposing governments to liability.

ANTI-HOMELESS LAWS ARE EXPENSIVE TO ENFORCE

Social costs aside, criminalization is a very expensive policy to implement. The criminal justice system is expensive to operate, involving not just police, but also courts and jails to function. These resources could be diverted towards more pressing public safety issues. Cities could also appropriate these funds currently spent on criminalization towards proven, evidence-based solutions, like providing housing and social services.

No one has measured the financial impact of criminalization in Oregon or its communities. However, a wealth of research exists showing how costly this approach has been in other states. For example, researchers from the University of Denver examined the costs of policing, adjudicating, and incarcerating unhoused people in the enforcement of anti-homeless laws in Colorado.[132] In a five-year period, Denver spent $3.23 million dollars enforcing just five anti-homeless ordinances: unlawful camping, park curfew and closures, panhandling, solicitation near a street, and public urination.[133] Boulder spent nearly $1 million on illegal camping alone. [134] In Washington, Seattle and Spokane spent $2.3 million and $1.3 million respectively in enforcing just some of their criminalization laws over a five-year period.[135]

Another study that examined nine U.S. cities compared the costs of providing supportive housing, shelter, or jail.[136] In several cities, including Boston, Chicago, New York City, and Seattle, jail space was three-times more expensive than providing supportive housing, and two to four-times more expensive than shelters.[137] On average, it costs $87 per day to house someone in jail, but only $28 to provide shelter. [138] As discussed in greater detail below, taxpayers can save millions of dollars – and a lot of suffering – by simply investing this money in housing.[139]

CRIMINALIZATION MAY COST CITIES FEDERAL DOLLARS

Criminalization is an expensive proposition also because it may affect cities' ability to receive much-needed funding from the federal government. In 2015, the U.S. Department of Housing and Urban Development provided $1.9 billion to support existing and new

homelessness programs.[140] One goal of the funding was to incentivize local communities to pursue street outreach and permanent housing over criminal justice solutions. In applying for this competitive funding, prospective grantees must be able to "describe how they are reducing criminalization of homelessness."[141] Their ability to provide a full and satisfactory response to this question could affect whether or not they receive the federal money.[142] HUD funds private-public partnerships across the state of Oregon. These stakeholders have an interest in ensuring that their governments adopt, in HUD's words, "best practices,"[143] i.e., provide housing and outreach, not punishment.

CRIMINALIZATION EXPOSES CITIES TO COSTLY LAWSUITS

When governments adopt a model of criminalization, they expose themselves to liability on the taxpayer's dime. With no other options, individuals facing constitutional violations will be forced to assert their rights by bringing claims against cities that violate the law. Sure enough, like other states across the nation, Oregon cities have begun to see such lawsuits. For example, the ACLU of Oregon recently submitted an *amicus curiae* regarding the unconstitutionality of Portland's public camping ordinance.[144] In the past, the ACLU of Oregon has successfully fought against laws restricting panhandling,[145] and we continue to closely monitor laws that infringe on free expression.[146]

DAKOTA, BEND

"I was faced with the choice of graduating or working to help support my family when we got kicked out of our home. So I quit school and got a job."

In 2014, when Dakota was 17, he and his family were given 30 days to evacuate their home in the winter of 2014. Harassed and mistreated by their landlord, they were kicked out with few other options. His father, who worked for Freightliner for 20 years, and his mother,both on disability, were able to find housing in Harney county. But job and school opportunities there were slim. Dakota then spent the next year in a cheap Motel 6 room with his brother. This ate up the college savings he did have.

Nights looked different than they had before. At work, he tried to stay focused on getting his job done. But towards the end of each shift, he was preoccupied as he assessed his options of where to sleep after work. He woke up to a different reality than what had come before. Education was now on the backburner. Each day, he and his brother would wake up and say, "Ok, we have to make 76 dollars today. How are we going to do it?" The winters were the hardest because work was slow and once it started snowing, the reality of needing to make enough to cover shelter that night added a layer of stress to his life he still remembers.

Dakota considers himself lucky. He has teachers, friends and other people who believe in him. Dakota first came into contact with houseless and unsheltered communities when he was a young teenager. He would go town to skateboard in Portland under the burnside bridge. There he met what he described as "some of the best people I've ever known. Generous and good." Now, he said "All I want is for the whole community to see that we are all one, just trying to make it. People assume that if you don't have a home, you don't have a job. Or don't want one. And that just isn't true. The fact is, we all deserve a safe environment to live and survive in."

MOVING FORWARD:
PROMISING ALTERNATIVES

For decades, criminalization has been the cornerstone of American homeless policy. To bring about needed change, state and local policymakers must both dismantle the punitive anti-homeless laws as well as implement humane and effective programs.

CHANGING THE LAWS: LEGALIZING SURVIVAL

Much can be done at the state level to protect the rights of unhoused individuals.

The Right to Rest Act, landmark legislation from the Homeless Bill of Rights movement, protects the rights of unhoused individuals to engage in the following activities: (1) move freely and sleep in public spaces without discrimination, (2) sleep in a parked vehicle, (3) eat and exchange food in public, and (4) have 24-hour access to hygiene facilities. The law would protect these rights by (1) preempting local governments from enacting or enforcing anti-homeless legislation, (2) ensuring that individuals have legal counsel if charged, (3) requiring judges to allow individuals to use necessity defense in any prosecution dealing with homeless-related legal issues.

The Right to Rest Act is a first step in changing the way we treat our unhoused communities. Western Regional Advocacy Project has led a grassroots movement for Right to Rest legislation that is gaining momentum in multiple states with help from the nation's leading homeless rights advocacy organizations, including the National Law Center on Homelessness and Poverty and the National Coalition for the Homeless. This legislation was developed by people most impacted by homelessness,in partnership with legal and policy experts, and is evidence-based. It offers a solution that will meaningfully improve the lives of people experiencing homelessness.

In addition to providing basic relief to unhoused people, this approach is a critical step towards long-term change that addresses root causes. The Right to Rest Act acknowledges the role that economic hardship, a shortage of safe and affordable housing, unemployment and a dwindling social safety net play in homelessness. It decriminalizes basic life-sustaining activities and allows local governments to redirect resources from enforcement to activities that address root causes of homelessness and poverty.

Shifting our approach to homelessness from punishment to prevention, begins with establishing a shared understanding of what is humane and deserving of *all* people, regardless of housing status. Right to Rest is a giant step forward in achieving this.

