

Pervasive Penalty: How the Criminalization of Poverty Perpetuates Homelessness

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ABSTRACT

A growing literature examines the extent to which the criminal justice system perpetuates poverty and inequality. This research examines how anti-homeless laws produce various forms of police interactions that fall short of arrest, yet have wide-ranging impacts on the urban poor. Our analysis draws on a citywide survey of currently and recently homeless people, along with 43 in-depth interviews, to examine and reveal the mechanisms through which consistent punitive interactions, including move-along orders, citations, and destruction of property, systematically limit homeless people's access to services, housing, and jobs, while damaging their health, safety, and well-being. Our findings also suggest that anti-homeless laws and enforcement fail to reduce urban disorder, but create instead a spatial churn in which homeless people circulate between neighborhoods and police jurisdictions rather than leaving public space. We argue that these laws and their enforcement, which affected the majority of study participants, constitute a larger process of *pervasive penalty*—consistent punitive interactions with state officials that rarely result in arrest, but that do material and psychological harm. This process not only reproduces homelessness, but also deepens racial, gender, and health inequalities among the urban poor.

KEYWORDS: homelessness; poverty governance; criminal justice; community-based research.

In response to the explosive growth of homelessness across the United States in the 1980s, and the judicial overturn of Jim Crow, anti-Okie, “ugly,” and vagrancy laws that traditionally empowered

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police to manage the down-and-out, U.S. cities created new policies that restricted a wide variety of behaviors associated with homelessness, including panhandling, sleeping in parks, and sitting on sidewalks (Ortiz, Dick, and Rankin 2015). Thirty years later, these laws are spreading at an unprecedented rate in the United States and across the globe (see Evangelista 2013; Huey 2007; Johnsen and Fitzpatrick 2010). Most U.S. cities have municipal codes that punish the life-sustaining behaviors of homeless individuals. The National Law Center on Homelessness and Poverty (NLCHP) found that more than half of the 187 cities in its study banned camping and sitting or lying in public, and over two-thirds carried bans on loitering and begging in particular places (2017). Between 2006 and 2016, bans on sitting and lying increased by 52 percent, city-wide camping bans by 69 percent, prohibitions on loitering and loafing citywide by 88 percent, and bans on living in vehicles rose 143 percent.

Recent statewide studies by legal scholars have shown that most cities have multiple ordinances on the books (Adcock et al. 2016; Fisher et al. 2015; Frankel, Katovich, and Vedvig 2016; Olson, Macdonald, and Rankin 2015). For instance, California cities have an average of nine anti-homeless laws, while Los Angeles and San Francisco each have 21 and 24 respectively (Fisher et al. 2015). Each law taken on its own may seem limited in its strictures on targeted behaviors; collectively, they effectively criminalize homelessness. As legal scholar Jeremy Waldron presciently wrote over twenty years ago, “what is emerging – and it is not just a matter of fantasy – is a state of affairs in which a million or more citizens have no place to perform elementary human activities like urinating, washing, sleeping, cooking, eating and standing around” (1991:301).

What are the impacts of these laws on homelessness and the reproduction of poverty more generally? Social scientists have devoted considerable attention to the politicization of a social problem (housing and social services) into a law enforcement problem (maintaining order) (Smith 1996; Vitale 2008; Wolch and Dear 1994), but far less attention has been given to the ramifications and impact of this transformation on homeless people. Among the first to empirically assess the effect of anti-homeless laws on people experiencing homelessness, this study evaluates some determinants and consequences of their enforcement. When analyzed in isolation, such move-along orders and citations may seem inconsequential, but when analyzed as part of a larger process of criminalization, what we term *pervasive penalty*, anti-homeless enforcement proves to have detrimental consequences for wide swaths of the homeless population. Furthermore, our findings expose how pervasive penalty not only reproduces homelessness, but also widens racial, gender, and health inequalities among homeless and precariously housed people.

HOMELESSNESS AND CRIMINALIZATION

Over the last 40 years, the United States has witnessed a jail and prison boom of colossal proportions. Surging over 500 percent from merely 380,000 inmates in 1975, U.S. prisons and jails today contain over 2.13 million people (U.S. Bureau of Justice Statistics 2018). During this same period, homelessness transformed from a rare experience for a small collection of predominantly single men, to a phenomenon that affects a diverse assortment of over three million poor families and individuals in the United States each year (National Law Center on Homelessness and Poverty 2017). As annual funding for public housing plummeted from \$27 billion in 1980 to \$10 billion at the decade’s end, corrections funding surged from nearly \$7 billion to \$26.1 billion (Maguire, Pastore, and Flanagan 1997) transforming the U.S. prison system into the primary provider of affordable housing and many of its jails into the largest homeless shelters in town (Wacquant 2009).

In the wake of the rise of advanced homelessness and hyper-incarceration, social scientists have established various quantitative correlations between incarceration and homelessness. For instance, 23 percent of homeless people in New York City shelters had spent time in prison or jail in the previous two years (Metraux and Culhane 2006) and 49 percent of homeless people in a national survey disclosed having spent time in a jail and 18 percent having spent time in a state penitentiary compared to five percent of the general population (Burt et al. 1999). Researchers have found that

homelessness was 7.5 to 11.3 times more prevalent among jail inmates than the general population (Greenberg and Rosenheck 2008). In San Francisco, between 10–24 percent of the jail population identified as homeless at the time of arrest (Applied Survey Research 2013). In sum, there exists an ever-tightening nexus between the criminal justice system and homelessness (see Metraux, Caterina, and Cho 2008).

To explain the dynamics behind this penal/homeless nexus, scholars have examined the movement from prison or jail into homelessness and vice versa. On the one hand, scholars have shown how incarceration produces homelessness. This occurs both directly through policies excluding people with a criminal record from private and public housing (Carey 2004; Desmond 2012; Thacher 2008), and indirectly via barriers to accessing work (Pager 2003) and social services (Hays 2003). We also know that homelessness disproportionately exposes people to incarceration through the concentration of homeless services in over-policed inner-city neighborhoods, the temptation to commit crimes of desperation, and what John Irwin (2013) calls “rabble management:” the routine jailing of the disreputable and disaffiliated for minimal offenses in the interests of public order (Gowan 2002, 2010; Snow and Anderson 1993).

