

# APPENDIX A

## CONSIDERATION OF HOMELESS POPULATIONS IN FEDERAL ENVIRONMENTAL JUSTICE REQUIREMENTS

### Introduction

In 1994, President Clinton signed Executive Order 12898, entitled "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations." This Order requires that all federal agencies "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" (p. 1).

The Order created an inter-agency working group on Environmental Justice (EJ) to provide agencies with guidance. It also required individual federal agencies to create and adopt an EJ Strategy, to do their own research, and to provide progress reports when requested. The U.S. Department of Transportation (DOT) adopted Order 5610.2 on Environmental Justice as part of its EJ Strategy in 1997.

In August 2011, federal agencies signed a memorandum of understanding (MOU) confirming the importance of continuing to address EJ concerns as laid out in Executive Order 12898. It required all signing agencies to update their EJ Strategies, and beginning in 2012, to provide annual reports on progress made (*Memorandum of Understanding, 2011*). This renewal of interest in environmental justice makes the information provided in this Guide all the more relevant and important.

Executive Order 12898 was issued with the intent of providing management advice to federal agencies with respect to environmental justice

issues. Unlike a law passed by Congress, an Executive Order does not provide affected parties with the right to pursue legal remedies through the courts if an agency fails to follow its directives (Executive Order 12898, Section 6-609).

This Appendix provides an overview of Executive Order 12898, with a focus on its relationship to Departments of Transportation and their interactions with homeless populations.

### Executive Order 12898 and Title VI

The protections and considerations of Executive Order 12898 are often understood as an extension of Title VI of the 1964 Civil Rights Act. The purpose of Title VI is that "no person in the United States shall, on the ground of *race, color, or national origin*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (*italics added*). In 1987, the Civil Rights Restoration Act expanded the Title VI requirements to include "all programs and activities of federal-aid recipients, sub-recipients, and contractors, whether or not such programs and activities are federally funded" (Environmental Justice Task Force, 2010).

Environmental Justice is closely tied to Title VI; reporting on both is often combined, and at times the concepts are used almost interchangeably. The Title VI protections, against discrimination and for inclusion in processes, are limited to the federally protected classes identified in the Civil Rights Act of race, color and national origin. One major difference

with Executive Order 12898 which is relevant to this conversation is that it extended those protections to include low income populations in general.

The considerations which Executive Order 12898 requires of those populations are at once more broad and more nuanced than Title VI. The Order addresses discrimination, participation, and benefit of projects, but through the lens of health and environmental well-being. This ties the issues of discrimination or adverse impact on communities to the Environmental Review processes required of all federal projects, discussed in the next section.

### **Executive Order 12898 and NEPA**

According to the Council on Environmental Quality (CEQ), Executive Order 12898 was accompanied by a memorandum to heads of federal departments and agencies that “specifically recognized the importance of procedures under the National Environmental Policy Act (NEPA) for identifying and addressing environmental justice concerns” (1997, p. 1). It focused especially on encouraging the participation of low income, minority, and Indian tribe populations in NEPA processes.

The purpose of NEPA, established in 1969, is to “encourage productive and enjoyable harmony between man and his environment” (CEQ, 1997, p. 7). This is achieved through review requirements for federal activities to ensure consideration and mitigation of potential negative impacts on the environment. The Presidential memorandum accompanying Executive Order 12898 identified four common NEPA processes that should address environmental impacts on low income, minority, and Indian tribe populations. These are environmental assessment, environmental impact statement, finding of no significant impact, and record of decision (CEQ, 1997).

The CEQ published a guide in 1997 to help agencies identify and address EJ concerns in the NEPA processes. In terms of participation, the guide suggests that “agencies should encourage the members of the communities that may suffer a disproportionately high and adverse hu-

man health or environmental effect from a proposed agency action to help develop and comment on possible alternatives to the proposed agency action as early as possible in the process” (15). It can then use input from the public participation process to develop appropriate mitigation measures.

Despite the parallels of Executive Order 12898 to existing requirements such as NEPA and Title VI, it has received far less attention. Part of this may be that, although reporting and monitoring requirements are well understood for NEPA as well as Title VI, they have not been clearly addressed for compliance with Executive Order 12898 (neither in the Order itself, the recent EJ MOU, the DOT’s EJ Order, nor even its recently revised EJ Strategy). As a result, EJ reporting and monitoring has largely been rolled into Title VI and NEPA processes, which may have had the impact of decreasing both the awareness and impact of the Order.

This is changing, however, with the renewed Federal focus on Executive Order 12898 in 2011. By separating the reporting requirements for the Order from Title VI, the more nuanced adverse impacts of projects on health and community cohesion may be able to be more directly addressed.

### **Executive Order 12898 and Homeless Populations**

This section will explore how people experiencing homelessness may be impacted by the protections of Executive Order 12898. The homeless are not explicitly mentioned in Executive Order 12898, nor were they mentioned in a 2003 evaluation by the US Commission on Civil Rights on how well federal agencies were implementing the EJ requirements of Executive Order 12898. Furthermore, it is not clear how Executive Order 12898 applies to actions undertaken by state DOTs utilizing federal funds, or if it applies at all to actions occurring on right-of-way acquired or improved with federal funds prior to the adoption of the Order.

However, at least two State DOTs (Florida and Washington) have interpreted the Executive Order as applying to homeless populations,

in actions taken on specific federally-funded projects and documented in published articles (Poitier et al, 2005, and Kocher et al, 2007). And the homeless would appear to fall under EJ protections and considerations, based on DOT Order 5610.2 definitions provided below (United States Department of Transportation, Office of Civil Rights)<sup>1</sup>:

- “Low income means a person having a median household income at or below the Department of Health and Human Services’ (HHS) poverty guidelines” (Appendix 1b).
- “Low-Income Populations means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed FHWA program, policy, or activity” (Appendix 1d).

The majority of homeless individuals in the United States would meet the income guidelines described above. Thus homeless encampments would fall directly under the category of “low-income populations,” and it is quite possible that individuals experiencing homelessness would also qualify.

DOT Order 5610.2 defines “adverse affects” in the following way:

- “Adverse effects means the totality of significant individual or cumulative human health or environmental effects, including inter-related social and economic effects, which may include... *destruction or disruption of community cohesion* or a community’s economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; *adverse employment effects; displacement of persons* . . . isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community” (Appendix 1f), (Italics added).

A common approach to homeless encampments is dispersal through regulation or law enforcement. Dispersal of homeless encampments on right-of-way acquired or improved with federal funds clearly causes

1. The 1997 NEPA guide to EJ has similar definitions of “low-income population.”

the displacement of persons, and it may disrupt community cohesion (if it exists) within the camp. It might also have adverse effects on individuals’ employment opportunities, and could result in increased isolation of homeless individuals from the broader community.

Finally, the US DOT’s “Civil Rights” webpage (nd) clarifies which DOT actions need to take these concerns into consideration. According to their site, Executive Order 12898 and Title VI apply to all transportation decisions, including the following (italics added):

- Policy Decisions
- Systems Planning
- Metropolitan and Statewide Planning
- Project Development and Environmental Review under NEPA
- Preliminary Design; Final Design Engineering
- *Right-of-Way*
- *Construction*
- *Operations and Maintenance*

The actions shown above in italics are most likely the situations in which transportation agency personnel would come into contact with homeless encampments or individuals. And although many agencies reported in our survey<sup>2</sup> that they interact with the homeless in operations and maintenance, the protections and consideration of Executive Order 12898 have largely not been applied to those populations. In fact, in a search of all 50 state DOT websites, only six made any reference at all to the homeless.

For the most part, when the homeless are mentioned by agencies, it is in terms of being in the way, or needing to be “cleaned up.” For example, a 2008 New Mexico DOT newsletter talked about removing graffiti, trash and homeless camps so that gardeners can garden in parks (New

2. As part of the OTREC-funded research, Andree Tremoulet and Ellen Bassett sent surveys to ODOT employees and rest area managers. 46 of the 64 respondents (72%) reported having encountered homeless encampments.

Mexico Department of Transportation, 2008). The New Hampshire DOT website noted a camp that was in the way of a proposed path (New Hampshire Department of Transportation, 2011). And a report by the California DOT on litter and graffiti abatement noted, under "litter removal," that "4,994 homeless camps were removed from the roadsides" (California Department of Transportation, 2005, p. 2).