The Oregon Legislature can also have an immensely positive impact on the rights of the unhoused by repealing laws that get in the way of real solutions. For example, municipalities can only approve the establishment of a campground to be used for providing transitional housing.[152] However, campgrounds established for providing transitional housing accommodations shall not be allowed on more than two parcels in a municipality.[153] Similarly, under current state law, governments can

allow religious institutions to offer overnight camping spaces to unhoused people living in their vehicles, but only up to three vehicles at the same time, and only if there are sanitary facilities including toilet, washing, and trash disposal.[154] These laws limit the ability of cities and private parties to provide legal and safe sleeping arrangements for their unhoused community members.

PUBLIC EDUCATION:

Cities taking steps towards decriminalization often encounter strong resistance from community members. There is tremendous ignorance, fear, and bias towards people experiencing poverty and homelessness. These prejudices become major barriers to systemic change. Policymakers should consider strategies to promote understanding and inclusion as part of the broader decriminalization efforts.

The public plays a major role in perpetuating criminalization. Officials are often responding to public pressure. There is a lot of apprehension towards unhoused individuals, who may look or behave differently from housed communities members and therefore be viewed with suspicion. From 2013 to 2014, for example, the Eugene Police Department received almost three thousand calls to service regarding illegal campers. This discomfort and fear often drives efforts to keep poor people out of neighborhoods by, for example, limiting homeless shelters and low-income housing.[155] Many community members will not use public parks and other facilities due to fear of people who are unhoused.[156] In response, police often target unhoused individuals to increase the comfort of others.[157] Businesses also try to remove unhoused individuals who may scare patrons and negatively impact business.[158]

Ironically, the general public's anxiety towards unhoused individuals is only exacerbated by criminalization. Decades of crime-fighting policies have played a role in fueling anti-homeless sentiment. Cities reinforce stereotypes that unhoused individuals are criminal and dangerous by making them the target of aggressive policing. Furthermore, the public becomes accustomed to the notion that police are the appropriate solution to poverty. Cities, by criminalizing homelessness, have created the expectation that unhoused individuals pose a threat and that police will address that threat.

As a result, efforts to decriminalize homelessness are often met with strong resistance. Some members of the public become alarmed and outraged when cities ease up on enforcement. Lenience towards illegal activity is interpreted as being 'soft' or otherwise permissive of public safety and health dangers. For example, in Portland, the Mayor had approved a six-month "safe sleep" pilot program that permitted overnight camping in some locations under certain circumstances.[159] In response, business and neighborhood groups sued the City, demanding, in part, stricter enforcement of anti-camping laws.[160] Due to this extremely negative response, the program was allowed to sunset.[161]

An important component of decriminalization is addressing anti-homeless stereotypes and prejudices through public outreach. Governments should cultivate understanding among the housed community about homelessness and unhoused people. These efforts could take a variety of forms, including public education about the causes of poverty and homelessness, who is unhoused, and what it is like to live without a home or shelter. Cities and counties could also educate the housed and unhoused groups about civil rights and liberties, and remind their communities that public spaces belong to everyone, including the poor. Finally, policymakers and the broader community could develop a better understanding of unhoused individuals and their experiences and needs by engaging them in the process of planning and policy decisions.

APPENDIX

[1] We use the term "unhoused" to refer to individuals who lack stable housing and are therefore forced to sleep in shelters, transitional housing, public spaces, and other places not meant for human habitation. Historically, people who fall within this category have also been called "homeless," and that term continues to be widely recognized. However, a growing population prefers to be called unhoused or by another term. We respect the right of these individuals to develop terminology that accurately describes their situations. Accordingly, we use the term "unhoused" throughout this report.
[2] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.* (HUD defines families as those households with at least one adult who is age 18 or older and one child who is under age 18).
[7] https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf -- p. 63
[8] https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf -- 2
[9] Berkeley report; NLCHP report
[10] Berkeley report; NLCHP report
[11] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf
[12] Berkeley
[13] Berkeley
[14] http://www.ode.state.or.us/news/announcements/announcement.aspx?ID=14220&TypeID=5 (For the third year in a row, Oregon's population of homeless students is up over the previous year, reaching a level now exceeding that seen during the recession. The data shows 3.7 percent of the public school K-12 children "lack a fixed, regular and adequate nighttime residence" as defined by the federal government. Another 1,929 children in pre-K programs also fall under this definition.)
[15] http://www.opb.org/news/article/eugene-council-may-ask-gov-kate-brown-to-declare-homeless-emergency-/
[16] http://www.opb.org/news/article/portland-oregon-housing-affordability-emergency/
[17] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf -- 2
[18] https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf
[19] http://www.ode.state.or.us/news/announcements/announcement.aspx?ID=13280&TypeID=5
[20] Joint Center for Housing Studies of Harvard University, THE STATE OF THE NATION'S HOUSING 2015 (2015). (High-income individuals, in particular, have contributed to 45 percent of growth in renters.)
[21] Joint Center for Housing Studies of Harvard University, THE STATE OF THE NATION'S HOUSING 2015 (2015).
[22] Luke Hammill. *Can't find an apartment? Oregon's vacancy rate was the nation's lowest, data show.* THE OREGONIAN. December 10, 2015. *Available at* http://www.oregonlive.com/front-porch/index.ssf/2015/12/cant_find_an_apartment_oregons.html
[23] http://money.cnn.com/2016/01/04/real_estate/oregon-most-popular-moving-states-2015/. (Some estimates suggest Oregon has become the most popular destination to which individuals relocate); http://www.oregonlive.com/pacific-northwest-news/index.ssf/2016/03/oregon_population_passes_4_mil.html (Census estimates reveal that Oregon's growth rate is about double the national average, and the ninth highest of any state).
[24] NLICH, RENTAL GAP, see *supra* note 142 (renters with income 15 percent of the area median are deeply low-income).
[25] U.S. Department of Housing and Urban Development, THE 2014 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS (Oct. 2014), https://www.hudexchange.info/resources/documents/2014-AHAR-Part1.pdf (about half of the unhoused people in Oregon have nowhere to go, and it is 77 percent for chronically homeless people. By contrast, in some states, only two percent are unsheltered.)
[26] *Id. (*between 2011 and 2015, Portland saw a 41 percent increase in unsheltered women, and a 48 percent increase in unsheltered African Americans.)
[27] *See* Barbara Reskin, *The Race Discrimination System*, 38 ANNU. REV. SOCIOL. 17-35 (2012).
[28] *Id.* (nationally, rents have risen at double the rate of inflation).
[29] http://nlihc.org/sites/default/files/oor/OOR_2016.pdf
[30] U.S. Census Bureau, 2015 American Community Survey 1-Year Estimates
[31] U.S. Census Bureau, 2006-2010 American Community Survey (the median rent was $795 in 2010).
[32] Melanie Sevcenko, *Soaring rents in Portland lead to more evictions and homelessness*, THE GUARDIAN, February 11, 2016, http://www.theguardian.com/us-news/2016/feb/11/portland-oregon-housing-rent-homelessness
[33] ORS § 91.225.
[34] *See* e.g. http://www.oregonlive.com/politics/index.ssf/2016/09/kotek_pushes_for_statewide_ren.html (In some apartment buildings, rents are increasing as much as 30 percent at one time.)
[35] U.S. Census Bureau, 2015 American Community Survey 1-Year Estimates (the median household income was $54,148); U.S. Census Bureau, 2006-2010 American Community Survey (the median household income was $51,914).
[36] http://nlihc.org/sites/default/files/oor/OOR_2016.pdf
[37] http://www.oregon.gov/boli/WHD/OMW/Pages/Minimum-Wage-Rate-Summary.aspx
[38] *Id.* (for example, in 2013, one-in-four Oregon renters paid more than half their income towards housing. Of renters with incomes under $15,000, the equivalent of full-time work at the federal minimum wages, this number is four-in-five. These numbers are consistent with national trends).

