



Drake Undergraduate Social Science Journal

Spring 2022 Edition

A Comparative Analysis of the Criminalization of Homelessness in the United States

Christopher Jachimiak

Abstract

States, Counties, and Cities across the United States are turning to policies that criminalize the act of being homeless. From camping bans to restricting panhandling, cities are attempting to reduce homelessness by making it a crime. Failing to recognize the real reasons these individuals are homeless and the alternatives to criminalization that exist. One such city is Boulder, Colorado, which has instituted increased criminalization policies in an effort to reduce homelessness, proving costly and ineffective. In order to better understand the situation at hand and determine better alternatives, three case studies are used, from three completely different cities in terms of politics and demographics. This paper will then apply what can be learned from these case studies to Boulder, Colorado, and make policy suggestions as to how to better address homelessness in the area.

Section 1: Introduction

The US Department of Housing and Urban Development (HUD) explains that “in recent years, the United States has seen the proliferation of local measures to criminalize ‘acts of living’ laws that prohibit sleeping, eating, sitting or panhandling in public spaces. City, town, and county officials are turning to criminalization measures in an effort to broadcast a zero-tolerance approach to street homelessness and to temporarily reduce the visibility of homelessness in their communities” (HUD, 2021). This alarming and unfortunate trend is showing up in cities across the country. This therefore begs the question, do criminalization policies, with respect to homeless populations, quantifiably reduce homelessness? Or does criminalization simply make the problem worse? This essay will evaluate the aforementioned questions, paying specific attention to the criminalization policies of the City and County of Boulder, Colorado as a case study. In order to evaluate this question, this essay will: first, examine the types of criminalization policies used. Second, utilizing three different case studies, evaluate whether or not criminalization works. Third, exhibit why decriminalization coupled with social support services works better than criminalization. Finally, conclude why decriminalization would be a better policy choice on a local level for Boulder.

Boulder County is one of the wealthiest counties in the country; the county ranks second in the state of Colorado and 88th in the nation when looking at median household income (Washington Post, 2011). There are approximately 330,000 persons in the county, with a median household income of over \$83,000 (US Census Bureau, 2019). Despite the expansive amount of wealth in the county, Boulder continues to have a significant problem with homelessness. The Metro Denver Homeless Initiative’s point-in-time count of unhoused persons, found that there were 678 unhoused citizens in Boulder in 2020 (MDHI, 2020). Because these numbers are self-

reported their true value is likely undercounted. Therefore, it can be concluded that Boulder County has a pervasive problem with regards to homelessness. Furthermore, on the topic of criminalization Boulder is an adequate fit for this essay, because as The University of Denver Homeless Advocacy Policy Project explains “paradoxically, this affluent community known for its progressive ideals does not provide near enough shelter for its homeless residents, and its police officers routinely issue citations to those without shelter” (University of Denver, 2016). Therefore, it can be concluded that Boulder County not only has a pervasive problem with homelessness, but also that their chosen remedy for said problem is criminalization.

Section 2: Criminalization of Homelessness

Given the aforementioned conclusion establishing Boulder County as a suitable and relevant subject for this essay, it is crucial to examine how Boulder County and other municipalities have instituted laws and policies to criminalize homelessness. The National Low Income Housing Coalition (NLIHC) explains that “every day in America, people experiencing homelessness are threatened by law enforcement, ticketed, and even arrested for living in public spaces when they have no alternative... Rather than providing adequate housing options, too many communities criminalize homelessness by making it illegal for people to sit, sleep, or even eat in public spaces” (NLIHC, 2021). Unfortunately, these types of laws are on the rise. The National Homelessness Law Center (NHLC) examined “these laws in 187 cities and found that city-wide bans on camping have increased by 92%, on sitting or lying by 78%, on loitering by 103%, on panhandling by 103%, and on living in vehicles by 213%” (NLIHC, 2021). These anti-homelessness laws are rising at an incredibly rapid rate, affecting nearly every community across

the country. Even in Boulder County, one of the wealthiest and progressive counties in the country, the criminalization of homelessness persists.