The most comprehensive inclusion of the homeless found in that search was by the Washington State DOT. Their 2011 manual titled "Sustainable Roadside Design and Management for Urban Freeways in Western Washington" names homeless camps as one of their two biggest problems, the other being "intense invasive weed pressures" (Robertson & Smith, 2011, Title Page). As a result, the manual systematically includes the homeless in their case study evaluations. Most mentions read something like the following: "Existing Conditions: Transient encampment area; limbed-up trees with open meadow/grass areas," or "Maintenance: Annual transient clean-up; routine mowing" (19).

The Washington design manual, like most of the state DOT website references to the homeless, seems largely to view homeless encampments as a barrier to project design and maintenance efforts. However, the manual also acknowledges that "preventing the establishment of and removing transient encampments involves complex social, economic, and political issues that require clear policy directives from WSDOT for roadside maintenance and close cooperation with law enforcement agencies" (Robertson & Smith, 2011, p. 71). The authors see a need for collaboration and for explicit guidance as to how best to deal with/ prevent homeless camps<sup>3</sup>.

3. A 2007 article titled "From Policy to Action: Identifying Environmental Justice Concerns in Transportation Planning" describes the Washington State DOT's outreach to homeless communities affected by the Alaskan Way Viaduct and Seawall Replacement Project in Seattle, WA.

In a search of the state DOT websites, there was no evidence of such guidance being available, except the Washington design manual described above. And in a survey sent to DOT and rest area managers, only 10 of the 64 survey respondents (16%) reported having received training on how to deal with homeless populations. Of those who had not, more than half thought such training was needed.

## Conclusion

Until recently, it would appear that homeless populations were not broadly understood as being protected populations under Environmental Justice provisions. Executive Order 12898 provided clear management guidance to federal agencies to consider and mitigate the adverse impacts of agency activities, including maintenance, on low income and transient populations.

Although the work of State DOTs and their employees and contractors is integral to the success of broader DOT Environmental Justice efforts, the applicability of Executive Order 12898 and Department of Transportation Order 5610.2(a) to state-funded maintenance of federal highway right-of-way and other federally-funded projects is not clear at present. Nevertheless, some state transportation agencies, along with law enforcement officials and others, are beginning to look more holistically at the recurring presence and resulting challenges of homeless populations on public land and developing new kinds of solutions. These solutions often include a collaborative approach to problem-solving that include partnerships with social service agencies and, in some cases, homeless individuals themselves.

In the 2011 updated EJ Strategy, the U.S. Department of Transportation noted that it is "exploring traditional and nontraditional strategies for engaging low-income and minority populations." The approaches described in this Guide represent innovative applications of and approach to Environmental Justice in transportation projects, and the experiences of those involved can provide insight to practitioners facing these problems throughout the United States.

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## APPENDIX B

# RESOURCES FOR TRANSPORTATION AGENCY STAFF WORKING WITH HOMELESS POPULATIONS

Working with homeless populations, whether on an on-going basis or only occasionally, can present unique challenges to transportation agency staff. Homeless individuals are more likely than the general public to have mental illness and addiction disorders, to be veterans, and to be victims of domestic violence. While many individuals experiencing homelessness require affordable shelter or housing, and adequate employment and health care services, many require much more specialized care to successfully transition out of homelessness.

If your agency has decided to engage with local homeless populations, there are many resources available to help you and your staff to be as safe and effective as possible. The information below provides a starting point, but there are probably already experts on the homeless in your community who can provide support to you and your agency. This includes homeless advocates, police, and social service and mental health providers (public and non-profit). These people and organizations can help you understand who the homeless are in your community and the challenges they face, as well as methods for interacting with them.

You may even be able to work with these potential partners to develop trainings specific to your agency's needs. This approach has been used by a number of police departments across the country that have worked with partners to develop homeless outreach teams to more effectively address the challenges posed by homelessness in their communities.

### **National Coalition for the Homeless: Factsheets** <http://www.nationalhomeless.org/factsheets/who.html>

The National Coalition for the Homeless is a national homeless advocacy nonprofit with a goal to educate the public on issues surrounding homelessness. Through their website you can access a wide array of publications, including the above series of Factsheets on who the homeless are in the United States.

### **National Alliance to End Homelessness: Community Plans**

[http://www.endhomelessness.org/section/solutions/community\\_plans](http://www.endhomelessness.org/section/solutions/community_plans)

The National Alliance to End Homelessness is also a national homeless advocacy nonprofit with a focus on assisting local communities in creating "Ten Year Plans" to achieve their goals of ending homelessness. The above link allows you to search for your community's homeless plan, which will provide information on who the homeless are locally, as what work is already being done and who is doing it.

### **Continuum of Care** <http://www.hudhre.info/index.cfm?do=viewCocContacts>

According to the US Department of Housing and Urban Development (HUD), a Continuum of Care (CoC) is a local plan to help transition

homeless individuals and families into permanent shelter and self-sufficiency. It includes outreach, emergency and transitional shelter and services, and affordable housing. Since 1995 HUD has awarded grants to communities to coordinate efforts and develop their own CoCs. And in 2012 HUD established requirements for CoC recipients to adopt Homeless Management Information Systems to track homeless individuals and help deliver services more efficiently and effectively.

The above website allows you to search for local CoC contacts by state. This can be a great starting place if your agency is considering partnering with other organizations to move homeless individuals from a site.

### **International Network of Street Papers** <http://www.street-papers.org/>

The International Network of Street Newspapers (INSP) supports and develops more than 100 local independent street press projects around the world, including 30 in the United States. These projects provide employment opportunities for homeless individuals and are education and advocacy tools for local communities. Through their website you can search for publications in your area. These newspapers can provide useful information on homelessness and help you connect with service providers. Newspaper staff and volunteers may also be able to help you to reach out to the homeless populations with whom you are dealing.

### **Homelessness Resource Center: Tools and Training** <http://homeless.samhsa.gov/Channel/HRC-Tools-and-Training-25.aspx>

The Homelessness Resource Center is a branch of the Federal Substance Abuse and Mental Health Services Administration dedicated to disseminating information on homelessness to advocates, service providers, policymakers, and public agencies. Their website has a great deal of information, but the above Tools and Training section was developed to fill the information gap between research and practice.

Specific training resources that may be relevant to agency staff engaging with homeless individuals include:

- Expert Panel on Cognitive Impairment  
<http://homeless.samhsa.gov/Resource/Expert-Panel-on-Cognitive-Impairment-33353.aspx>
- Invisible: Cognitive Impairment and Homelessness  
<http://homeless.samhsa.gov/ResourceFiles/xn3boic4.pdf>
- Homelessness and Traumatic Stress Training  
<http://homeless.samhsa.gov/Resource/HRCs-Homelessness-and-Traumatic-Stress-Training-Package-33070.aspx>

### **Manual: Engaging People who are Homeless with a Mental Illness**

[http://hacchicago.org/PDF/HAC\\_Engagement\\_Manual.pdf](http://hacchicago.org/PDF/HAC_Engagement_Manual.pdf)

The above manual was developed by the Illinois Department of Human Services Division of Mental Health's Homeless Action Committee. Though not an academic study, nor a definitive resource, it does provide basic information on recognizing behaviors associated with mental illness and engaging those people safely and effectively.

### **“Verbal Judo”** <http://verbaldefenseandinfluence.com/>

Verbal Judo is a communication tool developed by George Thompson that is focused on using understanding of the other to generate cooperation and voluntary compliance in stressful situations. The approach has been used by a number of police departments, including the NYPD, to interact with individuals who are frightened, traumatized or aggressive. The Verbal Defense and Influence website listed above offers verbal judo training, which might be useful to agency staff who interact regularly with challenging homeless individuals.



## APPENDIX C

# ALTERING THE PHYSICAL ENVIRONMENT

For many transportation agencies, the return of homeless encampments after eviction or relocation can be the most difficult and frustrating aspect of the problem; time, money and other resources are spent repeatedly, without ever reducing the scope and impact of the problem.

Relocation efforts that partner with homeless service providers are one way to reduce the probability that homeless individuals will stay on or return to a site. But once an agency has succeeded in removing or relocating a homeless encampment from the right-of-way, there is continued work that can be done to address some of the physical characteristics of the site that made it attractive to the encampment in the first place. Examples of such approaches identified by the US Department of Justice include:

- Securing vacant lots and buildings
- Trimming or removing overgrown vegetation and brush
- Setting water sprinklers to go off at different times

It is important for agencies to remember that in some cases, humane relocation and changes to the physical environment may not address all the needs and issues of a camp's homeless individuals. So on sites that have chronic issues with encampments, agencies can also work to physically enhance those areas so as to reduce the negative impacts of routine activities of the homeless population. This includes installing public toilets and trash receptacle and cleaning up camp sites. It may also be possible to partner with a human services agency (such as one that provides structured employment or volunteer programs for homeless or formerly homeless individuals) to maintain the site. This is tied in with the "accommodation" approach, and may not be appropriate for every site or every agency.