[39] *Id.*
[40] http://www.ocpp.org/2016/11/21/fs20161121-oregon-food-insecurity-spike-worst/
[41] National Low Income Housing Coalition, *The Affordable Rental Housing Gap Persists*, 4(1) HOUSING SPOTLIGHT (2014) [hereinafter NLICH, RENTAL GAP].
[42] *Id.*
[43] https://www.nlchp.org/documents/Homeless_Stats_Fact_Sheet
[44] http://media.oregonlive.com/portland_impact/other/nocauseeviction.pdf.
[45] http://oregoncat.org/what-we-do/campaigns/ (Numerous studies have shown that no cause evictions affect vulnerable groups in particular. Those who are evicted are typically poor, women, and minorities.)
[46] *Id.*
[47] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf
[48] *Id.* at 13.
[49] Increasing from 49.8 percent in 2014, https://www.hudexchange.info/resources/documents/2014-AHAR-Part1.pdf -- p. 9, to 55.9 percent in 2015, https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf -- p. 13
[50] https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf -- p. 32
[51] http://www.ode.state.or.us/news/announcements/announcement.aspx?ID=13280&TypeID=5
[52] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf
[53] William P. Quigley, *Five Hundred Years of English Poor Laws, 1349-1834: Regulating the Working and Nonworking Poor*, 30 AKRON. L. REV. *Akron L. Rev.* 73, 106 (1996).
[54] Caleb Foote, *Vagrancy-Type Law and Its Administration,* 104 U. PA. L. REV. 603, 616 (1956).
[55] *Id.* at 615; Quigley, at 87, 103-04.
[56] Foote, at 643-47 (citing the text of Article IV of the Articles of Confederation: "The free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States, and the people of each State shall have free ingress and egress to and from any other State.")
[57] See *Id.*; see Quigley, *supra* note 46; see Harry Simon, *Towns Without Pity: A Constitutional and Historical Analysis of Official Efforts to Drive Homeless Persons from American Cities*, 66 TUL. L. REV. 631, 638 (1992); See Simon, *supra* note 102 (citing *Mayor, Aldermen & Commonalty of City of New York v. Miln*, 36 U.S. 102 (1837)).
[58] Arthur H. Sherry, *Vagrants, Rogues and Vagabonds-Old Concepts in Need of Revision,* 48 Cal. L. Rev. 557, 557 (1960).
[59] Forrest W. Lacey, *Vagrancy and Other Crimes of Personal Condition*, 66 Harv. L. REV. 1203, 1208-9 (1953).
[60] Lacey, Forrest, *Vagrancy and Other Crimes of Personal Condition*, 66 HARV. L. REV. 1203, 1208 (1953)
[61] *Id.* at 1209.
[62] See *Perry*, 249 Or. 76 (examining ORS 166.060, which creating a separate crime of vagrancy for individuals who were prostitutes).
[63] Lacey, at 1209.
[64] *Id.*
[65] See, e.g., *City of Portland v. James*, 251 Or. 8 (1968) (striking down a law that made it unlawful for "any person to roam or be upon any street, alley or public place, without having and disclosing a lawful purpose" between 1 A.M and 5 A.M.).
[66] The Supreme Court struck down a California law that made it a misdemeanor to bring into the state a non-resident indigent person. *Edwards v. California*, 314 U.S. 150 (1941) (disagreeing that either unemployment or poverty indicate immorality, and was skeptical of the law that distinguished individuals by their socioeconomic background alone); Vagrancy and loitering ordinances were deemed unconstitutional due to vagueness. See *Papachristou v. Jacksonville*, 405 U.S. 156 (1972) and *City of Chicago v. Morales*, 521 U.S. 41 (1999).
[67] See O.R.S. § 430.402 (prohibiting local laws that criminalize the state of being a vagrant, being under the influence of intoxicants, or being drug- or alcohol-dependent); see *James*, 251 Or. 8 (1968) (striking down a law that made it unlawful for "any person to roam or be upon any street, alley or public place, without having and disclosing a lawful purpose" between 1 A.M and 5 A.M.); see *State v. Debnam*, 23 Or. App. 433, 437 (1975) (striking down a school loitering statute, ORS 166.045(1)(a), as unconstitutionally vague).
[68] For a fuller discussion of broken windows theory and practices, see the following works: Don Mitchell, *The Right to the City: Social Justice and the Fight for Public Space*, GULLIFORD PRESS (2003); Camp, Jordan and Christina Heatherton, *Policing the Planet: Why the Policing Crisis Led to Black Lives Matter*, VERSO (2016); Katherine Beckett & Steve Herbert, *Banished: The New Social Control in Urban America*, OXFORD UNIVERSITY PRESS, 26 (2009).
[69] *See* e.g. J.T. Camp and Christina Heatherton, *Policing the Planet: Why the Policing Crisis Led to Black Lives Matter*, VERSO BOOKS (2016)

[70] National Law Center for Homelessness and Poverty, NO SAFE PLACE: THE CRIMINALIAZTION OF HOMELESSNESS IN U.S. CITIES (last retrieved May 5, 2016), https://www.nlchp.org/documents/No_Safe_Place
[71] See *State v. Debnam*, 23 Or. App. 433, 437 (1975) (striking down a school loitering statute, ORS 166.045(1)(a), as unconstitutionally vague).
[72] See *State v. Perry*, 249 Or. 76 (1968) (examining ORS 166.060, which creating a separate crime of vagrancy for individuals who were prostitutes).
[73] NLHCP; see also Berkeley.
[74] U.S. Census Bureau, 2010 Census.

