

# A RACIAL JUSTICE RESPONSE TO HOMELESSNESS

## Racism and Homelessness

- The Black Lives Matter movement, along with homelessness advocates, have exposed how the criminal justice system fails to address homelessness and how it has disproportionately affected Black people because of decades of public divestment in housing, as well as systemic and structural racism in housing access, wealth accumulation, credit practices, educational opportunities, healthcare, and employment. [1]
- After the murder of George Floyd on May 25, 2020, more than 2,000 protests held across all 50 states brought attention to police brutality and called for defunding police departments. [2] These protests have called on the federal and local state governments to directly respond to social problems, like homelessness with trauma-informed resources and supportive services, instead of automatically turning to the police. [3]

## Homelessness Statistics

- Black people accounted for **40%** of all people experiencing homelessness in 2019, yet they only made up **13%** of the U.S. population. [26]
- Black people account for **57%** of all people experiencing homelessness in Miami-Dade County, yet only make up **18%** of county's general population. [27]

*"We will not end homelessness without addressing racial equality [as] they are two sides of the same coin...[h]omelessness is caused by racism. Full Stop."* [4]  
– Jessica Rabinowitz, Advocacy Campaign Manager at Miriam's Kitchen

## The Criminalization of Homelessness

- In a December 2019 study by the National Center on Homelessness & Poverty, of 187 city codes of urban and rural cities around the United States (U.S.):
  - **72% have at least one law restricting camping in public,**
  - **55% have at least one law prohibiting sitting and lying in public,** and
  - **51% have at least one law prohibiting sleeping in public.** [5]
- Since 2006, 13 new laws across different cities around the U.S. were enacted that prohibit sleeping in public city-wide, which is a **50% increase.** [6]
- Criminalizing life-sustaining activities and "nuisance" crimes has disproportionate impacts based on race and exacerbates racial disparities. [7]
  - One study in Austin, TX shows that Black people experiencing homelessness were **almost 10 times more likely** than White people to receive a camping citation. [8]
- In Miami-Dade County (MDC), prohibited conduct includes: Sleeping in public, camping in public, camping in particular public places, sitting/lying in particular public places, lodging, living or sleeping in vehicles, loitering/vagrancy, "begging" in public places and "begging" in particular public places. [9]
- In 2017, the City of Miami Beach hired a special prosecutor to target "nuisance" crimes, such as consuming alcohol or urinating in public, jaywalking, and loitering, in which **2/3 of the cases** involved defendants experiencing homelessness. [10]
- In February 2019, the U.S. District Court for the Southern District of Florida terminated the 1998 *Pottinger* Consent Decree, which protected people experiencing homelessness from police harassment and arrest, as well as their property during sweeps. The Consent Decree enabled monitoring of city conduct and accountability for violations. [11]
- In June 2020, the City of Miami adopted Ordinance 13907 on "Large Group Feedings," which criminalizes food sharing, or the feeding of people experiencing homelessness in large groups (25 or more) in public places without a permit and at non-designated feeding locations. [12]
- Criminalization of homelessness is counterproductive as it perpetuates homelessness. It merely shuffles people to different parts of the city and results in fines that people cannot pay or felony records that make it impossible to secure employment and housing. [13]
- Diverting public financial resources to law enforcement efforts can cost governments **two to three times more** than it would to provide affordable housing. [14] Moreover, perpetuating homelessness is itself costly as homelessness exacerbates existing health conditions and causes new ones. [15] Illnesses associated with homelessness cost \$18,500 per person in yearly emergency room visits. [16]
- Criminalization of homelessness violates the human rights to life; [17] protection from cruel, inhuman or degrading treatment; [18] liberty and security; [19] and freedom of movement. [20]
- Racism embedded in criminalization of homelessness further violates the right to equality and freedom from non-discrimination. [21]

*"Criminalization creates a costly revolving door that circulates individuals experiencing homelessness from the street to the criminal justice system & back."* [22]  
– USICH, U.S. Inter-Agency Council on Homelessness

## Alternatives to Criminalization

- **Safe and Supportive Shelters** – Trauma-informed shelters that offer wrap-around supportive services, including meeting the needs of children.
- **Housing First** – Shifting funding from criminalization to a Housing First approach, providing barrier free, permanent, and affordable housing with supportive services so that people can take care of basic necessities before addressing issues such as employment or substance abuse to improve quality of life. [23]
- **Responses to Crises** – Police are ill-equipped to provide psychosocial services needed in a crisis. Rather, cities need crisis response teams with mental health and harm reduction expertise so that police can focus on ensuring safety. [24]

## A Good Practice: Decriminalizing Homelessness through Alternative Policing

### *Crisis Assistance Helping Out in the Streets (CAHOOTS)*

- Two-person mobile teams consisting of a medic and a crisis worker who has substantial training and experience in the mental health field.
- The team is able to deal with a wide range of mental-health related crises, such as conflict resolution, welfare checks, substance abuse, and suicide threats through trauma-informed de-escalation and harm reduction techniques.
- In Eugene, OR, in 2019 alone, out of the 24,000 calls that CAHOOTS responded to, police backup was only called to the scene 150 times. [25]