### Resources

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## APPENDIX D

# USING TRESPASS LAW TO DISCOURAGE HOMELESS ENCAMPMENTS

Trespass law can a viable tool to help discourage homeless individuals from establishing permanent residents on property owned by Departments of Transportation, and to provide a “push” if you need to relocate individuals. However, the details of what constitutes criminal trespass vary greatly by state and even by local jurisdiction. In general, trespass is the interference with another’s possession of property, including the invasion of another’s property. Some states hold that any unpermitted entry onto property is criminal whether or not harm was done, while others specify that trespass is not criminal unless a verbal or written warning (such as posted signs) has been given. Others still may define trespass as committing certain prohibited acts on a property rather than entry onto the property itself.

For Departments of Transportation, the issue of trespass is particularly difficult to enforce, as the property is publically owned. However, in some cases, particularly for properties not intended for regular access by the public, some restrictions may be possible. More and more, public agencies have begun to enact trespass laws that only prohibit certain specific actions (e.g., sleeping) or prohibiting them only at specific times (e.g., overnight). Such laws can be enforced using signage that references the local statute or ordinance, which is less resource-intensive and can give law enforcement more discretion.

If your agency is considering such an approach, specificity of the restrictions is extremely important to protect public agencies from accusations of violating homeless individuals’ constitutional rights, such as free speech (See Appendix G). In most cases, the restriction must achieve a legitimate public purpose, and must use the lightest restrictions possible. And because specific laws governing trespass on both private and public property vary greatly across the United States, it is important to work with partners such as a District Attorney to understand your local statutes and ordinances.

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# APPENDIX E

## CODES OF CONDUCT FOR HOMELESS ENCAMPMENTS

If your agency has made the decision to allow a homeless encampment to remain on public land, even temporarily, but you are not entering into a formal lease agreement with a third party (e.g., a nonprofit agency) to manage the camp, consider working with the camp residents early on to establish camp codes of conduct. This allows your agency to exert some control over who is in the encampment, what activities take place, and how the site will be maintained. Setting these rules also helps establish clear expectations, both of your agency and of the camp residents, and clear consequences and enforcement procedures if those expectations are not met. Finally, developing codes of conduct *with* camp residents can also help to build trust and respect between parties, which is very important to ensuring smooth and productive future interactions.

### Potential Elements to Consider in Developing a Homeless Encampment Code of Conduct

- Presence of drugs or alcohol
- Presence of weapons
- Presence of residents with criminal history (what kind of background is okay, what is not)
- Presence of children (particularly if sex offenders are allowed to live in the camp)
- Presence of pets (Remember to allow assistance animals)
- Loitering in surrounding areas
- Open flames
- Quiet hours
- Participation in site maintenance
  - » Security shifts
  - » Number of volunteer hours required per month
- Participation in camp governance
  - » Attendance at weekly meetings

- Check-ins: Periodic meetings with social service providers or other city or agency representatives to demonstrate that they are searching for work or permanent shelter
- How new residents are admitted
  - » Vote by existing camp residents

### Homeless Encampments with Established Rules and Regulations

**Dignity Village (Portland, Oregon)**  
<http://www.dignityvillage.org/>

**Camp Take Notice (Washtenaw County, Michigan)**  
<http://www.tentcitymichigan.org/>

**Tent Cities 3 and 4 (King County, Washington)**  
<http://www.sharewheel.org/Home/tent-cities>

**Village of Hope (Fresno, California)**  
<http://www.poverellohouse.org/village.html>

## For More Information

### Tent City Toolkit

<http://tentcitytoolkit.org/page9/page9.html>

This website provides some of the governing documents used by Dignity Village. This includes their admittance agreement, judicial process, police protocols, and pet contract.

### Tent City - Municipal Research and Services Center of Washington

<http://www.mrsc.org/subjects/housing/tentcity/tentcity.aspx>

This website provides information for local jurisdictions in Washington regarding homeless encampments. It was created in response to Washington legislation passed in 2010 that authorized religious institutions to host temporary homeless encampments. This website provides links to numerous jurisdictions' policies and requirements for the establishment of camps, many of which include codes of conduct.

## APPENDIX F

# LEASES, CONTRACTS AND AGREEMENTS FOR ESTABLISHING HOMELESS ENCAMPMENTS

There are a number of places throughout the United States where organized homeless camps have signed official leases, contracts, or other agreements with public entities or private property owners to allow them to stay on the property. This has been used both for temporary and semi-permanent accommodation, as with Tent City 4 in Washington State, and for more permanent shelter solutions, as with Dignity Village in Portland, Oregon. As with the "Rules and Regulations" discussed in Appendix E, lease agreements or contracts between the host individual, organization or agency and the homeless encampments or their governing nonprofits are an important tool for establishing accountability and trust.

### Potential Elements of Contracts or Agreements

- Date camp will begin
- Length of camp's stay
- Maximum number of residents allowed
- Location of site
- Host individual or organization representative
- Fees or lease payments to host
- Date, time and location of regular meetings with host and/or community
- Buffering, screening or setback requirements between camp and surrounding properties
- Noise or lighting restrictions
- Maintenance responsibilities of camp and host
- Sanitation and public health procedures and requirements (port-potties, water and waste-water, dumpsters, etc.)

- On or off-street/site parking allowed
- Fire safety regulations
- Type of shelter options allowed at site (tents vs. cars or RVs vs. permanent or semi-permanent structures)
- Hazard or liability insurance (and amount) required
- Access routes for emergency vehicles
- Site security procedures
- Liability of host and camp residents
- Severability of contract

Many of these items may overlap with internal rules and regulations governing the camp residents. But with the lease agreement, it is important to work both with the host and the community (including neighboring residents, local law enforcement and fire department, and public planning and public health agencies) to develop the lease. This can help to address potential conflicts before they arise, but can also help re-assure neighbors that their concerns are recognized and valid.

## **For More Information**

**Tent City - Municipal Research and Services Center of Washington**  
<http://www.mrsc.org/subjects/housing/tentcity/tentcity.aspx>

This website provides information for local jurisdictions in Washington regarding homeless encampments. It was created in response to Washington legislation passed in 2010 that authorized religious institutions to host temporary homeless encampments. This website provides links to numerous jurisdictions' policies for the establishment of camps, many of which include requirements for lease agreements as well as codes of conduct.

# APPENDIX G

## A BRIEF OVERVIEW OF THE CONSTITUTIONAL RIGHTS OF THE HOMELESS

The United States Constitution provides a basis for the rights of all citizens, some of which can specifically protect homeless individuals and their actions. Criminalizing policy reactions to growing homeless populations over the past few decades have led many advocates towards this Constitutional approach and away from local policy and law in order to protect the rights of the homeless. This document provides an overview of the frequently-cited case law related to the Constitutional rights of homeless individuals and encampments, as well as federal protections relating to relocation. Many of the legal interpretations are from state-level cases and thus conflict. However, they provide a framework for how these legal concerns are being challenged and addressed in the United States.

Two caveats should be taken into consideration in reading this document. First, many states and local jurisdictions in the United States have specific laws and regulations that may either expand upon or limit broader Constitutional rights relating to homeless individuals and their actions. It is important when working and interacting with homeless populations to understand these local rights and regulations. Second, laws and interpretations of laws can change quickly because new cases are decided all the time. This summary represents a snapshot of important considerations pertaining to Constitutional rights at the time this guide was published.

### First Amendment – Freedom of Speech

Policies prohibiting or limiting begging or panhandling have been accused of violating First Amendment rights of free speech, though there is some inconsistency on this interpretation. The main argument for begging as free speech is based on the fact that the US Supreme Court has

in different scenarios protected the right to ask for money. For example, the Supreme Court has on a number of occasions protected the right of solicitation for charity. In *Riley v. National Federation of the Blind*, (1988), the Court protected “communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes,” which can also be clearly construed to apply to homeless people who are advocating on behalf of their own situation (Hershkoff, 1991, p. 905).

The most famous argument against begging as free speech was the 1991 case *Young v. New York City Transit Authority*, in which the US Supreme Court ruled that a homeless man could be banned from panhandling in the New York Subway (Hershkoff, 1991). The reasoning used in this ruling was that the First Amendment protects speech but not conduct, and thus the Transit Authority could regulate the conduct of begging, or more generally the conduct of being homeless and/or disheveled in public. (Of course the act of soliciting donations, which is protected, could also be construed as “conduct”). More information

on the distinction between status and conduct is provided in the section on the Eighth Amendment.