[75] Corvallis Municipal Code § 5.03.080.080.02 (1982), Salem Municipal Code § 95.560, Sandy Municipal Code § 8.35.010 (2008), Wilsonville Municipal Code § 10.425, Astoria Municipal Code § 5.900 (1990), Warrenton Municipal Code § 10.28.020 (2013), Roseburg Municipal Code § 7.02.100, Sutherlin Municipal Code § 9.20.010 (1989), Ashland Municipal Code § 10.46.020, Eagle Point Municipal Code § 9.04.220, Medford Municipal Code § 5.257, Grants Pass Municipal Code § 5.61.030, Klamath Falls Municipal Code § 5.240, Creswell Municipal Code § 9.05.460, Eugene Municipal Code § 4.815 (1996), Springfield Municipal Code § 5.130 (2006), Newport Municipal Code § 9.50, Dallas Municipal Code § 5.276 (2015), Cornelius Municipal Code § 9.10.250, Hillsboro Municipal Code § 9.44.040, Tigard Municipal Code § 7.80.010-050, Tualatin Municipal Code § 6.12.030, Sherwood Municipal Code § 9.54 (2013), Gresham Municipal Code § 7.10.165, Portland Municipal Code § 14A.50.020.
[76] Corvallis Municipal Code § 5.03.080.080.02 (1982), Salem Municipal Code § 95.560, Grants Pass Municipal Code § 5.61.030.
[77] Baker City Municipal Code § 95.07, Corvallis Municipal Code § 5.01.130, Happy Valley Municipal Code § 10.16.040, Molalla Municipal Code § 12.08.010, Milwaukee Municipal Code § 9.28.110 and § 9.28.020, Lake Oswego Municipal Code § 34.12.611, Astoria Municipal Code § 5.927, Warrenton Municipal Code § 12.08.010, Scappoose Municipal Code § 12.16.020, St. Helens Municipal Code § 8.24.120-200, Coos Bay Municipal Code § 12.35.020, North Bend Municipal Code § 9.04.150, Brookings Municipal Code § 12.25.012, Bend Municipal Code § 5.55.005, Redmond Municipal Code § 5.314, Sutherlin Municipal Code § 12.36.140-60, Ashland Municipal Code § 10.68.230 and §10.68.360, Eagle Point Municipal Code § 9.04.210, Medford Municipal Code § 5.255, Madras 4-23 Ordinance 738 Section 2 G, Grants Pass Municipal Code § 6.46.090, Creswell Municipal Code § 9.05.450, Eugene Municipal Code § 4.680, Junction City Municipal Code § 9.25.15, Lincoln City Municipal Code § 12.16.010-030, Newport Municipal Code § 9.75.020, Lebanon Municipal Code § 12.14.010, Sweet Home Municipal Code § 12.12.150, Albany Municipal Code § 7.28.240-45, Ontario Municipal Code § 6-1-6, Silverton Municipal Code § 12.48.070, Woodburn Ordinance No. 2060, Salem Municipal Code § 94.190, Fairview Municipal Code § 12.30.060, Gresham Municipal Code § 7.10.130, Troutdale Municipal Code § 13.20.040, Portland Municipal Code § 20.12.210, Dallas Municipal Code § 5.426 and § 5.424, Independence Municipal Code § 12.21.4, Monmouth Municipal Code § 9.15.020-040, Hermiston Municipal Code § 93.04, Milton-Freewater Municipal Code § 5-9-1 and § 5-9-2, Forest Grove Municipal Code § 5.410 and § 5.475, Hillsboro Municipal Code § 9.32.040 and § 9.32.110, Tualatin Municipal Code § 5-2-040 and § 5-3-040, Sheridan Municipal Code § 12.24.020.
[78] Benton County Code § 15.010, Columbia County Code § 25-1-4(b)(7) (2016), Coos County Code § 06.01.100, Douglas County Code § § 12.12.160 and 180 (1996), Jackson County Code § 1064.09 (1980, 1988, 2003, 2007), Linn County Code § 610.610, Malheur County Code § 4-1(1997), Washington County Code § § 10.08.070(A)(17), (22), and 10.08.080(P) (1985), Yamhill County Code § 6.4, Clackamas County Code § § 6.06.030 and 6.06.050 (2000, 2007, 2013), Lane County Code § § 6.030, 6.560, 6.565, 6.570 (1989, 2000), Marion County Code § 12.05.240, Lincoln County Code § § 9.015 10.12.020 (1988, 1995, 2005), Clatsop County Code § 12.28.050, Umatilla County Code § 92.08.
[79] Corvallis Municipal Code § 5.03.080.080.03, Wilsonville Municipal Code § 10.425, Sandy Municipal Code § 8.35.010, Astoria Municipal Code § 5.900 and § 5.905, Warrenton Municipal Code § 12.28.020, Roseburg Municipal Code § 7.02.100, Sutherlin Municipal Code § 9.20.010, Ashland Municipal Code § 10.46.010-020, Eagle Point Municipal Code § 9.04.220, Medford Municipal Code § 5.257, Grants Pass Municipal Code § 5.61.010-020, Klamath Falls Municipal Code § 5.200-40, Creswell Municipal Code § 9.05.460, Eugene Municipal Code § 4.815, Newport Municipal Code § 9.50.010-020, Lebanon Municipal Code § 12.12.040, Portland Municipal Code § 14A.50.020, Dallas Municipal Code § 5.276, Sherwood Municipal Code § 9.554.020, Tigard Municipal Code § 7.80.010-030, Molalla Municipal Code § 10.42.010, North Bend Municipal Code § 10.04.430, Redmond Municipal Code § 6.157, Newport Municipal Code § 6.25.010, Albany Municipal Code § 13.36.180, Hermiston Municipal Code § 72.09, Milton-Freeman Municipal Code § 8-1-7-8, Umatilla Municipal Code § 6-2-3 and § 6-2-4, Forest Grove Municipal Code § 6.240, Beaverton Municipal Code § 6.02.323, Cornelius Municipal Code § 10.15.020 and § 9.10.250.
[80] Corvallis Municipal Code § 5.03.080.080.03, Warrenton Municipal Code § 12.28.020, North Bend Municipal Code § 10.04.430, Albany Municipal Code § 13.36.180, Milton-Freeman Municipal Code § 8-1-7-8, Umatilla Municipal Code § 6-2-3-1, Forest Grove Municipal Code § 6.230, and Cornelius Municipal Code § 10.15.020.
[81] Beaverton Municipal Code § 6.02.323, Molalla Municipal Code § 10.42.010, Redmond Municipal Code § 6.157, Newport Municipal Code § 6.25.010, Hermiston Municipal Code § 72.09, 1., Milton-Freeman Municipal Code § 8-1-7-8, Umatilla Municipal Code § 6-2-4, North Bend Municipal Code § 10.04.430, Albany Municipal Code § 13.36.180, Lebanon Municipal Code § 12.12.040, Roseburg Municipal Code § 7.02.100, Forest Grove Municipal Code § 6.240.
[82] ORS 164.245.
[83] Corvallis Municipal Code § 5.03.090.060.03, Sandy Municipal Code § 9.04.01, Warrenton Municipal Code § 9.04.230, Sutherlin Municipal Code § 9.20.030. Hood River Municipal Code § 9.24.020, Ashland Municipal Code § 1056.020, Central Point Municipal Code § 9.66.010, Eagle Point Municipal Code § 9.04.190-200, Medford Municipal Code § 5.245, Grants Pass Municipal Code § 5.57.020, Cottage Grove Municipal Code § 9.24.050, Creswell Municipal Code § 9.05.410, Eugene Municipal Code § 4.807-08, Lincoln City Municipal Code § 12.18.120, Ontario Municipal Code § 6-1-9, Salem Municipal Code § 95.550, Fairview Municipal Code § 12.30.080, Gresham Municipal Code §7.10.220, Troutdale Municipal Code § 9.28.010-040, Beaverton Municipal Code § 5.08.405, Cornelius Municipal Code § 9.10.240, Hillsboro Municipal Code § 7.16.010, Sherwood Municipal Code § 9.32.020-03, Tigard Municipal Code § 7.24.140, Lane County Code § 6.025.
[84] Hillsboro Municipal Code § 7.08.060, Corvallis Municipal Code § 5.03.080.080.03, Salem Municipal Code § 95.560, Warrenton Municipal Code § 12.28.050, Roseburg Municipal Code 7.02.100, Eugene Municipal Code § 4.816, Gresham Municipal Code § 7.10.165, Albany Municipal Code § 13 36.180, and Forest Grove Municipal Code § 6.240.
[85] ORS 203.802.