Yet, while these scholars have traced the criminalization of homelessness as paths between the prison and the street, little is known about the far more frequent contact between homelessness and the criminal justice system that does not immediately result in arrest: for example, police move-along orders, citations, and confiscation of property. Understanding the consequences of quality-of-life policing is especially important considering the proliferation of quality of life laws, of which anti-homeless laws are perhaps the most widespread (National Law Center on Homelessness and Poverty 2017). As defined by legal scholars and acknowledged by federal departments, including the Department of Housing and Urban Development and Department of Justice, anti-homeless laws include daytime restrictions on standing, sitting, and resting in public spaces, including loitering and “vagrancy”; nighttime restrictions on sleeping, camping, and lodging, including in vehicles; begging and panhandling; and food sharing (Fisher et al. 2015).

As several recent studies have revealed, the ubiquitous policing of marginal groups has impacts on the policed beyond incarceration and these effects are not captured in official statistics of the state (Desmond and Valdez 2013; Goffman 2014; Rios 2011). Most closely related to the homeless/penal nexus are recent studies carried out by Beckett and Herbert (2011) on municipal ordinances of banishment in Seattle, Stuart’s (2016) study of hyper-policing on LA’s Skid Row, and the work of Robinson (2017), and of Langegger and Koester (2017) on the policing of homelessness in Denver. Stuart’s ethnography of LA’s Skid Row shows how marginally housed people reorganize their space and time to avoid any sort of police contact, and how “official citation and arrest numbers gloss over the thousands of instances in which officers detain, interrogate, search, and make demands of inhabitants without activating the formal criminal justice process” (2016:19). Beckett and Herbert similarly examine policing practices of admonishments and citations in public spaces, practices which leave only a small paper trail, one which officials claim are non-punitive civil violations (2011). They find the laws largely ineffective, as most banished subjects did not end up leaving the neighborhoods from which they were excluded. These exclusions also added barriers to accessing work and housing. In Denver, Langegger and Koester (2017) documented through in-depth interviews how move-along orders in the wake of the city’s new anti-camping ban disrupted homeless communities and even threatened their survival, while Robinson (2017), in collaboration with Denver Homeless Out Loud, surveyed over 500 of the city’s homeless residents revealed how criminalization was widespread and ineffective at reducing street homelessness.

However, several questions remain unanswered. How often do the marginally housed experience police interactions, citations, and arrest? How does one’s shelter status (living on the streets versus residing in a shelter or a weekly rental hotel) affect the frequency of police interactions and the impact of enforcement? Do the biased policing practices that have been found to exist along lines of race, gender, and mental health in the general population similarly apply to those experiencing

homelessness? What impact do move-along orders and citations have on people's ability to escape homelessness and maintain survival on the streets?

Our study fills in these empirical gaps by examining the frequency, impact, and linkages of police interactions with and citations for those experiencing homelessness in the city of San Francisco. We also address the broader theoretical question of how housing deprivation and the criminal justice system interact to reproduce poverty and inequality. The study does this by utilizing a community-based model of participatory research to gather survey, interview, and municipal data that we argue provides higher quality data than traditional methods and increases the potential to impact public policy.

This article is organized into three parts, over which we develop the concept of *pervasive penalty*, a punitive process of policing through move-along orders, citations, and threats of arrest that largely remain hidden from public view and official scrutiny because such policing falls short of official booking. This “state-tistical” silence largely explains why such enforcement has been relatively ignored in sociological research compared to the more extensively documented processes of arrest and incarceration. The concept of pervasive penalty captures two dimensions of the enforcement process that fall short of arrest – the scope of its reach across a target population, and its depth and lingering impact on marginalized individuals and groups. The first part of this article documents pervasiveness in the sense of frequency and coverage of enforcement. The second part elaborates the pervasive impacts of such sanctions that extend far beyond the simple act of enforcement itself. The third part considers how this everyday policing of homelessness perpetuates the very “urban disorder” that such enforcement claims to reduce by increasing conflict among vulnerable people, nurturing mistrust of the law, and further disorganizing already chaotic lives by reducing access to services. Building on the work of scholars who have shown how incarceration exacerbates homelessness, this article reveals how the far more prevalent move-along orders and citations intensify housing deprivation through creating debt, issuing arrest warrants, and inflicting trauma while widening the racial, gender, and health inequalities among homeless and precariously housed people.

METHODS

Mixed Methods in the Grassroots

This mixed methods research project was designed and conducted in collaboration with the San Francisco Coalition on Homelessness (COH). The COH is a nonprofit advocacy group that organizes homeless people and front-line service providers to create permanent solutions to homelessness, while working to protect and expand the rights of those experiencing it. For years, in their street-outreach organizing, the COH has observed harmful interactions between police and homeless San Franciscans. The organization provides “citation defense,” instructions about how to navigate arduous bureaucratic processes in order to resolve quality of life citations, to hundreds of homeless people each year. The COH also works closely with city officials and other groups for the purpose of policy advocacy in the interest of those experiencing homelessness. This section outlines the study's methodology, while highlighting the analytic advantages gained through the partnership between academics and community organizations.

Survey and Sample

To understand the extent and effects of “quality of life” policing on those experiencing homelessness, thirty volunteer members of the COH conducted surveys with 351 people who had experienced homelessness in the past year throughout San Francisco. Survey proctors were volunteers at the COH, primarily local homeless service providers, and homeless and marginally housed people. A mandatory 90-minute long Survey Proctor Training covered each question in the survey instrument and equipped proctors with a sample script for introducing the study and asking questions in ways that would not bias responses.

Because of the inherent methodological shortcomings in surveying a hidden population (Dennis 1991; Marpsat and Razafindratsima 2010), we employed a purposive sampling method with the aim of including homeless people from each neighborhood in San Francisco's central city. To choose locations, we drew on the COH's organizational knowledge, honed over years of city-wide outreach, about where sheltered and unsheltered homeless people spend time. Survey proctors focused on both public spaces where homeless people spend time, such as encampments and parks, as well as social service centers including shelters, drop-in centers, and soup kitchens. The strategy of assigning specific locations, times, and dates minimized the risk of duplication and increased the survey's representativeness. This locational assignment assured a sample that was not biased toward frequent users of homeless services or those disconnected from these institutions, a common problem with surveys that rely on shelter users or soup kitchen patrons (see Dennis 1991). At their assigned location and time, each proctor was instructed to approach those who appeared to be homeless. The surveys were completed over two weeks to reduce chances of duplication.