One way a number of jurisdictions have avoided the First Amendment issue is by specifically outlawing “aggressive” panhandling, but not all forms of panhandling, so as not to completely limit this constitutional right for the homeless (Thomas, 2000). On the other side of the argument, States such as Oregon have ruled that panhandling is a form of free speech according to State Constitutional definitions, which in the case of Oregon are broader than federal definitions (ACLU Oregon, 2009).

Another place that the protections of free speech have been invoked for homeless individuals is in cases involving trespass on public property. Trespass is defined in modern law as the “intentional and wrongful invasion of another’s real property” (West et al., 1998). But the details of what constitutes criminal trespass vary greatly by state and even local jurisdiction: Some states hold that any unpermitted entry is criminal whether or not harm was done, while others specify that trespass is not criminal unless a verbal or written warning (such as posted signs) has been given. Others still may define trespass as committing certain prohibited acts on a property rather than entry onto the property itself (West et al., 1998).

In some cases, such as *Virginia v. Hicks* (2003), criminal trespass charges have been challenged when the person accused was engaged in an act of free speech on publically owned property. However few such challenges have been successful. One reason is that the first amendment protects political speech, not all speech. But more problematic is that some properties owned by a government entity are not considered traditional “public forums,” which protect speech<sup>1</sup>, and thus can have some of the same rights to exclusion as private property. For such properties, the restrictions placed on it must be specific, and must achieve a legitimate public interest (Mitchell, 2006). Though the case law is highly divided on this topic, in recent decades the U.S. Supreme

1. Traditional public forums include streets, sidewalks and parks (Mitchell et al., 2006).

Court has tended to side with property rights over free speech in such cases (Mitchell, 2006, Mitchell et al., 2009).

## First Amendment – Freedom of Religious Expression and Free Exercise Clause

In a different application of the First Amendment, churches prohibited from setting up homeless camps on their property when the use is not allowed by local zoning or other regulation have argued that such prohibitions violate their freedom of religious expression (Talge, J. 2010).

The Free Exercise Clause of the First Amendment says that religious uses cannot be excluded from areas zoned for residential use only (Loftus-Farren, 2011). The argument for freedom of religious expression follows this, saying that helping or ministering to the poor is part of their faith, and thus restrictions on it are unconstitutional. But as with most of the cases involving the homeless, the case law is not entirely consistent. An early and often-cited decision on this issue was *St. John’s Evangelical Lutheran Church v. City of Hoboken* (1983), in which the New Jersey Supreme Court upheld the church’s right to host a homeless camp despite local zoning. However in other cases, such as the *First Assembly of God v. Collier County* (1994), lower-level Courts have upheld zoning ordinances, noting that the church could fulfill their mission in other ways that were not in conflict with local land use law (Stout, 2011).

Added to this is the 2000 Federal Religious Land Use and Institutionalized Persons Act (RLUIPA), which states that “no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution-- (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest” (RLUIPA).



The most prominent case on this topic since the passage of RLUIPA was in the State of Washington. In the *City of Woodinville v. Northshore United Church of Christ* (2009), Woodinville “refused to consider a church’s application to host a homeless encampment. The (Washington Supreme) Court held this outright refusal to be an unjustified infringement on the church’s free exercise of religion” (Talge, J. 2010). It should be noted that this case is unique and may not be replicable in other states, since Washington’s constitution includes “absolute” protection of religious freedom beyond the First Amendment protections<sup>2</sup>.

### **Eighth Amendment – Cruel and Unusual Punishment**

Policies that disallow homeless camps and practices of tearing down or “sweeping” homeless camps have received a great deal of attention in law literature. In such cases, the Eighth Amendment has frequently been invoked, which protects individuals from cruel and unusual punishment based entirely on “status.” In such cases, advocates have interpreted “status” to include homelessness, and argue that anti-camping/sleeping ordinances punish the very condition of homelessness<sup>3</sup>. The case law surrounding this issue is conflicting, and reflects state-level decisions.

The most famous such case to rule in favor of homeless individuals was

2. Following the case, the Washington Legislature passed Chapter 175 (ESFB 1956)RCW 36.0.1.290 authorizing “religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization. The legislation . . . prohibits local governments from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing.” (Municipal Research and Services Center of Washington, 2012). In response, a number of Washington jurisdictions have since adopted ordinances to govern tent cities sponsored by religious organizations. See the Washington Case Study on pages 32-33 for more information

3. Litigation has invoked the equal protection clause of the 14th Amendment, protecting individuals from unequal protection under the law, based on status (May, N. 2002).

*Jones v. City of Los Angeles*, 2006. In this decision, the Ninth Circuit Court of Appeals struck down a Los Angeles’s ordinance which prohibited sitting, lying or sleeping in the street at any time, saying it was as a “violation of the Eighth Amendment’s prohibition against cruel and unusual punishment. The panel held that the ordinance unjustifiably criminalized conduct that, due to the city’s shortage of housing for the homeless, was an unavoidable outgrowth of the status of homelessness” (Gerry, 2007, p.240)<sup>4</sup>.

However as mentioned before, the case law is not consistent on this issue, as other courts have chosen to interpret the concept of “status” based on another case, *Powell v. Texas*, 1968, in which the Supreme Court further refined this differentiation between status and condition: While being an alcoholic was a status, being intoxicated in public was a condition, as it could be done in private. Following this, in the case of *Joyce v. City and County of San Francisco*, 1994, the court held that homelessness, unlike addiction, was a condition “that could be more easily altered and effectively addressed with social interventions. Moreover, the decision of whether to provide homeless shelters was one of discretion left to the City, and ‘status cannot be defined as the function of the discretionary acts of others’”(247).

Some localities have avoided this legal debate entirely by incorporating the availability of shelter beds into their regulations and ordinances involving homeless individuals. For example, the City of Reno, Nevada set up a system that when shelter beds aren’t available, the city allows a camp on private land, shutting it down when beds again become available. Under this system residents must register with the camp, and check in weekly to show they are searching for housing and jobs. Other camps such as the Village of Hope or Community of Hope in Fresno, California have rezoned property to allow for camping, which over-rides local ordinances against camping or sleeping in public (Loftus-Farren, 2011).

4. The Jones decision was based on the case *Robinson v. California*, 1962, in which the Supreme Court found that a state statute criminalizing narcotics addiction violated the Eighth and Fourteenth Amendments. The Court called addiction an illness, analogizing its criminalization to that of leprosy or a venereal disease”(244).

## Fourth Amendment – Illegal Search and Seizure

The Fourth Amendment is the subject of the other large segment of litigation against policies and procedures that criminalize homelessness (May, N. 2002, Schultz, 1992, Granston, 1992). The Fourth Amendment ensures the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures” (May, N. 2002, p. 121). The most straight-forward application of this deals specifically with law enforcement procedures such as sweeps that seize and/or dispose of the belongings of homeless people living outdoors. In most cases, the law has ruled on the side of the homeless. For example, in 2008 the California Department of Transportation lost a class action law suit for confiscating the belongings of homeless individuals during a sweep of an unregulated homeless camp (National Coalition for the Homeless, 2010).

But the Fourth Amendment conversations have spawned a much broader debate over the definition of privacy, and how to address homeless camps on public land. The major case cited in this discussion is *Katz v. U.S.*, 1967 in which the U.S. Supreme Court defined the Fourth Amendment as protecting people, not places: “[W]hat a person knowingly exposes to the public, even in his home or office, is not a subject of Fourth Amendment protection. But what he seeks to preserve as private, even in an area accessible to the public, may be Constitutionally protected” (Schultz, 1992, p. 1008). The key point here is that shelterless individuals may have no choice but to perform private activities in public. In the 1988 state case *California v. Greenwood*, the court acknowledged that a “failure to recognize such an expectation of privacy as reasonable would result in an unequal application of the laws to the rich and the poor” (Schultz, 1992, p.1026).

Homeless people living in their vehicles receive some protection under the Fourth Amendment beyond those of squatters, however their protection is still less than for individuals residing in private dwellings (Granston, 1992). “The Court has justified this reduction of privacy for automobiles by noting that automobiles are exposed to public view, that automobiles seldom serve “as one’s residence or as the repository

of personal effects,” and that automobiles are subject to extensive government regulation.” (Hewitt, 2000, p. 883). This interpretation was based on a great deal of US Supreme Court case law reaching back nearly 90 years, and stems from both the mobility of automobiles and the diminished expectations of privacy assumed with automobiles versus more permanent residences<sup>5</sup>.