[86] Astoria Municipal Code § 5.92, Baker City Municipal Code § 130.06, Corvallis Municipal Code § 5.03.070.020, Molalla Municipal Code § 9.08.010, West Linn Municipal Code § 5.150, Milwaukee Municipal Code § 9.08.020, Astoria Municipal Code § 5.255, Seaside Municipal Code § 134.01, Scappoose Municipal Code § 9.20.010, Redmond Municipal Code § 5.135, Roseburg Municipal Code § 7.02.060, Sutherlin Municipal Code § 9.28.010, Central Point Municipal Code § 9.78.010, Eagle Point Municipal Code § 9.08.010, Medford Municipal Code § 5.341, Madras 4-13 Ordinance 517(1), Grants Pass Municipal Code § 5.60.010, Klamath Falls Municipal Code § 5.308, Cottage Grove Municipal Code § 9.28.030, Creswell Municipal Code § 9.10.020, Eugene Municipal Code § 4.685, Lincoln City Municipal Code § 9.32.010-020, Sweet Home Municipal Code § 9.28.010, Ontario Municipal Code § 6-4-2, Silverton Municipal Code § 9.12.010, Stayton Municipal Code § 9.24.010, Woodburn Ordinance No. 2122, Salem Municipal Code § 95.330, Fairview Municipal Code § 9.05.010-020, Gresham Municipal Code § 7.40.010, Troutdale Municipal Code § 9.40, Portland Municipal Code § 14A.80.010, Dallas Municipal Code § 5.224, Independence Municipal Code § 9.16.1, Monmouth Municipal Code § 9.20.030, Hermiston Municipal Code § 133.01, Umatilla Municipal Code § 5-2-1, La Grande Ordinance No. 2914, Forest Grove Municipal Code § 5.096, Hillsboro Municipal Code § 7.24.010, Sherwood Municipal Code § 9.40, Tigard Municipal Code § 7.44.010, Newburg Municipal Code § 9.20.040, Sheridan Municipal Code § 9.32.010, Washington County Code § 9.08, Polk County Code § 40.100, Multnomah County Code § 15.050, Linn County Code § 610.610, Crook County Code § 9.04.010, Clackamas County Codes §§ 6.01 and 6.06.030, Coos County Code § 06.10.100(5).
[87] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf
[88] https://www.oregon.gov/ohcs/pdfs/2015-Point-In-Time-Count-Summary.pdf
[89] Seaside Municipal Code § 131.03, Hood River Municipal Code § 9.16.070, Central Point Municipal Code § 9.56.010, Eagle Point Municipal Code § 9.04.265, Cottage Grove Municipal Code § 9.20.050, Creswell Municipal Code § 9.05.120, Lebanon Municipal Code § 9.28, Ontario Municipal Code § 6-1-7, Hillsboro Municipal Code § 7.08.070; Lane County Code § 6.025 (1).
[90] Seaside Municipal Code § 131.03, Hood River Municipal Code § 9.16.070, Central Point Municipal Code § 9.56.010, Lebanon Municipal Code § 9.28, Ontario Municipal Code § 6-1-7.
[91] ORS 166.045(1)(a).
[92] *State v. Debnam*, 542 P.2d 939, 942 (1975).
[93] Hood River Municipal Code § 9.16.070 (1979), Creswell Municipal Code § 9.05.120 (1981), Cottage Grove Municipal Code § 9.20.050 (2007).
[94] Seaside Municipal Code § 131.03, Central Point Municipal Code § 9.56.010, Hillsboro Municipal Code § 7.08.070.
[95] Wilsonville Municipal Code § 10.310, Seaside Municipal Code § 131.21, Warrenton Municipal Code § 9.04.220, Coos Bay Municipal Code § 10.28.020, North Bend Municipal Code § 9.04.050, Brookings Municipal Code § 9.10.345 and 10.20.145, Sutherlin Municipal Code § 10.12.140, Ashland Municipal Code § 10.130, Central Point Municipal Code § 12.20.025, Medford Municipal Code § 5.258 and 6.360, Grants Pass Municipal Code § 6.22.010, Klamath Falls Municipal Code § 5.242, Cottage Grove Municipal Code § 9.20.020, Junction City Municipal Code § 9.05.150, Lincoln City Municipal Code § 9.08.040, Lebanon Municipal Code § 9.30 and 9.35, Stayton Municipal Code § 9.20.020, Salem Municipal Code § 95.060, Dallas Municipal Code § 5.280, Milton-Freewater Municipal Code § 8-1-2-10.
[96] Seaside Municipal Code § 131.21, Warrenton Municipal Code § 9.04.220, North Bend Municipal Code § 9.04.050, Klamath Falls Municipal Code § 5.242, Cottage Grove Municipal Code § 9.20.020, Junction City Municipal Code § 9.05.150, Lincoln City Municipal Code § 9.08.040, Stayton Municipal Code § 9.20.020, Salem Municipal Code § 95.060, Dallas Municipal Code § 5.280, Milton-Freewater Municipal Code § 8-1-2-10.
[97] Wilsonville Municipal Code § 10.310, Brookings Municipal Code § 9.10.345, Medford Municipal Code § 5.258 (2007, last amended 2010), Lebanon Municipal Code § 9.30 and 9.35 (2016).
[98] Wilsonville Municipal Code § 10.310, Ashland Municipal Code § 10.130 (2016), Lebanon Municipal Code § 9.30 (2016).
[99] Ashland Municipal Code § 10.130.010(A)(2) (2016).
[100] Coos Bay Municipal Code § 10.28.020 (2014), Brookings Municipal Code § 10.20.145 (2016), Sutherlin Municipal Code § 10.12.140 (2012), Central Point Municipal Code § 12.20.025 (2012), Medford Municipal Code § 6.360 (1999, last amended 2011), Grants Pass Municipal Code § 6.22.010, Lebanon Municipal Code § 9.35 (2016).
[101] Baker City Municipal Code § 130.03 and § 130.05, Corvallis Municipal Code § 5.03.100.020.01, Molalla Municipal Code § 10.28.020 and § 12.32.020, Sandy Municipal Code § 13.34.010, Lake Oswego Municipal Code § 42.06.350 and §42.06.370, Wilsonville Municipal Code § 10.340 and §10.342, Seaside Municipal Code § 71.07 (1995), Warrenton Municipal Code § 9.04.180 (1989), Scappoose Municipal Code § 9.16.040-090 and § 11.04.110 (1986), Coos Bay Municipal Code § 10.10.080 (1987), North Bend Municipal Code § 12.08.020, Brookings Municipal Code § 9.10.340 and § 12.10.040, Bend Municipal Code § 6.15.010 (2010), Redmond Municipal Code § 5.120, Sutherlin Municipal Code § 9.20.050 and § 9.20.070, Ashland Municipal Code § 10.64.020 (2015), Central Point Municipal Code § 9.64.010-040, Eagle Point Municipal Code § 9.04.260 (2000) and § 10.20.240. Medford Municipal Code § 6.360, Grants Pass Municipal Code § 5.36.010, Klamath Falls Municipal Code § 6.160, Cottage Grove Municipal Code § 9.20.060, Creswell Municipal Code § 9.05.700 (2007), Eugene Municipal Code § 4.707 (1995), § 4.872, and § 5.130 (1976), Florence Municipal Code § 7-1-6 and § 8-2-4-2 (2009), Junction City Municipal Code § 9.05.180 and § 10.05.180 (1972), Springfield Municipal Code § 6.110, Lincoln City Municipal Code § 10.12.180, Newport Municipal Code § 9.35.005, Lebanon Municipal Code § 10.20.05-090 (1967), Sweet Home Municipal Code § 9.24.040, Albany Municipal Code § 7.68.010, Ontario Municipal Code § 9-1-9 and § 9-1-14, Silverton Municipal Code § 9.08.010 (1962) and 12-28-010 (1962) , Salem Municipal Code § 95.700 (2000), Fairview Municipal Code § 10.05.110, Portland Municipal Code § 14A.50.030, Independence Municipal Code § 9.12.2-3, Hermiston Municipal Code § 94.07 (1998) and § 130.10 (2000), Milton Freewater Municipal Code § 8-1-2-5, Umatilla Municipal Code § 6-1-3, The Dalles Municipal Code § 5-22, Beaverton Municipal Code § 6.02.250, Cornelious Municipal Code § 9.10.090 (2000) and § 9.10.120 (2015), Forest Grove Municipal Code § 6.095, Hillsboro Municipal Code § 7.08.040, § 7.16.040, and § 8.08.020, Sherwood Municipal Code § 9.36.120 (1974) and § 10.12.190 (1970), Sheridan Municipal Code § 9.16.050-060, Benton County Code § 15.010, Deschutes County Code § 12.35.110.
[102] Baker City § 130.03, Corvallis § 5.03.100.020.01, Sweet Home § 9.24.040 (1983, 1991).