The relative frequencies of homeless people by race, disability, sexual orientation, and shelter status in our sample were similar to the relative frequencies reported in the two most recent samples of 1,200 homeless people conducted by the city. Our study includes a greater proportion of men than either of San Francisco's two most recent official "homeless count" surveys. This is because the city survey deliberately oversamples users of homeless services, who may be disproportionately women. We made an additional effort to include transgender people (N = 30), who are disproportionately likely to experience homelessness according to other local and national studies (Grant et al. 2011), and whose experiences may be underrepresented in the literature.

The strategy of recruiting those who *appeared* to be homeless in high traffic areas might have resulted in a disproportionate number of chronically homeless participants. However, by leaving participation open to those who had been homeless at any point during the past year, we compensated for this common bias in surveys of the homeless and included several precariously housed people who had been homeless for shorter periods of time in the past. This is especially important because most people who experience homelessness regain their housing within a year (Applied Survey Research 2013). Of our 351 survey respondents, 22 were currently living in a privately rented apartment, 29 at a friend or family member's home, and 68 were currently in a Single Room Occupancy hotel – amounting to fully 33 percent of the total sample who were currently housed, but had experienced homelessness in the last year.

Reliance on volunteers from the affected community introduces concerns about the presuppositions held by the proctors, most if not all of whom were critical of the criminal justice system's treatment of the unhoused. This potential problem was discussed at length in the training and proctors were instructed to refrain from tangential discussions and offer only the fixed-response survey questions to participants. At the same time, a community-based model of research mitigated some of the usual challenges of surveying the hyper-marginalized in traditional studies. We found that the affiliation of the proctors with the COH increased survey participation and possibly the validity of responses more than if they had been carried out by employees of a contracted company or city agency: Many respondents wanted to be assured we were not from the city government or the police, and others wanted to be assured that proctors and the group behind the survey were not profiting from the collection of their data. Furthermore, survey proctors were more comfortable in the settings frequented by homeless people and better able to approach respondents without encountering the kinds of barriers that might emerge with surveyors who had less experience (Mendez-Luck et al. 2011).

Interviews

After discussing the survey data in the COH Human Rights workgroup meetings, we collaboratively designed an interview guide to answer questions that the data had raised about the mechanisms behind the trends discovered. Interviews explored participants' histories of homelessness and

experiences with law enforcement, including experiences with displacement from public space, police searches, citations, arrest, and incarceration. Five peer researchers conducted interviews with an additional sample of 43 currently homeless participants who had interacted with law enforcement while homeless or marginally housed. The authors recruited a diverse group of peer researchers who had the life experiences and exceptional listening skills needed to connect with a wide range of homeless research participants and conduct the interviews. Three of the peer researchers were black, one was Latina, and one white. Two of the researchers were transgender and three cisgender; there were two men and three women. All peer researchers were currently or recently homeless: The team included shelter residents, a camper, a supportive housing resident and a resident of a Community Land Trust who until recently had been living on the street. Each was charged with recruiting interview participants who were currently homeless and who had interacted with police. For the qualitative portion of the study, the goal was not to recruit a representative sample, but to understand in more depth the effects of criminal justice system contact on a diverse group of homeless people. We believe that our team of diverse peer researchers who have intimate knowledge of housing precarity and policing produced more open and trusting conversations between interviewers and interviewees and more useful follow-up questions than might have otherwise been the case. In addition to completing eight hours of formal methodological training, each peer researcher received ongoing data collection support, as one of the authors was available at the COH for five hours each day during the qualitative phase. Most interviews lasted one hour, and participants received a \$20 Safeway gift card.

Municipal Data and Expert Interviews

The second phase of research involved the examination of data and policy memos from city agencies, including the police, recreation and parks, public works, and the court, gathered through public records requests. The authors interviewed people involved in the criminal justice system including the SFPD's lieutenant in charge of directing the city's Homeless Outreach Unit, the probations department director of the re-entry unit, a public defender, and legal advocates. To gain access to municipal data and interviews with officials, we relied on the partnership with the COH. Prior to the study, one of the author's requests for citation data and interviews with city officials had been met with unanswered emails or denials. However, through the connections and influence of the community partner, doors to these officials opened.

While arguments for Participatory Action Research and Community-Based studies on grounds of ethics and broader impact are better known (see [Chevalier and Buckles 2013](#) and [Greenwood and Levin 2007](#)) and something we discuss at length elsewhere ([Alatorre et al. forthcoming](#)), this section highlights important *analytical advantages* of community-based research. We believe our study would lack the methodological rigor, richness of data, and depth of understanding without collaboration with the COH. We hope this study will encourage more sociologists to consider such partnerships in general, and in particular with highly vulnerable, mobile, and oppressed groups such as those experiencing homelessness where the benefits of access and trust are more important in gathering quality data, and where academic partnerships can cultivate expertise and grant legitimacy to presentations of findings.

Continual Displacement and Mass Citation: The Scope of Pervasive Penalty

Those experiencing homelessness spend a significant part of their time trying to find safe places to be, and police spend a substantial amount of time forcing them to move. While the police, like the jails, do not record housing status in their daily contacts, 911 call data collected by the Department of Emergency Management gives some sense of the scope of the policing of homelessness in the city of San Francisco. In 2015, over 61,000 calls for incidents regarding "homeless complaints,"—an official Police Department call category—were dispatched and fielded by officers. The role of 911 complaints is surprisingly absent in the existing scholarship on policing homelessness, which focuses on either officer discretion ([Bittner 1967](#); [Stuart 2016](#)) or top-down policing campaigns directed by

mayors and the upper-brass (Johnsen and Fitzpatrick 2010; Smith 1996, Vitale 2008). According to SFPD captains, sergeants, and officers, caller complaints are far and away the biggest driver of police contact with homeless people (Herring n.d.). According to both police statements and the Department of Emergency Management data, over 80 percent of homeless complaints are not resolved through citation or arrest, but by police warnings and requests that homeless people stop engaging in activities that violate the law. Most of the violations police are addressing, including sitting on a sidewalk, sleeping or lodging in public, camping, etc., result in an officer's asking the person to move along.