Finally, there has been debate around homeless individuals living in motor homes versus conventional vehicles. The US Department of Housing and Urban Development defines a homeless individual as someone “who lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is either (a) a supervised shelter providing temporary living accommodations or (b) an institution providing residence for individuals intended to be institutionalized or (c) a public or private place not designed for regular sleeping accommodations for human beings” (Dykeman, 2011). Thus individuals living in their cars are considered homeless by the federal government, but individuals in motor homes may not be, as motor homes are designed for sleeping accommodations by humans.

However there is not consistent application of this definition, as for example some localities choose to count people living in motor homes in their homeless counts while others do not (Wakin, 2008).

In the 1985 case *California v. Carney*, the US Supreme Court held that the expectations of privacy in a motor home are more like those in a dwelling than in an automobile because the primary function of motor

5. The 1925 case *Carroll v. United States* upheld that an authorized officer to search a vehicle without a warrant if there was probable cause to believe the vehicle contained contraband. “The Court justified this exception by recognizing the difference between searches of fixed premises and searches of vehicles, the latter capable of being “quickly moved out of the locality or jurisdiction in which the warrant must be sought.” (Hewitt, 2000, p. 883-884). Later, in *United States v. Chadwick*, 1977, the Supreme Court further defined the importance of mobility of private property, saying that “diminished expectation of privacy . . . surrounds the automobile. . . because the automobile travels public thoroughfares and is subject to extensive government regulation” (884).

homes is not to provide transportation but to “provide the occupant with living quarters” (*California v. Carney*). And yet many cities have actively pursued local ordinances to limit the ability of otherwise homeless individuals to remain in their motor homes or RVs. For example, in a dispute in Santa Barbara over a fine imposed on an RV dweller, a city Commissioner stated that if there was space available in a local Christian shelter, then the RV owner could not legally stay overnight in their RV. However, the ACLU intervened and succeeded in getting charges dropped, as this shelter required people staying the night to participate in a religious service (Wakin, 2008).

### Relocation Rights of the Homeless

At the crux of the arguments over Fourth Amendment violations in sweeps of homeless camps is the definition of “private space.” Similarly, debate over the definition of “residence” has been central to the question of whether homeless individuals qualify for relocation assistance when forced to move due to government activities or projects. But whereas the homeless’ Constitutional rights continue to be debated in court, the federal government has clearly excluded the homeless from coverage by relocation rights.

In 1970, during the height of Urban Renewal policies which demolished urban neighborhoods in the name of redevelopment, the federal government passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). The URA defined benefits to be provided to households displaced by federally funded programs. In 1974, the Housing and Community Redevelopment Act also required relocation assistance, as well as one-for-one replacement of demolished affordable housing units. Finally, a 1998 amendment to the US Housing Act of 1937 further defined relocation requirements for demolition of public housing units (Cordes, 1979).

The 1998 Housing Act amendment stipulated that Housing Authorities were “not required to find either temporary or permanent housing for homeless persons” (Krislov, 1988) displaced by governmental actions. The 1970 URA was also very specific about who was not covered by its

protections. Individuals residing in emergency homeless shelters were not covered under the URA definition of “dwelling” because “such a facility is usually not a place of permanent, transitional or customary and usual residence” (US HUD, 2006, p. 1-9). This interpretation of the term “dwelling” would therefore exclude all homeless individuals, whether on the streets, in camps, or in shelters, from assistance for displacement due to government projects, including transportation projects.

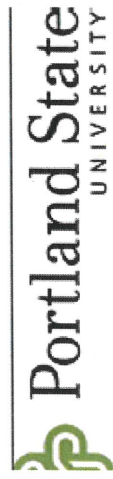
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# HOMELESS ENCAMPMENTS ON PUBLIC RIGHT-OF-WAY A PLANNING AND BEST PRACTICES GUIDE



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# Los Angeles, California cities 'overrun by rodents' that pose public health epidemic, study says

By Travis Fedschun

Published July 17, 2019

[Fox News](#)

An ever-growing number of [rodents](#) in [California](#) -- particularly in [Los Angeles](#) -- is being fueled by a spiking homeless population and restrictions on rodenticides that are risking a [public health](#) crisis, according to a study released Tuesday.

The report by political action committee Reform California cites recent rodent-related events over the past six months, including an employee at the [Los Angeles Police Department](#) contracting [Typhus](#) and a [rat falling from the ceiling](#) of a [Buffalo Wild Wings](#) onto the menu of a patron, as proof of an "undeniable problem" in the Golden State.

"California is being overrun by rodents," said Carl DeMaio, chairman of Reform California. "Without immediate emergency action by state and local government, we face significant economic costs and risk a public health crisis."

## [US MAY DUMP 1.5 TONS OF RAT POISON ON FARALLON ISLANDS TO HALT INVASIVE RODENTS](#)

Rodent's can carry [dangerous diseases](#) such as typhus, plague and salmonella, in addition to their roles contributing to asthma.



In this Jan. 14, 2019 file photo a homeless encampment is seen along a downtown Los Angeles. (AP Photo/Richard Vogel, File)

"Contrary to common belief, being bitten by a rodent is rare and is not the most common way diseases are spread. Nonetheless, reports of city workers being bitten by rodents is on the rise – with most recent cases being reported in Los Angeles," [the report notes](#). "Two other vehicles of transmission are far more prevalent: fleas and urine droppings."

The study also surveyed 23 pest control companies in California, and found that all of the reported that rat service requests were up almost 60 percent in the past year. Included in the study was a list of "rattiest cities" in the nation published by the pest-control company Orkin, which named Los Angeles as the second most rat-infested city in the nation behind Chicago.

At a press conference at Los Angeles City Hall on Tuesday, DeMaio there were two particular reasons behind the rodent explosion.

"First, the [homeless population increase](#), which provides a source of food which supports population growth," he said. "Second, many local governments, including Los Angeles, have banned the most effective practices for detecting and eradicating rats."

About three-quarters of the nearly 59,000 homeless people [counted in Los Angeles County in the past year](#) were living outdoors, fueling concerns of a growing public health crisis with piles of garbage and rats near homeless encampments lining downtown sidewalks.

Reform California said the rodent population can be controlled using the most effective tools for pest control, but Los Angeles discontinued use of second-generation anticoagulant rodenticides in 2014, a move the group claims that led to the spike.

### [ORANGE COUNTY REACHED SETTLEMENT THAT ALLOWS COPS TO ARREST HOMELESS PEOPLE IN SOME AREAS](#)

The report, spearheaded by DeMaio and various vector control industry leaders, asks Gov. Gavin Newsom to declare a public health emergency in the Golden State and require public entities to address the situation. It also calls on the state Legislature to oppose Assembly Bill 1788, which seeks to outlaw certain rodent-detering products that use more robust chemicals but have concerned environmentalists.

# CALIFORNIA HOMELESS

California, home to four of the top ten cities for homelessness, accounts for nearly a quarter of the U.S. homeless population.



"Instead of acting to address this developing crisis, California state lawmakers are just days away from passing legislation to ban the best rodent-control tools and methods available and would require use of less effective, so-called 'green alternatives,'" DeMaio said. "It's madness."

Pest control companies echoed that sentiment, saying their hands are tied by government regulations that force them to use "green pest control" to eradicate rodents.

"The professional pest control industry has gone to Sacramento, we've explained as professionals to committees, that we as professionals know how to help you, you license us, you regulate us, but now you don't listen to us," Rob Cartwright of Cartwright Pest Control [told FOX11](#).

Proponents of the legislation contend the targeted rat poisons often wind up having a deadlier effect when rats that ingest the poison are consumed by wildlife, according to FOX11. Proponents also contend such poisons present a danger to children who may accidentally ingest them.

[CLICK HERE FOR THE FOX NEWS APP](#)

Besides a 12 percent spike in homelessness in Los Angeles County in the past year, another problem is illegal dumping. Last month, FOX 11 reported that Los Angeles County cited 85 downtown businesses for not having proper trash receptacles, exacerbating the problem of illegal dumping.

The Los Angeles City Council recently allocated more than \$6.5 million to the Los Angeles Bureau of Sanitation to cover costs of hygiene and health services and cleanup teams that will target areas in desperate need of cleaning. Mayor Eric Garcetti has said the revamping of trash-cleanup efforts and outreach to homeless communities using "cleaning and rapid engagement" teams to respond to problem areas.