[103] Baker City, Lake Oswego, Central Point (1951, 2013), Eagle Point (2000), Lebanon (1967), Silverton (1962), Cornelius (2015), Sherwood, Sheridan (1966).
[104] Wilsonville, Warrenton (1989), Scappoose (1986), Creswell (2007), Junction City (1972), Newport (1967), Salem (2000), Independence, Hermiston (2000), The Dalles.
[105] Molalla, Lake Oswego, Scappoose (1986), Coos Bay (1982)
Redmond, Central Point (1951, 2013), Ashland (2016), Eagle Poaint (2011), Medford, Cottage Grove, Eugene (1995), Florence (1984), Junction City (1972), Springfield, Newport (1967), Lebanon (1967), Sweet Home (1983, 1991, 2015), Albany, Silverton (1962), Fairview, Portland, Hermiston (1998), Umatilla, Cornelius (1991), Forest Grove, Hillsboro, Sherwood (1970).
[106] Baker City Municipal Code § 130.045 (1988), Corvallis Municipal Code § 5.03.080.040 (1982), Oregon City Municipal Code §9.12.030, West Linn Municipal Code §5.105, Milwaukee Municipal Code § 9.07.010 (2005), Wilsonville Municipal Code § 10.320, Astoria Municipal Code § 5.115 (2013), Warrenton Municipal Code § 9.04.080 (1989), Coos Bay Municipal Code § 9.15.010 (1987), Brookings Municipal Code § 13.10.070, Redmond Municipal Code § 5.130, Roseburg Municipal Code § 7.02.050 (1996), Sutherlin Municipal Code § 9.16.080 (1989), Hood River Municipal Code § 9.20.010, Eagle Point Municipal Code § 9.04.060 (2000), Medford Municipal Code § 5.125 (2000), Grants Pass Municipal Code § 6.03.080, Cottage Grove Municipal Code § 9.16.051 (2002), Creswell Municipal Code § 9.05.210 (2007), Eugene Municipal Code § 4.770 (1984), Junction City Municipal Code § 9.05.190 (1972, 1993), Lincoln City Municipal Code § 9.08.030, Newport Municipal Code § 8.20.010, Albany Municipal Code § 9.04.055 , Stayton Municipal Code § 9.20.010, Woodburn Ordinance No. 1990 (1986), Fairview Municipal Code § 12.30.060, Gresham Municipal Code § 7.10.075 (1992, last amended 2011), Portland Municipal Code § 20.12.030, Dallas Municipal Code § 5.203 (1993), Independence Municipal Code § 9.8.1 (1993), Monmouth Municipal Code § 9.10.310 (1993), Hermiston Municipal Code § 130.09 (2000), Milton-Freeman Municipal Code § 8-1-4-1 (1972), Umatilla Municipal Code § 5-1-2 (2010), The Dalles Municipal Code § 5-22(16)(A) (2011), Cornelius Municipal Code § 9.10.230 (1988), Forest Grove Municipal Code § 5.030, Hillsboro Municipal Code § 7.12.040, Tigard Municipal Code § 7.32.110 (1972, 1981), Tualatin Municipal Code § 6-12-050 (2007), Newberg Municipal Code § 9.05.090 (1994).
[107] *See* e.g. Salem City Code § 94.110, Fairview City Code § 12.30.060(F), Portland City Code § 20.12.150, Independence City Code § 12.21.4(P).
[108] *See* e.g. Medford City Code § 5.296, Cottage Grove City Code § 9.24.030, Eugene City Code § 4.930, Beaverton City Code § 5.08.403, Sherwood City Code 9.28.110, Tigard City Code § 7.24.110.
[109] *See* e.g. Hillsboro City Code § 6.08.020(A)-(B).
[110] This is a non-exhaustive list, but the reader can get a sense of these laws by seeing e.g. Happy Valley City Code § 9.04.010, Molalla City Code § 9.14.020, Oregon City Code § 9.28.020, Milwaukee City Code § 9.08.050 and 9.02.020, Wilsonville City Code § 10.540, Seaside City Code § 135.01, St. Helens City Code § 8.24.210, Bend City Code § 5.40.010, Redmond City Code § 5.315, Sutherlin City Code § 12.36.300 and 12.48.020, Ashland City Code § 10.68.350 and 10.120.020, Eagle Point City Code § 9.12.010, Medford City Code § 5.256, Grants Pass City Code § 6.46.350, Creswell City Code § 9.05.455, Springfield City Code § 5.140 and 5.150, Lebanon City Code § 9.18 and 12.14, Sweet Home City Code § 12.12.190, Albany City Code § 7.28.310 and 7.84.350, Ontario City Code § 6-9, Silverton City Code § 12.50.100, Woodburn City Ordinance No. 2060 and 2410, Salem City Code § 94.210 and 95,730-70, Gresham City Code § 7.10.155 and 7.90.020, Troutdale City Code § 13.20.380, Portland City Code § 14B.20, 14B.30, and 20.12.265, Independence City Code § 9.20, Hillsboro City Code § 9.32.020, Tualatin City Code § 5-3-080 and 5-10, Sheridan City Code § 12.24.025, Brookings City Code § 12.25.012, Jefferson County Code § 12.12.020, Lane County Code § 6.590, Lincoln County Code § 12.18.070.
[111] Baker City Code § 113.21 Corvallis City Code § 5.03040.010.06, Oregon City Code § 9.12.010, West Linn City Code § 5.010, Milwaukee City Code 9.06.010 and 9.28.050, Wilsonville City Code § 10.300, Astoria City Code § 5.370, Seaside City Code § 135.04 and 130.05, Warrenton City Code § 9.04.030, Scappoose City Code § 9.12.010, 12.16.020, 8.24.120, 8.24.190, and 8.24.200, Coos Bay Code § 9.15.020, North Bend City Code § 9.04.040, Brookings City Code § 12.40.010, Bend City Code § 5.15.005, Redmond City Code § 5.170 and 5.180, Roseburg City Code § 7.02.030, Sutherlin City Code § 9.16.030 and 12.36.270, Hood River City Code § 9.16.060, Ashland City Code § 10.68.090, Central point City Code § 9.54.010, Eagle Point City Code § 9.04.350, Medford City Code § 5.310, Madras City Ordinance 497 Section 18, Ordinance 738 Section 2(J)-(K), Grants Pass City Code § 5.68.010, Klamath Falls City Code § 5.438, Cottage Grove City Code § 9.16.010, Eugene City Code § 4.190, Junction City Code § 9.20.020, 9.20.040, and 9.20.050, Springfield City Code § 5.256 and 5.280, Newport City Code § 9.55, Sweet home City Code § 9.20.030 and 12.12.100, Albany City Code § 7.28.100, Woodburn Ordinances 1900(1) and 2060(13), Salem City Code § 90.020, Fairview City Code § 10.05.220 and 12.30.060(A), Gresham City Code § 7.10.120, Troutdale City Code § 9.08.010 and 13.20.190, Portland City Code § 14A.50.010 and 14A.110.220, Dallas City Code § 5.016 and 5.424, Independence City Code § 5.7.1 and 5.7.2, Monmouth City Code § 9.05.040, 9.05.050, and 9.12.020, Hermiston City Code § 93.04(M) and 130.07, Milton-Freewater City Code § 8-1-2-11, La Grande City Ordinance No. 3189(7), The Dalles City Code § 5.22(2), Beaverton City Code § 5.02.083, Forest Grove City Code § 5.040, Hillsboro City Code § 7.08.080 and 9.32.110(A), Sherwood City Code § 12.12.090, Tigard City Code § 7.32.180 and 7.52.100, Tualatin City Code § 5-2-040(28), 5-3-040(1)(a), 6-12-020(1), Newberg City Code § 9.35.160, Coos County Code § 06.010.120, Columbia County Ordinance No. 25-1-4(9), Clackamas County Code § 6.06.050, Douglas County Code § 12.12.180(P) and (U), Lincoln County Code § 9.28.170, Marion County Code § 2.05.150, Polk County Code § 17.340(19).
[112] https://www.washingtonpost.com/news/wonk/wp/2014/09/25/think-you-drink-a-lot-this-chart-will-tell-you/?utm_term=.cd1010204028
[113] Eugene City Code § 4.190(4).
[114] Berkeley report, p. 28
[115] *Id.*
[116] See supra note 201 (discussing employment discrimination against individuals with a criminal record); http://www.law.du.edu/documents/homeless-advocacy-policy-project/2-16-16-Final-Report.pdf -- p. 28-29.