To gauge the effects of policing, our survey asked respondents if they had been forced to move by a city official in the past year and how many forced displacements they had experienced. Fully 70 percent of respondents had been forced to move. Over a third had this happen at least once a month, and 20 percent had experienced this on a weekly basis. While homeless people reported a variety of actors, including sanitation workers, park rangers, and private security guards being involved in their forced removals, police officers were directly involved in 84 percent of displaced respondents' most recent displacement. Of course, the threat of calling the police was operative in the other situations.

Not surprisingly, a person's recourse to private space was a primary determinant in the frequency of displacement. Our survey found that nearly 90 percent of those living on the streets and parks reported being forced to move at least once in the past year, and nearly 50 percent were evicted from public spaces monthly. Similarly, 80 percent of those who primarily lived in their vehicles had been forced to move. These rates of policing were significantly higher than those experienced by people who resided primarily in shelters, with friends and family, or in daily/weekly hotels. Even though most shelters are closed during daytime hours in the city of San Francisco, as in most U.S. cities, these spaces offered significant protection from the evening and morning patrols. Still, 61 percent of those who primarily resided in shelters had been forced to move from public space in the past year. One in every five respondents residing in a shelter reported being forced to move monthly. The finding that this enforcement affected the clear majority of the city's homeless across all sheltered and unsheltered statuses supports the perspective of scholars and judicial cases who argue that anti-homeless laws functionally criminalize the status of homelessness (see Feldman 2006; Foscarinis 1996).

While only 15 percent of homeless complaints are resolved through citations, our study found that they affected the majority of participants. According to court data, the SFPD issued over 27,000 quality of life citations during the year of our study. Of these, nearly 14,000 were issued for anti-homeless laws, of which 11,920 citations were issued for illegal lodging, blocking the sidewalk, or sleeping and sitting in public. Our survey found that 69 percent of all respondents had been cited in the past year with 22 percent receiving more than five citations. As was the case with police contact and move-along orders, those with greater recourse to private spaces during nighttime hours received significantly fewer citations (see Table 1). Most of those experiencing homelessness had experienced a move-along order by a police officer—a clear majority also experienced citation. The fact that being unsheltered while homeless is the primary determinant of more frequent citation demonstrates the degree to which the enforcement of quality of life laws criminalizes the homeless condition.

Members of groups already disproportionately likely to be homeless also experienced disproportionate policing after becoming homeless: African Americans, Native Americans, Asian/Pacific Islanders, and "other" people of color (including multiracial and Arab participants) were cited, searched, and had property taken at higher rates than did white survey participants (see Table 3). For instance, in comparing blacks to whites, our two largest sample groups, we found that 62 percent of black participants were searched and 76 percent cited compared to 52 percent of white participants who were searched and 66 percent who were cited. While we were surprised to find Latinx people, who are also disproportionately homeless and incarcerated compared to whites, to be the least criminalized racial group; this may be due to the fact that a larger portion of this group sampled disproportionately resided in some form of shelter. Although our results indicate that race affects the frequency

Table 1. Survey Sample Demographics Compared to Bi-Annual City Survey

	<i>Study Sample</i> (N = 351)	<i>City 2013</i> (N = 952)	<i>City 2011</i> (N = 1,027)
Shelter Status* (N = survey sample)			
Sheltered (186)	53%	53%	47%
Unsheltered (165)	47%	47%	53%
Race			
African American (129)	38%	24%	39%
White (114)	34%	29%	35%
Latino/a (51)	15%	26%	12%
Multi-Racial or Other (57)	18%	16%	7%
Asian or Pacific Islander (26)	8%	5%	5%
Gender			
Men (241)	71%	69%	68%
Women (66)	19%	27%	29%
Transgender (30)	9%	3%	3%
Gender Queer or Other (10)	3%	N/A	N/A
Sexual Orientation			
Heterosexual (256)	73%	71%	N/A
Bisexual (46)	13%	16%	N/A
Gay/Lesbian (35)	10%	11%	N/A
Disability			
Physical Disability (123)	35%	N/A	N/A
Mental Disability (151)	43%	N/A	N/A
No Disability (140)	40%	N/A	N/A

*Shelter vs. Unsheltered statistics are drawn from the city's Point in Time Count. Other Demographic data are drawn from the city's bi-annual survey of 1,200 homeless people.

Note: All demographic categories allowed participants to identify with any or as many categories of race, gender, sexuality as they wished. Therefore, percentages do not always sum up to 100%, because they are not exclusive.

Table 2. Move-Along Orders and Citations by Shelter Status

<i>Primary Living Situation</i>	<i>Forced to Move in Past Year</i>	<i>Forced to Move Monthly</i>	<i>Cited in Past Year</i>	<i>5+ Citations in Past Year</i>
Street (N = 122)	88%	45%	85%	38%
Parks (N = 41)	90%	46%	83%	49%
Shelter (N = 110)	61%	21%	57%	19%
Vehicle (N = 10)	80%	20%	69%	2%
SRO (N = 68)	55%	12%	60%	9%

Table 3. Law Enforcement Interactions by Race

<i>Enforcement</i>	<i>Black (N = 129)</i>	<i>Other Person of Color (N = 105)</i>	<i>White (N = 112)</i>	<i>Asian (N = 18)</i>
Approached	81%	84%	77%	69%
Forced to Move	67%	75%	72%	69%
Cited	76%	70%	66%	77%
Searched	62%	55%	52%	54%
Property Taken	40%	42%	36%	50%

Note: Racial Categories are not mutually exclusive; participants could select all that applied.

and outcomes of police contact, we would need a larger sample of Latinx, Asian, Pacific Islander, Native American, and other groups of people of color in order to draw more specific conclusions. Anti-homeless laws also produce disparate impacts based on gender and disability. 85 percent of respondents with self-reported mental disabilities reported that police approached them in the past year, compared to 74 percent of respondents overall. Only 19 percent of those who did not indicate a disability reported being approached ten or more times by police compared to 24 percent of those who indicated a mental disability.