In July of 2021 the American Civil Liberties Union (ACLU) of Colorado sent a letter to Boulder officials “regarding what it sees as the city’s ‘unconstitutional and inhumane’ treatment of unhoused residents” (Colorado Newline, 2021). Annie Kurtz, the ACLU attorney behind the letter, wrote that “records examined by the ACLU evidence a system that, with one hand, makes shelter available to only a limited few, and with the other, criminalizes those forced to sleep outdoors under the false narrative that they are resistant to services” (ACLU, 2021). Kurtz references two policies in specific that she believes are unconstitutional, but only the second policy, the city’s camping ban, is relevant to this essay. Moe Clark, a journalist for Colorado Newline explains that “Boulder City Council members...approved an emergency rule that allows law enforcement to remove tents from public spaces without prior notice—part of the city’s months-long push to more aggressively enforce the city’s camping ban” (Colorado Newline, 2021). Prior to this city ordinance, police officers were required to give people living in tents 72 hours of notice before removing them from public spaces.

Section 3: Case Study 1: Central Florida

If cities and counties across the country, including Boulder, have either arrived at or are trending towards the criminalization of homelessness, it would be valuable to examine, from a budgetary perspective, what the cost of criminalizing homelessness is. In order to draw a nationwide conclusion about the fiscal cost of criminalizing homelessness, it will be crucial to evaluate Central Florida, an area with high homelessness and strict anti-homelessness laws, as a case study. Gregory Shinn a social worker and researcher for the Supportive Housing Network of

New York conducted an analysis of the cost of criminalizing homelessness in three counties in Central Florida: Orange, Seminole, and Osceola. He concluded that, “based on our study of a cohort of 107 chronically homeless individuals, we calculated that the average annual cost to be homeless and cycling in and out of incarceration, emergency rooms and inpatient hospitalizations was \$31,065 per person per year. Average cost per year for the cohort for the tri-county area is \$3,323,955, for a 10-year total cost of \$33,239,553” (SHNNY, 2014).

Criminalizing homelessness is an incredibly expensive act, and rarely does anything to help prevent homelessness or support homeless individuals. The aforementioned Supportive Housing Network of New York analysis found that in Osceola County alone, thirty-seven chronically homeless people accounted for over 1250 arrests, or roughly four arrests per person, per year, over a ten-year period (SHNNY, 2014); a staggering number of arrests, that did nothing to mitigate or prevent the persistent problem of homelessness in Central Florida. A 2017 National Law Center on Homelessness and Poverty report titled *Tent City, USA* explains this best stating “many communities state they need criminalization ordinances to provide law enforcement with a ‘tool’ to push people to accept services” (NLC, 2017). However, these ordinances, from both a fiscal and deterrent viewpoint, are ineffective at pushing people to accept services.

Now that the case of Central Florida has been presented, it would be valuable to examine what overarching conclusions about the criminalization of homelessness can be drawn from this case study. First, the criminalization of homelessness, no matter where in the country you are, is expensive. Criminalization is especially expensive when you look at the alternatives, like housing first or continuum of care policies. Second, if the goal of criminalization is to mitigate homelessness, clean up the streets, or link the homeless with support services, Central Florida shows that that goal is sorely underachieved. When homelessness becomes criminalized, the

homeless population enters a cycle of homelessness-prison-homelessness that leads to nothing more than repeat arrests, distrust of intended support services, and a vulnerable population unable to receive decent support. Boulder County is in a unique position to learn from struggles Central Florida has faced. Boulder County sports a generally liberal population, committed to social justice, with the means to establish a working solution to homelessness.

Section 4: Decriminalization

Now that it has been established that the criminalization of homelessness is costly, both socially and fiscally, and ineffective, it would be valuable to examine the alternative to criminalization: decriminalization. In order to evaluate why decriminalization, coupled with increased support services, training, and access, is effective at preventing homelessness and supporting the homeless this essay will: first, examine from a rhetoric perspective, why decriminalization is a better policy action. Second, evaluate the case of Atlanta, Georgia, to show why even a step in the right direction towards complete decriminalization, is better than nothing at all. Finally, this essay will evaluate why decriminalization on its own is not enough, and must be coupled with increased social support services.