## Recommendations

- Municipalities should not enact or enforce statutes prohibiting life-sustaining activities in public when there is no alternative shelter or housing.
- MDC and its various municipalities should observe the protections contained within the *Pottinger* Consent Decree. This entails monitoring the compliance of officers and establishing mechanisms for accountability.
- Municipalities should invest in trauma-informed shelters with supportive services, including meeting the needs of children, as *temporary* residences and an entryway to rehousing as the ultimate goal, and should commit resources to guarantee all residents adequate housing.
- Municipalities should create, properly fund, and train outreach teams, engaging persons experiencing homelessness and experienced, multi-disciplinary social services professionals, and ensuring trauma-informed, culturally sensitive best practices, such as motivational interviewing and peer recovery.
  - The City of Miami and Miami-Dade Homeless Trust should provide training and additional resources to their outreach teams and service providers to incorporate these evidence-based practices and bring people experiencing homelessness into the "continuum of care." They should further create a training and compliance position and procedures within their continuum of care to ensure good practices and accountability amongst outreach workers, service providers and the entire continuum of care.
- All levels of government should divert funding from criminal justice responses to trauma-informed shelters with supportive services, housing first programs, and crisis response teams with mental health, harm reduction, and other psychosocial service expertise, addressing the root causes of homelessness.
- All levels of government should recognize the right to adequate housing. This entails protection against forced eviction and the availability of housing that is affordable, habitable, accessible, well-located, and culturally adequate.
- The Federal government should increase efforts to enforce fair housing through the Fair Housing Act and civil rights laws that root out racial discrimination that leads to homelessness.
- Municipalities should consult with residents who are experiencing homelessness to adopt informed policies that best serve community needs.

# Endnotes

1. Sarah Gillespie, Katrina Ballard, Samantha Batko, and Emily Pfeiffer, *Addressing Chronic Homelessness Through Policing Isn't Working. Housing First Strategies Are a Better Way*, Urban Institute (June 29, 2020), <https://www.urban.org/urban-wire/addressing-chronic-homelessness-through-policing-isnt-working-housing-first-strategies-are-better-way>.
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3. *Id.*
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5. National Law Center on Homelessness and Poverty, *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities*, pages. 12-13 (2019).
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7. Lawyers Committee for Civil Rights of the San Francisco Bay Area, *Cited for Being in Plain Sight How California Polices Being Black, Brown, and Unhoused in Public*, 1, 5 (2020).; See also Joey Flechas, *Tired of nuisance crimes going unpunished? Miami Beach is about to crack down*, Miami Herald, (Jan. 3, 2018), <https://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article192826269.html>.
8. National Law Center on Homelessness and Poverty, *Racism, Homelessness, and the Criminal and Juvenile Legal Systems*, 1, page 3 (2020).
9. National Law Center on Homelessness and Poverty, *supra* note 5 at 109.
10. Flechas, *supra* note 7.
11. *Pottinger v. City of Miami*, 359 F. Supp. 3d 1177, 1180 (S.D. Fla. 2019).
12. *Miami, Fla.*, Ordinance 13907 ch. 25, art. 2 (2020).
13. Nicole Weissman & Marina Duane, *Five Problems with Criminal Background Checks*, Urban Institute (March 13, 2007), <https://www.urban.org/urban-wire/five-problems-criminal-background-checks>; *Special Rapporteur on Extreme Poverty and Human Rights on His Mission to the United States of America*, ¶ 45, U.N. Doc. A/HRC/38/33/Add.1.
14. Central Florida Commission on Homelessness, *The Cost of Long-Term Homelessness in Central Florida: The Current Crisis and the Economic Impact of Providing Sustainable Housing Solutions*, page. 34 (2014).
15. Nat'l Health Care For The Homeless Council, *Homelessness & Health: What's the Connection?*, <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>.; Center for American Progress, *Lack of Housing and Mental Health Disabilities Exacerbate One Another*, <https://www.americanprogress.org/issues/poverty/news/2018/11/20/461294/lack-housing-mental-health-disabilities-exacerbate-one-another/>.
16. *The Cost of Homelessness Facts*, Green Doors, <https://greendoors.org/facts/cost.php>.
17. Universal Declaration of Human Rights ("UDHR") art. 3, G.A. Res. 217 (III) A, U.N. Doc. A/810 (Dec. 10, 1948); International Covenant on Civil and Political Rights ("ICCPR") art. 6(1), adopted Dec. 16, 1966, 999 U.N.T.S. 171 (ratified by the U.S. on June 8, 1992).
18. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") art. 16, 1465 U.N.T.S. 85, adopted Dec. 10, 1984 (ratified by the U.S. on April 18, 1988); UDHR, *supra* note 17, art. 5; ICCPR, *supra* note 17, art. 7.
19. ICCPR, *supra* note 17, art. 9; UDHR, *supra* note 17, art. 3; International Convention on Elimination of All Forms of Racial Discrimination ("ICERD") art. 5(b), Dec. 21, 1965, 660 U.N.T.S. 195 (ratified by the U.S. on June 8, 1992).
20. UDHR, *supra* note 17, art. 13; ICCPR, *supra* note 17, art. 12(1); ICERD, *supra* note 19, art 5(d)(i); Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined seventh to ninth periodic reports of the United States of America*, CERD/C/USA/CO/7-9, ¶ 12 (2014); Human Rights Committee, *Concluding observations on the fourth periodic report of the United States of America*, CCPR/C/USA/CO/4, ¶ 19 (2014).
21. ICERD, *supra* note 19, art 5.; ICCPR, *supra* note 17, art. 2, 26.
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27. Miami-Dade Continuum of Care, 2019 Annual Miami-Dade CoC Racial Disparity Assessment, page. 1 (2019).