Nationwide and in San Francisco, people of color, transgender people, and people with mental illness experience homelessness at much higher rates than do other groups (Henry, Cortes, and Morris 2013). For instance, only five percent of San Francisco's population is black, while nearly 40 percent of those homeless at any given time are black, a degree of racial disparity found in nearly every U.S. city (Henry et al. 2013). Nationally, transgender people experience homelessness at 2.5 times the rate of the general population (Grant et al. 2011). These groups are also targets of discriminatory policing practices. Our findings, therefore, highlight the compounded burden of housing precarity and race, disability, and gender—intersections too often ignored in race and gender-neutral analyses of criminalization and extreme poverty.

Disrupting Survival and Perpetuating Homelessness: The Impact of Pervasive Penalty

What are the typical outcomes of these interactions and how do they impact the daily lives of homeless individuals? As many shelters close during the day, respondents staying in shelters experienced daytime move-along orders as a denial of their right to exist in public: “like a constant pestering that keeps you from ever feeling relaxed or belonging just about anywhere” as one respondent put it. One woman described trying to rest on Market Street, San Francisco's main shopping corridor, which is now home to Uber and Twitter headquarters:

I had been staying at the shelter, and I wasn't able to sleep much the night before, so with the shelter closed during the day I'm just looking for a place to rest. I had already been woken up by a security guard at the park. Then, just like an hour later, I'm just sitting out by a building, an officer had walked up asked what I was doing, told him I was resting, he told me I needed to remove myself or he was going to take me to jail. . . I just started crying and he said I was acting like a baby and I should just pick up myself and just move on.

While the caller who complained and the responding officer will witness only the single request to move-along, for those receiving such orders, it is often the latest demand in an ongoing series of punitive sanctions received over the month, week, or even the same day. The officer's language, telling the interviewee to “remove” herself, as one might “pick up” trash, compounds the objectification inherent in the enforcement of anti-homeless laws. The cumulative impact of such dehumanizing

requests can become a totalizing experience of exile. In this way, those interviewed found anti-homeless enforcement not only frustrating, but also demeaning. Respondents experienced described feeling like “nuisances,” “burdens,” “trash,” “the scourge,” “the plague,” “dirt,” “a black mold you can’t get rid of,” “pests,” and “like we’re nothing, zero,” from these orders.

The enforcement of anti-homeless laws aimed at those unable to access shelter had even more disruptive effects. Although complaints often emerge from a fear for the safety of person and property from “the homeless threat,” homeless interview participants described move-along orders as increasing their vulnerability by exposing them to property loss and personal harm. First, 46 percent of survey respondents reported having their belongings taken or destroyed by city officials. Several had lost tools, bikes, or computers used for their work, expensive daily medicine needed to treat HIV and Hepatitis C, and ID and benefit cards that were key to their survival on the streets. COH staff witnessed a sanitation crew accompanied by highway patrol officers crush a homeless veteran’s walker in a trash compactor—a walker which he had stored in his tent while he was at a hospital appointment. Others lost priceless mementos of their families, including letters and photographs, often the last ones they owned. One woman had her daughter’s purple heart destroyed. All of this occurred directly through street cleanings conducted to enforce anti-homeless laws. Although the practice has been deemed unconstitutional by some courts (see Foscarinis 1996), if a person is away from their property as an anti-homeless ordinance is being enforced, sanitation workers are given discretion to define what is property and what is trash and to dispose of the latter.

Many of those interviewed reported experiencing violence and insecurity directly related to a camp eviction. While both men and women residing outside are exposed to much higher levels of violence than the housed, sweeps heightened risk of assault. As one woman who had been forced to move from three campsites in the city’s rapidly gentrifying Mission Neighborhood over the previous month explained, “it’s extremely troubling because many of the other locations, you’ve never been there. You don’t really know, it’s either animals, or shady people, homeless people, or even youths especially on the weekends who might get drunk and make some trouble.” Another woman explained, “. . . Some places are actually dangerous. . . I don’t like nothing about sleeping in piss. . . with all these strange men around. My comfort zone is down by the BART. That’s my outside home. It’s warm and it’s where I feel safe. . . I try to be invisible.” Despite her attempts at invisibility, she has been cited and arrested for minor infractions multiple times in the Bay Area Rapid Transit (BART) station. In effect, she is forced to choose between the threat of contact with police in a well-lit and more public location where she feels safe, and the threat of contact with “strange men” in other locations where police are less likely to find and wake her.

Of the 23 women interviewed, two reported being sexually assaulted immediately following a police move-along order and attributed the assaults to this state action. This is especially significant since there were no questions about sexual assault in the interview schedule. One of the arguments featured in TV ads and public debates in support of a recent citywide camping ban in San Francisco was that residing in encampments puts women at a high risk of rape. However, our research found that camping bans and enforcement amplify this risk. Both men and women reported increased tensions, fights, and violent attacks transpiring after being forced to relocate. Transgender and gender variant participants most frequently reported feeling “less safe” after city officials forced them to move to a new location. While 30 percent of survey participants overall reported feeling less safe after being forced to move, 59 percent of trans and gender non-conforming participants felt less safe after they were forced to move. Camp evictions also have unique impacts on people suffering from mental health challenges. A regular sleeping spot gives a modicum of stability and self-regulation, which can sometimes sustain mentally unwell people in the face of adverse conditions (Knowles 2000). And although incarceration for bench warrants that result from unpaid citations can be very short, it can, nonetheless, result in loss of care, inability to access necessary medications, and the exacerbation of mental disabilities. These findings show how pervasive penalty deepens poverty differentially along lines of gender and disability.