[117] *Id,* at 34.; see Joseph Shapiro, *As Court Fees Rise, the Poor are Paying the Price*, NATIONAL PUBLIC RADIO (May 19, 2014), http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor (National Public Radio conducted a year-long investigation and a state-by-state survey of court fees. They found that, since the recent recession, 48 states have added new or increased existing civil and criminal court fees. As a result, an increasing number of people are sentenced to jail time for failing to pay the high fees associated with resolving their cases).
[118] *Id.*
[119] ORS 33.105.
[120] see Joseph Shapiro, *As Court Fees Rise, the Poor are Paying the Price*
[121] e.g. see City of Eugene, *How to Claim Property* (last retrieved May 5, 2016), https://www.eugene-or.gov/1656/How-to-Claim-Property (in Eugene, property owners must have documentation for the property [such as serial numbers, photographs, or prescriptions for medications], the notification card or letter from the City showing the property was taken, and photo identification. Furthermore, homeless individuals may have a variety of reasons for feeling uncomfortable retrieving the items from the Police Department, where the items are stored).
[122] e.g. see Eugene Police Department, *Policy Operations Manual 804.4: Property Handling*, ("*unless the value of the property is zero*, the property must be processed in accordance with state and local law prior to the Department disposing of the property"[emphasis added]).
[123] https://www.nhlbi.nih.gov/health/health-topics/topics/sdd
[124] https://www.nhlbi.nih.gov/health/health-topics/topics/sdd
[125] https://www.psychologytoday.com/blog/dreaming-in-the-digital-age/201412/why-sleep-deprivation-is-torture; https://www.theguardian.com/law/2014/nov/28/un-condemns-sleep-deprivation-among-us-detainees
[126] *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006) (vacated after settlement, 505 F.3d 1006 (9th Cir. 2007)).
[127] *Id.* at 1138.
[128] *Id.*
[129] Letter from Sharon Brett, Trial Att'y. for Civil Rights Division, U.S. Dep't of Justice, Statement of Interest (Aug. 6, 2915) *available at* http://www.justice.gov/opa/file/643766/download
[130] *Id.*
[131] *Id.*
[132] http://www.law.du.edu/documents/homeless-advocacy-policy-project/2-16-16-Final-Report.pdf
[133] *Id.* at 25
[134] *Id.* at 27.
[135] Howard, Joshua and David Tran, *At What Cost: The Minimum Cost of Criminalizing homelessness in Seattle and Spokane*, available at: http://ssrn.com/abstract=2602530, iii (2015).