From a legal perspective, the criminalization of homelessness is an unpopular and widely disliked policy. The American Bar Association's Commission of Homelessness and Poverty passed a resolution in 2007 in which they concluded: "resolved, that the American Bar Association opposes the enactment of, and supports the repeal of, laws and policies that punish persons experiencing homelessness for carrying out otherwise non-criminal life sustaining practices or acts in public spaces, such as eating, sitting, sleeping, or camping, when no alternative private spaces are available" (ABA, 2007). But the American Bar Association is not

the only organization fighting against the criminalization of homelessness. The University of Miami Human Rights Clinic “recently filed an amicus brief in the United States Court of Appeals for the Ninth circuit...highlighting that punishing homelessness through the imposition of fines and fees for life-sustaining activities violates international human rights law” (Miami Law, 2021). Decriminalizing homelessness is at the forefront of legal organizations across the country. Utilizing a public health metaphor, it can be concluded that these policies are effective at treating the symptom of homelessness, but incredibly ineffective at preventing the disease.

The opposition to criminalization is not solely about ethics and legality. The decriminalization of homelessness is financially more beneficial. According to the 2015 Economic Roundtable report titled *Home Not Found: The Cost of Homelessness in Silicon Valley*, homelessness costs Santa Clara County \$520 million a year, as high as \$83,000 per chronically homeless individual (Economic Roundtable, 2015). Since 2015, Santa Clara County has instituted a housing first program intended to provide housing and stabilize individuals and families across the county. The direct cost to taxpayers for this program is an average of \$62,473 for high users of the system, whereas the average post-housing cost of the same families is \$19,767 (Economic Roundtable, 2015). Utilizing a housing first model, which requires at least partial decriminalization of homelessness, Santa Clara County will save anywhere between \$20,000-\$60,000 per person, per year. This is a far more fiscally sound policy, which neither humiliates homeless individuals and families, nor costs exorbitant amounts of tax dollars to achieve better outcomes.

Section 5: Case Study 2: Atlanta, Georgia

Now that it has been established that the decriminalization of homelessness is a better policy fiscally and ethically, it would be valuable to evaluate the case study of the City of Atlanta, Georgia, to show how partial decriminalization coupled with increased training and social support services, mitigated homelessness helping connect the homeless population with social support services. According to the June 2009 National Law Center on Homelessness and Poverty report titled *Homes not Handcuffs*, Atlanta was ranked as the 4th meanest city to homeless individuals (NLC, 2009). From criminalization policies which penalize panhandling to an incredibly restrictive camping ban, Atlanta had originally taken a hard pro-criminalization stance. However, in early 2020 Atlanta partially decriminalized homelessness, specifically ending the camping ban. This was a positive step in the right direction, coupled with Atlanta's newly created Homeless Outreach Proactive Enforcement Team (HOPE Team) which has successfully trained officers on how to interact and build trust with homeless populations. This type of work is slow moving, but since the start of the program, 5000 individuals (including repeat referrals) have been referred to City shelters and social support services. Atlanta Police Department Office Joshua Walker notes of the program that "being homeless in itself isn't a crime and we as a department understand that. So we want to be able to provide care and need to our community, with our unsheltered population being a part of the city of Atlanta...some [homeless] look at us and say they're just police officers, but once we continue to visit and continue to engage, they see that we are not there to make arrests" (Fox Atlanta, 2021). Atlanta's HOPE program has to some extent successfully repaired the trust issues between their homeless individual's and their police. Because the focus and aim of the program changed, Atlanta has seen better outcomes, despite one of the most pervasive homelessness problems in the country.

Section 6: After decriminalization, what is next?

As shown through the actions of the City of Atlanta and the Atlanta Police Department, decriminalization of homelessness is not enough to completely reduce the actively homeless population or prevent them from becoming chronically homeless in the first place.

Decriminalization cannot simply be a buzzword used by politicians to virtue signal support for the homeless population. In order for decriminalization to be an effective policy strategy, it needs to be coupled with support services that address the root cause of homelessness. One such root cause of homelessness is alcohol and drug addiction. A 1991 Journal of American Psychology report titled *Alcoholism, Drug Abuse, and the Homeless* found that alcohol abuse affects approximately 40% and drug abuse approximately 15% of homeless persons (Journal of American Psychology, 1991). Furthermore, the report found that for most of these addicts, the addiction was fueled by some type of mental illness (i.e. depression, schizophrenia, or bipolar disorder), which in turn likely led to their homelessness. When the root cause of someone's homelessness is an untreated mental illness exacerbated by an addiction disease, it is not enough to decriminalize homelessness and expect these individuals to seek help and change their situation on their own, without increased social services.