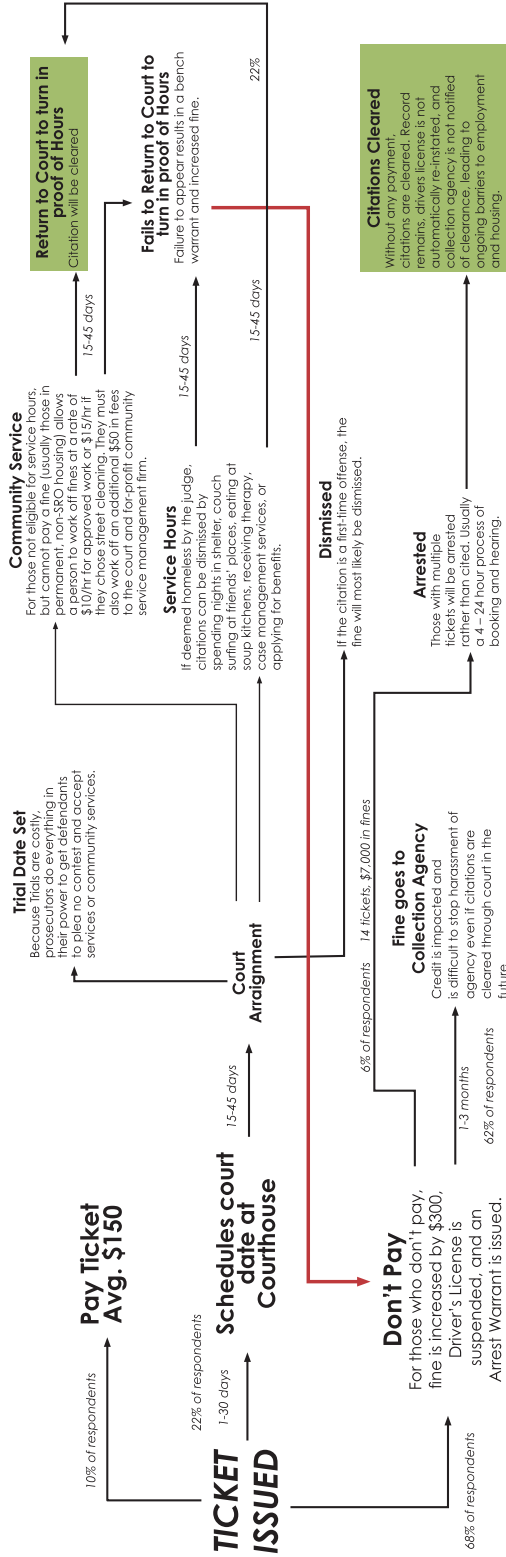


Figure 1. Citation Process.

Without citation or arrest, the move-along order exacts a punishment invisible to policymakers, enforcement agents, and housed neighbors. Interview participants described evictions themselves as traumatic, causing stress and heightening interpersonal conflict. What often appears as “street violence” emerging from the internal chaos of camp life is all too often primed and provoked by the subtle state violence enacted through the enforcement of anti-homeless ordinances. This happens first by disrupting the security and trust established within existing encampments through evictions and second by forcing people into new territories of strangers surviving without housing. This echoes similar findings by Langerger who found that after Denver passed an anti-camping ordinance, increased competition for safe places to sleep contributed to the loss of social cohesion by increasing theft and trespass within homeless communities (2016). This not only shifts the problem of homelessness around without ever resolving it as described by Bittner’s conception of “containment” (1967), Irwin’s “rabble management” (2013), or Gowan’s “run-around” (2002), but also deepens deprivation and perpetuates homelessness in a circle of exclusion and seclusion (see Herring 2014).

When accompanied by citation, the enforcement of anti-homeless laws is even more punishing, primarily because homeless people are unable to pay the fines. Our survey found that only 10 percent of respondents had paid the fine for their most recent citation. At an average cost of \$150 per ticket, this fee made day-to-day survival more challenging and compounded the difficulty of saving enough money to exit shelter or street life. The remaining 90 percent of respondents who failed to pay confronted a maze of bureaucratic processes and additional penalties.

As with a growing number of cities in the United States, Canada, the United Kingdom, and Australia, San Francisco provides alternative opportunities to resolve a citation through providing proof of receiving services or completing community service. Twenty-one percent of respondents resolved their most recent citation in this way; however, those interviewed described a time-consuming and demeaning process. Most respondents had their case dismissed by proving they were receiving services, which could include eating at a soup kitchen, seeing a social worker, or staying at a shelter. However, this process requires at least two, and more often three, trips to the courthouse, keeping track of appointments, and keeping paperwork organized. In order to prove they were receiving services, respondents had to get signatures from service providers at organizations where they were already receiving services. Naïve observers (including some police officers) viewed this as a way to police homeless people into using services. But most of the people who received citations were already accessing services. Not one of the hundreds of survey respondents reported that they had received *additional* services as an outcome of a citation. Instead, they were subjected to a laborious and time-consuming bureaucratic process with no benefit other than the citation dismissal.

The other alternative to payment is community service, which very often is completed by cleaning city streets. Not only do participants have the demeaning task of working for sub-minimum wages, but they must work additional time beyond the citation amount to pay the \$25 fee charged by the for-profit company that manages the “community service” program. While such diversionary programs have been lauded as “post-punitive” modes of inculcating a sense of responsibility by neoliberal reformers (Murphy 2009; Peck 2001) and steps toward decriminalizing poverty and reducing incarceration by advocates, those interviewed discussed these specific programs as demeaning and exploitative. One interviewee, who had gone through this process once and has since opted to ignore her citations, expressed: “It made me feel like I was a piece on somebody’s Monopoly game board.”

Therefore, the most common response, in fully 60 percent of those surveyed, was simply to do nothing about their citations. As our interviews uncovered, most could not afford to pay the fine or navigate the complicated process of getting a dismissal. Many were never told such an option existed. At the time of this study, if a quality of life citation was unpaid, a further \$300 fine was assessed to the offender and a bench warrant issued for their arrest. The bench warrant, while still considered civil, remains on one’s record and shows up during background checks for employment

and housing. It also functions as a free pass for any law enforcement officer to take someone to jail if, for example, they encounter them for a routine move-along order. After thirty more days, the person's driver's license was suspended by the DMV, the fine was referred to a collections agency, and the court personnel refused to reconsider the case. In sum, this means that most survey respondents had at least \$1,000 in court debt, a suspended driver's license (if they possessed one to begin with), spoiled credit ratings, and a bench warrant. These practices are by no means unique to San Francisco; rather, they part of a broader nationwide trend of increased fines and the practice of courts using license suspension as a debt collection tool (see [Lawyers' Committee for Civil Rights 2016](#)).