[136] *http://www.csh.org/wp-content/uploads/2011/12/Report_CostforIndividuals1.pdf*
[137] U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, OPENING DOORS: FEDERAL STRATEGIC PLAN TO PREVENT AND END HOMELESSNESS 18 (2010), available at http://usich.gov/PDF/OpeningDoors_2010_FSPPreventEndHomeless.pdf (last visited Dec. 1, 2014).
[138] *http://www.csh.org/wp-content/uploads/2011/12/Report_CostforIndividuals1.pdf*
[139] See Howard, Joshua and David Tran, *At What Cost: The Minimum Cost of Criminalizing homelessness in Seattle and Spokane*, available at: http://ssrn.com/abstract=2602530, iii (2015); see http://www.csh.org/wp-content/uploads/2011/12/Report_CostforIndividuals1.pdf
[140] http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_dvisories/2015/HUDNo_15-116
[141] http://www.law.du.edu/documents/homeless-advocacy-policy-project/2-16-16-Final-Report.pdf -- p. 2.
[142] *Id.*
[143] http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2015/HUDNo_15-116
[144] AMICUS CURIAE for *State v. Barrett.*
[145] *http://www.aclu-or.org/content/volkart-v-city-medford*
[146] See, e.g., our recent letter to the City of Brookings regarding their so-called "abusive solicitation" ordinance. http://aclu-or.org/sites/default/files/June%2019%202016%20Ltr%20to%20Brookings%20re%20Abusive%20Solicitation%20Ordinance_0.pdf
[147] https://www.nlchp.org/documents/Wrongs_to_Rights_HBOR
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[149] http://nationalhomeless.org/campaigns/bill-of-right/
[150] http://wraphome.org/what/homeless-bill-of-rights/
[151] http://america.aljazeera.com/articles/2014/10/6/holdholdholdhomelessbillofrightsaimstoendcriminalization.html
[152] ORS 446.265
[153] ORS 446.265(5)
[154] ORS 203.802.
[155] Daniel Sullivan and James Bachmeier, *Racial Differences in Perceived Disorder in Three Gentrifying Neighborhoods*, 2 ADVANCES IN APPLIED SOCIOLOGY 3 (2012).
[156] Sharon Chamard, *Home Encampments*, 56 U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES PROBLEM-SOLVING GUIDE SERIES (2007), http://www.popcenter.org/problems/pdfs/homeless_encampments.pdf.
[157] Mike Davis, *City of Quartz: Excavating the Future in Los Angeles*, RANDOM HOUSE (1992); see supra note 226.
[158] See supra note 49, at 169.
[159] https://www.portlandoregon.gov/toolkit/article/562215
[160] http://www.oregonlive.com/portland/index.ssf/2016/04/portland_sued_over_homeless_ca.html
[161] https://www.portlandoregon.gov/toolkit/article/562215

NOTES


RIGHT

DECRIMINALIZING HOMELESSNESS:
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