Section 7: Case Study 3: 1811 Eastlake Project, Seattle, Washington

The aforementioned Journal of American Psychology report concluded their argument stating “alcohol-and-drug-free housing is essential to support and maintain recovery” (Journal of American Psychology, 1991), which is crucial to ending an individual's cycle of homelessness. As it has been concluded above, decriminalization ought to be coupled with increased social services. Therefore, it would be valuable to examine a case study in which alcohol-and-drug-free

housing helped individuals stay sober, find jobs, and move out of government supported housing. This case study is of the 1811 Eastlake Project, Seattle, Washington. In a joint report by the National Law Center on Homelessness and Poverty and the National Coalition for the Homeless titled *Homes not Handcuffs*, the authors reported that 1811 Eastlake Project “provides supportive housing for 75 formerly homeless men and women living with chronic alcohol addiction” (NLC, 2009). The goal of the 1811 Eastlake Project is to provide addiction treatment, support, and a stable home to help these individuals battle addiction and help them be reintroduced back into civilized society. The aforementioned report found that the program “saved the county \$2.5 million dollars in one year by significantly cutting resident’s medical expenses, county jail bookings, sobering center usage, and shelter usage... After one year, 66% of the residents remained in the housing. Residents have voluntarily cut their alcohol consumption in half” (NLC, 2009). The 1811 Eastlake Project is a perfect example of what possibilities decriminalization, coupled with increase social services, opens society up to. While 75 individuals are not necessarily statistically significant, their outcomes reduced fiscal expenses for the county, and has seen success at treating chronic alcohol addiction.

Section 8: Conclusion: What can Boulder learn?

Boulder County is ranked as the number one city in the United States by quality of living. However, this high quality of living only extends to those that can afford it. Unfortunately, Boulder County has a significant homeless population, and has chosen criminalization as their method of mitigation and prevention. Therefore, it is crucial to examine what Boulder County can learn from the aforementioned literature and case studies. First, Boulder County ought to recognize that the criminalization of homelessness rarely sees positive outcomes. The county’s

anti-homelessness policies mirror that of Central Florida and many other municipalities across the country. Both in Boulder County and Central Florida, criminalization of homelessness has done nothing to improve the situation for homeless individuals, and has likely cost the city millions of dollars in booking fees, court costs, and jail fees. Second, Boulder County ought to invest in housing first or continuum of care policies and programs, which better meet the needs of the homeless community, and do a better job of reducing the social ills associated with homelessness. Boulder County's current 'housing first' strategy is ineffective because it is coupled with criminalization. The County's housing first organization, Homeless Solutions for Boulder County (HSBC), has all the components of a theoretically successful homelessness reduction policy. HSBC adopts "an evidence-based approach that prioritizes helping individuals and families experiencing homelessness obtain a stable housing solution as quickly as possible" (HSBC, 2020). However, because the County's main approach to the reduction of homelessness is criminalization, HSBC can never reach the potential of Atlanta's HOPE program or Seattle's 1811 Eastlake Project. Finally, Boulder County needs to train officers to better manage calls regarding the homeless and/or mentally ill, like shown in Atlanta's HOPE program. Training police officers to interact with the homeless in a way in which humanizes them, allows consistent trust to be built between the chronically homeless and the police force.