Several of those interviewed discussed having thousands and thousands of dollars in debt and sometimes up to a dozen warrants for unpaid fines. Most did not know how to resolve these, even if they wanted to. As one interviewee who had come up with some money to resolve her fines and fees explained:

The court clerk says one thing, 860 Bryant [the jail] tells another. Then they tell me Alliance Collection Agency has my case and it's out of their hands, and then say it's a twenty-minute wait and I don't even know how much I owe and who I must go pay. It seems like a big circle I can't get out of.

Another elderly man owed \$4,000 in fines accumulated from eight tickets that initially would have amounted to \$1,000 from his two-year period being homeless and a suspended driver's license; he explained:

Before I was homeless I never had tickets except for a speeding ticket here or there. Now I'm housed again, but this shit won't leave me. I tried going to these homeless courts, but they tell me that I owe the credit agency now and they can't do nothing. Worse of all is even if I get on some payment plan, the DMV won't reissue my license until the last penny is paid! So how am I supposed to move forward?

License suspension often leads to the loss of work for those who have it, limits job opportunities by prohibiting commutes, and may impact those looking for any low-level job. Diminished employment opportunities combined with a spoiled credit rating push rental housing further out of reach.

The findings also suggest that many of those unsheltered in San Francisco had an outstanding bench warrant issued for their arrest. While low-level warrants for unpaid fines do not usually show up in criminal background checks done by employers or property managers, in San Francisco and most HUD funded housing in U.S. cities, warrants result in being disqualified for forms of public housing and Section 8 vouchers ([Desmond 2012](#)). However, because most of those interviewed were not aware of how many warrants they had or where they were on various housing waiting lists at the time, they would not know if they had been removed from consideration for subsidized housing when their name finally came up after years of waiting.

Together, the threat of a move-along order, a citation, or arrest often caused those living on the streets to avoid contacting the police, even in the face of serious theft or violence. One interviewee described how he felt he could no longer call the police as he had when he was housed:

If you are in need, if you need aid, if you are in a strange place, if you are in danger, I'd call for a police officer. Now honestly if I were in danger I wouldn't. I mean even if I did with response time to a camp, why bother?

One woman who had been sexually assaulted following a forced displacement explained that if she reported her assault to the police:

What's the point? If I called them, they would have made all of us move. Would he [the officer] even believe me? The whole camp of new people would hate me, and what would stop him from getting revenge? It's not like I've got a locked door to hide behind.

Similar to the way that Desmond and Valdez found that the enforcement of nuisance property ordinances “has the effect of forcing abused women to choose between calling the police on their abusers (only to risk eviction) or staying in their apartments (only to risk more abuse)” (Desmond and Valdez 2013:137), people avoided calling the police in the face of abuse or theft for fear of eviction from public space and other punitive sanctions.

Urban (Dis)Order amidst a Shelter and Service Shortage

According to their proponents and the legislative language of the ordinances, anti-homeless laws are designed to promote public order and the health of the housed and unhoused. While our study focused on understanding the impacts of these laws rather than their efficacy in accomplishing their stated goals, we, nonetheless, found evidence of their failure. When asked where they relocated following their most recent move-along order from city officials, only nine percent of respondents reported moving indoors. Of these, some reported moving to drop-in centers that exclusively cater to those living on the streets, but the most common responses were moving to a public library or taking a ride on the bus, both of which are indoor public spaces with limited nighttime availability. 91 percent of respondents, on the other hand, remained on the streets or in parks, simply moving to a new outdoor location. The primary reaction following a move-along order was simply to move down the street, around the corner, or to walk around and return after the police had left—a tactic taken by 64 percent following their last displacement. Most moved within only a few city blocks, while only 21 percent of those displaced moved to a public space in a different neighborhood following their most recent move-along order. Our analysis of the survey responses, which recorded the neighborhoods from which respondents had departed and to which they had moved, found no unidirectional pattern of movement into a single or set of neighborhoods, but rather an even churning between districts. Therefore, even as people are driven from one neighborhood to another, the overall numbers of homeless people in each district remain relatively constant. While the laws may be effective at assisting specific merchants or residents to clear their individual property, these laws are ineffective at removing visible poverty from public spaces on a neighborhood, let alone citywide, scale. Instead, anti-homeless laws and enforcement cause the constant circulation of visible poverty as homeless people are displaced from one block or neighborhood to another.

More recently, supporters of anti-homeless laws claim that these laws are aimed at improving the health, safety, and well-being of those experiencing homelessness. City officials have taken up a rhetoric of coercive care (Johnsen and Fitzpatrick 2010) where “officers use the threat of arrest to try to compel individuals to avail themselves of various social services that might alleviate their poverty and/or reduce their dependence on controlled substances” (Stuart 2016). For instance, the San Francisco Police Department’s webpage entitled “Interactions with the Homeless Community” describes the police’s role being:

to locate the homeless wherever they might be and to determine their needs. Outreach Officers work with city agencies, such as the Department of Public Health, The Community Justice Court, the Serial Inebriate Program, the Human Service Agency, and the Department of Public Works to provide targeted services for those in need while addressing quality of life concerns in the communities we serve. (SFPD 2017)

Our survey asked homeless individuals whether they had been offered services by police officers in their most recent interaction. Of the 204 respondents who had been displaced by the SFPD in the previous year, only 24 reported being offered services, all of which were short-term and palliative.

Five respondents were referred to the Department of Public Health outreach team, six taken to detox, three given sandwiches made by local volunteers, and ten given a one-night shelter bed.

Several of those interviewed noted that “services” provided by police were often reinforced with punitive practices. As one research participant described, “Yeah, the other week a cop offered me a sandwich. I thought he was being super cool, and then before giving it to me was like ‘alright, but if I give you this you got to move out of this spot.’” While our survey and interview sample was primarily comprised of the currently homeless and therefore may not have captured those who police might have helped to connect with shelter, the general lack of services offered to this group casts doubt on claims that police contact provides any benefit to homeless individuals. This is not because the police do not wish to connect homeless people with services and shelter, but rather because there are simply not enough resources. San Francisco’s shelters consistently have a waiting list of over 1,000 people for a 90-day bed, and each night hundreds of people fall asleep in chairs waiting for a one-night bed. This highlights a gap between policy rhetoric and reality that was similarly uncovered in Stuart’s case study of policing LA’s Skid Row (2016).