Travis Fedschun is a reporter for FoxNews.com. Follow him on Twitter [@travfed](#)

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U.S. news**'Typhus zone': Rats and trash infest Los Angeles' skid row, fueling disease**

People "illegally dumping, food being discarded, accumulation of blankets and pillows, and human waste," are attracting the rats, a business advocate said.



Rats are likely contributing to a typhus outbreak on Los Angeles' skid row, experts say, prompting the city and county to take steps to reduce the spread of diseases. Mark Ralston / AFP - Getty Images file

Oct. 14, 2018, 10:37 AM PDT

**By Dennis Romero and Andrew Blankstein**

LOS ANGELES – Wholesale fish distributors, produce warehouses and homeless encampments line Ceres Avenue downtown, creating perfect conditions for rats.

Uneaten food is dumped on the street – a salad platter was recently splattered on the asphalt – and discarded clothing piles up only to be swirled into rats' nests.

Those rats, experts say, are likely contributing to the growing number of typhus infections cropping up on skid row and other parts of the region. The disease is spread by fleas, which are carried by rats, opossums and pets.

"You have constant activity that serves as a breeding ground for rats," said Estela Lopez, executive director of the Central City East Association, a business improvement district that overlaps skid row.

[Los Angeles County's typhus outbreak](#), which began in the summer, has expanded to as many as 92 cases, including 20 in Pasadena and a possible 18 in Long Beach, where five were still under investigation by the Long Beach Department of Health and Human Services.

The average number of typhus cases the county sees in a year is 60, which itself has doubled in recent years, according to the Los Angeles County Health Department.

City officials recently declared downtown's skid row – roughly 54 square blocks where more than 4,000 homeless congregate – a "typhus zone."

"With increased rat density, diseases like typhus are very likely to occur," said Dr. Lee W. Riley, an infectious disease researcher at the University of California, Berkeley.

A typhus infection can cause high fever, headache, chills and, in rare cases, meningitis and death. It's contracted when "the feces from infected fleas are rubbed into cuts or scrapes in the skin or rubbed into the eyes," the county health department says on its website.

"We're deploying every available resource to help control and stop this outbreak," said Alex Comisar, spokesman for Los Angeles Mayor Eric Garcetti. "The city and county have formed a dedicated task force ... and we're putting new funding into intensifying cleanups in the affected area so that we can keep our streets and sidewalks safe for everyone."

Homeless since August 2016, Tina Marie Van Tasil holds a can of beer while standing in front of her tent near Skid Row in downtown Los Angeles on June 20, 2017. Frederic J. Brown / AFP - Getty Images file

County health officials declined to comment.

Downtown's rat problem was exposed last week by NBC News' Los Angeles affiliate, [KNBC, which documented piles of uncollected trash](#) around Ceres Avenue on skid row. The station reported that despite 2,200 calls to a city help line in the last two years by people requesting trash pickup in the area, the city responded to less than half the complaints.

It's a situation Garcetti called "disgusting and it's unacceptable."

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Los Angeles County Supervisors Kathryn Barger and Janice Hahn are expected to introduce a motion Tuesday that would create the Housing for Public Health program, a coordinated effort to reduce the spread of typhus and other diseases on skid row by cleaning, housing and educating the homeless.

Barger and Hahn introduced a motion last week to "seek flea collar donations that can be distributed to homeless individuals that have pets."

Privacy - Terms

Lopez, of the Central City East Association, said "illegally dumping, food being discarded, accumulation of blankets and pillows, and human waste" is creating "Third World conditions."

## "There's definitely an abundance of rats and roaches and horrible condition."

JERRY JONES, PUBLIC POLICY DIRECTOR AT THE INNER CITY LAW CENTER

At the Midnight Mission, which serves three meals a day to as many as 1,000 people, the scene outside its doors can be chaotic.

"If you walk out of our building, you're faced with the threat of assault, drug dealing and trash everywhere," said Georgia Berkovich, the nonprofit's director of public affairs.

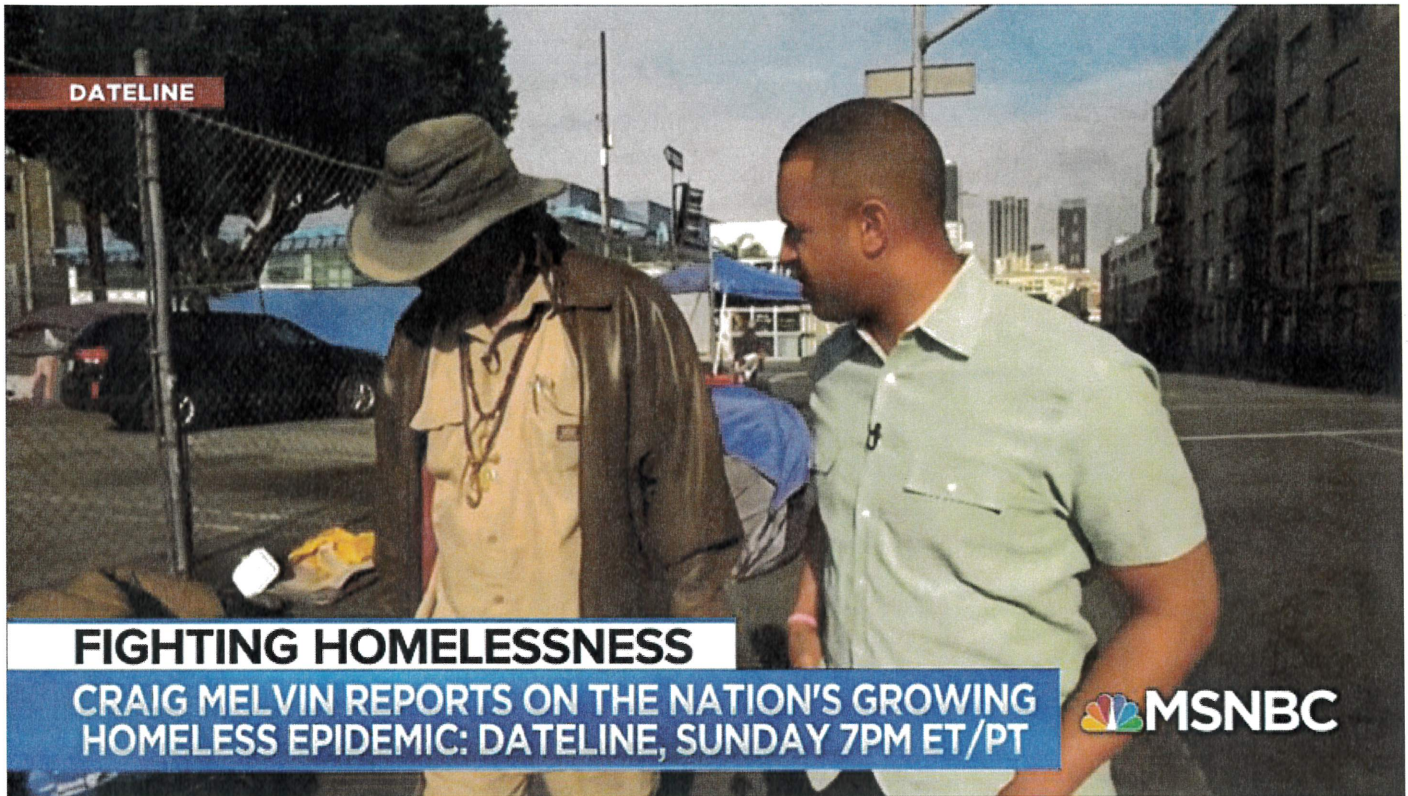
Jerry Jones, public policy director at the Inner City Law Center, called the squalor and inhumanity on the streets "shocking" and "surreal."

"There's definitely an abundance of rats and roaches and horrible conditions," he said.

Social service providers say the county and city could reduce human waste by installing more 24-hour public bathrooms in an area that has only two. They also blame charities for handing out food and clothing that ends up being dumped on the spot, attracting rats.

On Saturday, nearly a dozen people from a local church handed out food on Ceres Avenue, which KNBC identified as a hot spot for rats. Volunteer Karina Dominguez-Gonzalez said the nondenominational group was careful to hand out only peanut-butter-and-jelly sandwiches in paper bags to those who asked.

She said she's seen other organizations put boxes of food "on the sidewalk, like people are going to rush in like animals."