Bibliography

- LaGarde M, Warren P (2018). Too High a Price: What Criminalizing Homelessness Costs Colorado. Denver University Sturm College of Law. Retrieved Nov 21, 2021 from: <https://www.law.du.edu/documents/homeless-advocacy-policy-project/Boulder-Spotlight.pdf>
- HSBC (2021). Homeless Solutions for Boulder County Program Information. Boulder County. Retrieved Nov 21, 2021 from: <https://www.bouldercounty.org/departments/community-services/homeless/>
- Clark, M (29 July, 2021). ACLU pushed Boulder to abandon ‘unconstitutional homeless policies. Colorado Newslines. Retrieved Nov 21, 2021 from: <https://coloradonewslines.com/briefs/aclu-boulder-homeless-policies-unconstitutional/>
- Clark, M (21 July, 2021). Immediate removal of tents, propane tanks in public spaces approved by Boulder council. Colorado Newslines. Retrieved Nov 21, 2021 from: <https://coloradonewslines.com/2021/07/21/boulder-homeless-ordinance-tent-ban/>
- City of Boulder (2021). Single Adult Homelessness Services Dashboard. City of Boulder. Retrieved Nov 21, 2021 from: <https://bouldercolorado.gov/boulder-measures/single-adult-homelessness-system>
- Census Bureau (2019). Boulder County Colorado Quick Facts. US Census Bureau. Retrieved Nov 21, 2021 from: <https://www.census.gov/quickfacts/bouldercountycolorado>
- Morello, C and Mellnik, T (2012). Highest Income Counties in 2011. Washington Post. Retrieved Nov 21, 2021 from: <https://www.washingtonpost.com/wp-srv/special/local/highest-income-counties/>
- Grisham, J (July 2009). Homes not Handcuffs: The Criminalization of Homelessness in U.S.

Cities. National Law Center on Homelessness and Poverty. Retrieved December 15, 2021 from https://nationalhomeless.org/wp-content/uploads/2013/11/CrimzReport_2009.pdf

McCarty, D, Argeriou, M, Huebner, R, & Lubran, B (November 1991). Alcoholism, Drug Abuse, and the Homeless. *Journal of American Psychology*. Retrieved December 15, 2021 from <https://pubmed.ncbi.nlm.nih.gov/1772151/>

Miami Law Staff Report (10 June, 2021). Human Rights Law Clinic Advocates for the Decriminalization of Homelessness Before the Ninth Circuit. University of Miami School of Law. Retrieved December 15, 2021 from <https://www.law.miami.edu/news/2021/june/human-rights-law-clinic-advocates-decriminalization-homelessness-ninth-circuit>

Commission on Homelessness and Poverty (2007). Resolution 106. American Bar Association. Retrieved December 15, 2021 from https://www.americanbar.org/content/dam/aba/administrative/homelessness_poverty/policy-resolutions/106-decrim-of-homelessness.pdf#

Flaming, D, Toros, H, and Burns, P (2015). Home Not Found: The Cost of Homelessness in Silicon Valley. Economic Roundtable. Retrieved December 15, 2021 from http://destinationhomesc.org/wp-content/uploads/2015/05/er_homenotfound_report_6.pdf

Yu, J (18 June, 2021). Atlanta Police Unit Helps Connect Homeless People with Resources. Fox Atlanta. Retrieved December 15, 2021 from <https://www.fox5atlanta.com/news/atlanta-police-unit-helps-connect-homeless-people-with-resources>

Fernandez, J et al. (2017). Tent City, USA: The Growth of America's Homeless Encampments

and How Communities are Responding. National Law Center on Homelessness and Poverty. Retrieved December 15, 2021 from https://homelesslaw.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf

Searfoos, L and McCrossan, S (January 2006). A Dream Denied: The Criminalization of Homelessness in U.S. Cities. The National Coalition for the Homeless. Retrieved December 15, 2021 from <https://nationalhomeless.org/wp-content/uploads/2014/06/CrimzReport2006.pdf>

Shinn, G (2014). The Cost of Long-Term Homelessness in Central Florida. Supportive Housing Network of New York. Retrieved December 15, 2021 from <https://shnny.org/uploads/Florida-Homelessness-Report-2014.pdf>

Fraieli, A (10 May, 2021). The Cost to Criminalize Homelessness. The Homeless Voice. Retrieved December 15, 2021 from <https://homelessvoice.org/the-cost-to-criminalize-homelessness/>

Department of Housing and Urban Development (2021). Decriminalizing Homelessness. HUD Exchange. Retrieved December 15, 2021 from <https://www.hudexchange.info/homelessness-assistance/alternatives-to-criminalizing-homelessness/>