DISCUSSION

In recent years, quality of life laws and their associated police campaigns have become widespread across U.S. cities. Yet their consequences for the urban poor have remained largely unknown. Taking as our case study the most frequently enforced quality of life ordinances in San Francisco – anti-homeless laws – we generated several findings. Building on the work of scholars whose work, through empirical analysis, has dismantled myths about the efficacy of quality of life policing as a safety-enhancing and crime-reducing policy (Blasi and Stuart 2008; Harcourt 2009; Wacquant 2009), here we challenge that myth’s efficacy in reducing “public disorder” and show how criminalization deepens poverty and inequality.

First, we found that even in “liberal San Francisco” a clear majority of those who experienced homelessness across the city also experienced criminal justice contact through police move-along orders *and* citations within the past year. Second, this paper identified several mechanisms by which move-along orders and citations collectively worked to dispossess people of their property, produced insurmountable debts, created barriers to accessing services, housing, and jobs, and increased the vulnerability of the unhoused to violence and crime. This suggests that *anti-homeless ordinances play an instrumental role in contributing to homelessness*, rather than reducing it or simply moving it around. Third, the results of our study indicate that pervasive penalty also perpetuates social inequality through the uneven distribution and impact of policing along lines of race, gender, and disability. Finally, instead of reducing disorder, we found evidence that quality of life policing produces urban disorder by both accelerating the circulation of bodies and camps around the city and destabilizing the lives of the unhoused.

To assess the representativeness of our case, we reviewed the burgeoning legal scholarship surveying anti-homeless ordinances in 58 other California Cities (Fisher et al. 2015), 76 Colorado cities (Adcock et al. 2016), 72 cities across Washington (Olson et al. 2015), and 69 cities in Oregon (Marek 2017). We found that San Francisco’s ordinances resemble those in many other cities and towns in terms of ordinance language, prohibited activities, and punitive sanctions. While our study presents one of the first citywide surveys on the impact of quality-of-life laws on those experiencing homelessness (see also Robinson 2017), our findings align with those of previous, albeit less representative, community-based surveys on the neighborhood scale in Los Angeles’ Skid Row (Los Angeles Community Action Network 2010) and in other Western states including Oregon, California, and Washington that similarly found most of those surveyed faced move-along orders or citations during their homelessness. Although future research is needed to evaluate the degree to which anti-homeless ordinances in other cities resemble San Francisco’s in practice, it is clear that many mirror San Francisco’s in design. The policing strategies, scope of enforcement, and intensity of punishment may vary in important dimensions across cities; however, the mechanisms of

deprivation, dispossession, and inequality highlighted in this article should be widely generalizable across the United States and likely beyond.

Contemporary theories of social stratification and political sociology argue that the criminal justice system has become a vehicle for passing on disadvantage (Western 2006) and “an instrument for the management of dispossessed and dishonored groups” (Wacquant 2001:95). Our study holds broad implications for understanding how housing deprivation contributes to both the reproduction of disadvantage and the social control of the hyper-marginalized through the criminal justice system. For one, while most scholarship considers homelessness an outcome of poverty, this paper elaborates on how the criminalization of homelessness deepens poverty, through city authorities seizing property and by the accumulation of fines, fees, and, eventually, debt. Similarly, while the scholarship is crystal clear that homelessness is an outcome of social inequality and that minority groups are disproportionately likely to experience homelessness, our findings show how the criminalization of homelessness produces further inequalities. Considering that an estimated 3.5 million U.S. citizens experience homelessness every year (National Law Center on Homelessness and Poverty 2017), and that 30 percent of those in poverty have experienced homelessness (Link et al. 1994), these findings suggest that the policing of homelessness has a greater role in reproducing both poverty and inequality than previously acknowledged. By documenting how those deprived of housing bear the brunt of the city’s quality-of-life policing, this article contributes to elevating the role of housing precarity to a more prominent place within our theories of modern social inequality and punishment (see Desmond 2012).

Our study also expands the conception of the criminalization of poverty, which is most often defined in terms of the disproportional impact of mass incarceration or traditional policing aimed at arrests (Wakefield and Uggen 2010; for an exception, see Desmond and Valdez 2013). Although salient, incarceration is only one form of criminal justice contact in the United States; focusing primarily on incarceration may mask the extent to which the criminal justice system produces and perpetuates homelessness and poverty more generally. Homelessness records elude state accounting and are inadequately covered in the current scholarship connecting criminalization and homelessness (see Metraux et al. 2008). This paper elaborates a theory of *pervasive penalty* – consistent punitive interactions with state officials that most often do not result in arrest and incarceration – interactions that nonetheless exact both material and psychological harm through the frequency and depth of orders and citations. Even though each quality-of-life ordinance, move-along order, and citation alone may seem inconsequential, collectively, the process of pervasive penalty produces a sequence of criminal justice contact that is more powerful than the sum of its parts and perpetuates homelessness and poverty. The process also nurtures a distrust of the law and the local state among the unhoused, which has broader implications for the political effects of over-policing and the carceral state. As Lerman and Weaver (2014) have found, “custodial citizens,” defined as individuals who have contact with criminal justice institutions even if they are not convicted of a crime, are more likely to withdraw political participation, civic engagement, and their trust in government. We should be concerned about how the policing of homelessness may cause homeless people to distrust other state institutions of poverty management, such as welfare and medical services.

Building on the work of others who have uncovered hidden consequences of ubiquitous policing (Desmond 2012; Goffman 2014; Rios 2011; Stuart 2016), our research uncovers yet another mechanism through which the lives of the hyper-marginalized are hyper-criminalized. This pervasive penalty is not faced solely by the homeless, and future research is necessary for understanding its broader impact. With the ascendance of Stop and Frisk policies in poor neighborhoods of color, the recent U.S. Department of Justice discoveries of programs of mass citations in the cities of Ferguson, Missouri, and Baltimore, Maryland, and the video footage of Eric Garner’s killing by the New York City Police during enforcement of an infraction for selling “loosey” cigarettes, investigations into the subjective and objective impacts of the seemingly mundane punitive sanctions of tickets, fines, and police requests are more crucial than ever to understanding the role of the criminal justice system in reproducing poverty and inequality beyond the prison walls.

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