[Craig Melvin reports on the nation's growing homeless epidemic](#)

AUG. 17, 2018 04:47

In response to rats, trash and typhus, Garcetti recently dedicated another \$300,000 to fortifying trash pickup, sidewalk washing and street cleaning in the skid row neighborhood that's home to an estimated 2,145 people living outdoors.

Each street in the area is visited by cleanup crews once every two weeks under the six-year-old Operation Healthy Streets initiative, according to Garcetti's office. But because of the typhus outbreak, the cleanups have been expanded from a nine-block area to 25 blocks, city officials said.

Nonetheless, the city's efforts are limited by litigation.

After being sued by homeless plaintiffs over the Los Angeles Police Department's sidewalk sweeps, officials [agreed in 2007 to not remove people from sidewalks](#) between 9 p.m. and 6 a.m. and to not trash a limited amount of their personal belongings.

In 2012, the rats nests, human waste and hypodermic needles got so bad on skid row that county health officials cited the city for health code violations and filthy conditions that the county later said contributed to a Hepatitis A outbreak.

The city responded by launching Operation Healthy Streets, but since then homelessness has exploded, increasing 47 percent from 2012, according to data from the county Homeless Services Authority. Many experts blame exorbitant housing costs.

The [median rent for an apartment in Los Angeles is \\$2,483](#), which over 12 months comes to more than the [ind median income of \\$29,301](#) for the county, according to data cited by the University of Southern California's Ce

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Social Innovation.

Activist "General" Jeff Page, who lives on skid row, fears the city is using the typhus outbreak as an excuse to push out the homeless and make the area more amenable to gentrification.

"They could be using typhus as a scam to rid the sidewalks of people," he said.

But there's often nowhere for them to go.

"Cities aren't willing to get their rental markets under control," said Jones, of the Inner City Law Center. "Until we build more housing, the squalor on skid row will continue."

Back on Ceres Avenue, Steve Jordan, 53, who said he's been living on the streets for two years, stood next to a tent covered by an American flag-themed blanket.

"We got wet," he said, referring to overnight rain. "I have a tent with a hole in it. Please help me, man."

A companion who identified herself as Natasha Armstrong spoke incoherently at times. She patted her bulbous belly and nodded when asked if she was pregnant.

Her fetus, she said, was "a rat in my stomach."



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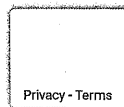
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DOWNTOWN HOMELESSNESS

7,

# LA sanitation needs \$17M to keep up with homeless encampments

*The bureau has a backlog of thousands of unanswered service requests*

By **Elijah Chiland** | Feb 22, 2018, 12:23pm PST



Sanitation workers are responsible for cleaning up around—and often removing—homeless encampments. | Photo by David McNew, Getty Images


Tasked with cleaning up rapidly multiplying numbers of homeless encampments, Los Angeles sanitation workers have asked the city for more resources to handle a backlog of thousands of service requests.

On Wednesday, the city council's Homelessness and Poverty Committee recommended increasing funding for the Bureau of Sanitation in the city's next budget and asking workers to focus on areas that receive the most requests related to homelessness.

The committee didn't recommend a particular dollar amount, but sanitation officials say they have requested \$17 million to bring on new staff trained to clean in and around encampments—up from about \$6 million this year.

In 2016, as LA's [homeless population soared](#), city officials [approved a new law](#) designed to cut down on the size of homeless encampments. It allows sanitation workers to seize bulky items and other possessions kept on streets and sidewalks after providing advance notice to owners.

By making a call to the city's 311 hotline, residents can request cleanups at encampments in their neighborhoods—but they often have to wait a while for a response. The bureau has close to 6,000 open requests, and roughly one-third are more than 90 days old, according to sanitation director Enrique Zaldivar.



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Downtown residents and business advocates argued that workers needed more resources to keep sidewalks clean in Skid Row and beyond.

Estela Lopez, director of the Downtown Industrial Business Improvement District, told the committee that sanitation workers are asked to do an “impossible task with insufficient resources.” She suggested that more cleanup crews would help prevent health problems for homeless residents.

“They are the thinnest firewall between Downtown LA and a public health epidemic,” Lopez said.

Even though they supported a boost in funding, committee members questioned whether it would have much immediate impact.

That's because the hiring process isn't quick. Testing and background checks for a newly hired sanitation worker responsible for encampment cleanups takes more than one year.



Bureau officials said they were working on speeding up the process, but offered no estimates on how much time could be shaved off the lengthy hiring period. The committee asked staff to report back on strategies to quicken the background checks.

Beyond questions of funding, the committee also grappled with the moral implications of encampment cleanups, which often result in the loss of belongings for homeless residents.

“There isn’t a good way to take stuff from people who are down on their luck,” committee member Marqueece Harris-Dawson told sanitation officials. “But we’ve charged you with that task.”

The committee also asked city staffers to report back on ways to expand the city’s shelter system, adding beds and services in the Skid Row area.

Committee member Mike Bonin suggested that tactic should be applied citywide, providing people with new alternatives to living on the street.

“We have chosen as a city to tell people to sleep on sidewalks,” Bonin said. “Instead of cleaning up encampments, we should be getting rid of encampments.”

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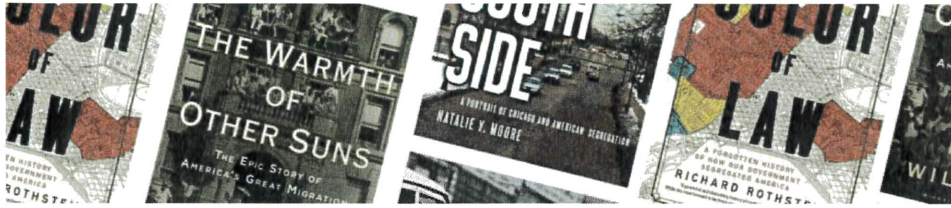
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## ***Los Angeles Fire Started in Homeless Encampment, Officials Say***

By **Jennifer Medina**

Dec. 12, 2017

LOS ANGELES — The fire that burned through one of the wealthiest neighborhoods in the country last week started as a cooking fire at a homeless encampment, according to an investigation by the Los Angeles Fire Department.

Homeless people had been living in the neighborhood — Bel-Air, in northwest Los Angeles — making their encampment near an underpass of the 405 freeway along Sepulveda Boulevard for several years, said Peter Sanders, a spokesman for the fire department. The blaze, known as the Skirball Fire, was one of several wildfires that have ravaged Southern California in recent days, spread by high winds and dry conditions.

Arson investigators went to the encampment a few hours after the blaze began in Bel-Air just before 5 a.m. last Wednesday. Although they found evidence that there had been people cooking and sleeping in the area, they found no one at the site. There are no suspects and it is unlikely one would be named, Mr. Sanders said.

“There was nobody when they got there and there is no video evidence or witnesses we know of,” Mr. Sanders said. “So, short of someone coming forward and confessing or another individual who may have been at the camp saying who did this, we will not have a suspect.”

The fire destroyed six homes in the neighborhood and damaged about a dozen more as it burned roughly 400 acres, shutting down the busy 405 during the morning rush hour. Officials said the fire was about 85 percent contained by Tuesday afternoon.

Much of the evidence at the homeless encampment was burned in the fire, but investigators determined it was not arson because of what had been left there and where the flames had ignited. The ditch where officials said the encampment was appeared blackened and empty on Tuesday.

Like other cities throughout California, the homeless population in Los Angeles has grown significantly in recent years. Today, elaborate encampments with tents, mattresses and camping stoves can be seen tucked into freeway underpasses and on corners all over the city. Though cooking fires in the open are illegal, orange flames can frequently be seen from the encampments after dark.

Officials estimate that there are about 58,000 homeless people in Los Angeles County, after a count that was done in May, a 23 percent increase from the number last year. The homeless population in West Los Angeles, which includes Bel-Air, reached about 5,500 this year, roughly 900 more people than in 2016.

An average of 103 wildfires a year in California are started by illegal open fires, which include warming fires, cooking fires and campfires, according to Cal Fire. Officials do not track how often homeless encampment fires turn into destructive wildfires, but said it was not uncommon. About 90 percent of wildfires nationally are started by humans, according to the National Park Service.

 THINKING ABOUT THE HORIZON

THE SLATEST

# Tent Fires Are on the Rise Among the Homeless in L.A.'s Skid Row

By AMY POLLARD  
JULY 24, 2018 • 3:32 PM

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This tent is just one of many that have been destroyed by fires in Los Angeles' Skid Row. Courtesy of the Industrial District Business Improvement District

An astonishing number of tent fires have struck the homeless in Los Angeles' Skid Row, a section of the city's downtown industrial district that for decades has been a symbol of America's homelessness epidemic.

Skid Row has weathered 81 tent fires so far this year, up from 59 last year, according to the L.A. Downtown Industrial District Business Improvement District, a local nonprofit. More than 4,600 people live in Skid Row, an area that spans about 50 city blocks and is known for its tent cities.

Some of the fires are intentional, while others are caused by cooking or drug-related accidents. Six people have been injured this year, although no deaths have been reported, according to the Washington Post.

Despite the rise in tent fires, it remains difficult to press charges. "People don't want to cooperate as a witness," Los Angeles police captain Marc Reina told the Post.

That may be because the recent uptick in fires has been linked to retaliation from gangs as well as to domestic violence, according to Estela Lopez, executive director of the Industrial District Business Improvement District. "There are a number of drivers, but it's all based on the fact that the sidewalks are not where people should live," Lopez told Slate. "There is a lack of enforcement by the city, but there's no lack of enforcement by the gangs. They're the ones who are enforcing in this area. They're the ones who are extracting a price if you don't do what they say. And the fires are an outgrowth of that."

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Fires aren't the only hazard that comes with life on Skid Row. The homeless have been harassed and exploited by gang members involved in drug and sex trafficking, according to police. Past crackdowns by police have also caused conflict in the neighborhood. A federal judge's injunction in 2011, which was upheld in court, barred police from seizing property without reasonable belief it is abandoned, evidence of a crime, or an immediate threat to public safety.

Skid Row isn't the only site of tent encampments in Los Angeles. More than 53,000 people are homeless in the county. To tackle its homelessness problem, the city is constructing shelters and affordable housing with a \$1.2 billion bond measure that voters approved in 2016. The mayor's deputy chief of staff, Matt Szabo, told the Post that the city is waiting until more shelters are up and running before it enforces the municipal code that prohibits daytime tent encampments.

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Tent fires don't just hurt the area's residents; they can also harm nearby businesses. Last year, a seafood warehouse on Seventh Street was damaged in a fire.

The city has been criticized in the past for being slow to respond to fires on Skid Row, in contrast to its quick response to a fire at a homeless encampment in the wealthy Bel-Air neighborhood.

Lopez called on the city to act before the fires lead to fatalities. "There are people on the sidewalk who are frightened and intimidated because of these fires," she told Slate. "There are business owners in the area who are having their fire insurance rates either increased or in some cases canceled because of this. This is no way to run a city." 

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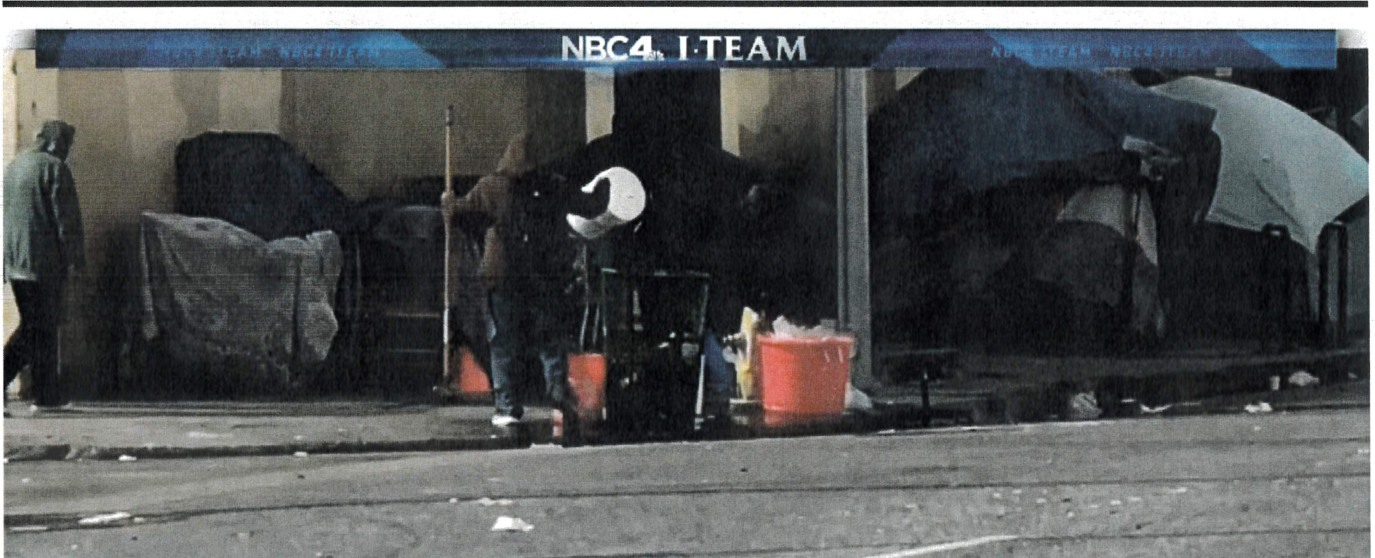
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LOS ANGELES

# Firefighters Lose Critical Tool to Battle Rise in Homeless Fires

Many fire hydrants are disabled by homeless

By Joel Grover and Amy Corral • Published July 22, 2019 • Updated on July 25, 2019 at 10:53 am



0:09 / 2:06

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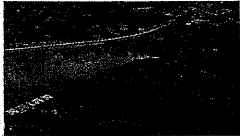
In response to the NBC4 I-Team story below, Mayor Eric Garcetti's Office said the mayor has directed the fire department to begin inspecting fire hydrants across the city and power lines in high-density homeless encampments to better ensure lawful use.

The fire department will also develop an online reporting system to coordinate with the DWP in real time.

"Encampment fires underscore the absolute urgency of accelerating our work to confront the homelessness crisis through increased outreach and public safety measures," according to a statement from the mayor's spokesman.

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As the fire season arrives in Southern California, firefighters are bracing for another surge in blazes started by the homeless, often accidentally.

4:12

## **Business Owners Furious Over Fashion District Garbage Pile**

And the NBC4 I-Team has found that firefighting efforts might be hampered because some homeless have disabled fire hydrants to use them for bathing, cooling off, and drinking.

"I would say this puts firefighters at risk, it puts the community at risk, even the homeless at risk, if we cannot get to our water supply to fight a fire," said Chief Sam DiGiovanna, a fire expert who trains firefighters.

3:42

## **Rodent Population Keeps Growing, Increases Chance of Disease**

*Note: The map below displays homeless encampment fires in LA County in 2018.*

The I-Team surveyed fire hydrants in LA's skid row, where many homeless encampments have gone up in flames, including one this weekend.

3:47

## **Firefighters Lose Tool to Battle Rise in Homeless Fires**

They found one hydrant has been Jerry-rigged with a sink-style faucet to supply water to nearby sidewalk tents. On another hydrant, someone attached a bike pedal to use as a water pump.

And yet another hydrant had been illegally opened, and a homeless woman was observed bathing with the water.

4:12

## **Sprawling Garbage Pile Stinks Up the Fashion District**

"There's a possibility the hydrant is damaged and out of service, so we're going to have to find an alternative water supply," says Chief DiGiovanna.

Fires that start in homeless encampments pose a serious danger because they often spread to nearby apartments, homes, and businesses. Fires were started twice this last week in a homeless encampment in along the LA River, behind a group of townhomes in the west San Fernando Valley.

2:16

## **City Cleans Up Sprawling Trash Pile**

"This is my home, and I don't want to leave my home because of something the city, our government, can take care of," says Traci Nelson, who lives in one of the townhomes.

Nelson and her neighbors say they've asked the LAPD to move the homeless people to another area, because of the fire danger to their homes. They say the LAPD told them there's nothing the department can do, and suggested that the best option for getting help was to call the NBC4 I-Team.



2:15

## Fashion District Cleaned Up After NBC4's I-Team Report

Nelson has good reason for concern. The I-Team has been tracking the number of homeless fires the last two years.

Data for 2018 shows a 211% increase in the number of these fires from the previous year. LA firefighters are now extinguishing almost seven fires a day started at homeless encampments or tents in neighborhoods across the city.

The I-Team has discovered a possible cause for some of these fires: some homeless tap into power lines to provide electricity for their tents, which can cause wires to short out and spark a fire. And firefighters say some fires are also started because the homeless use stoves and barbecues in their tents, which can easily go up in flames.

"Some of these tents are filled with a lot of combustible materials ... that could easily cause the spread of fire inside these tents," DiGiovanna told the I-Team.

Using open flames in public spaces, like encampments, violates the fire code. But the LAPD tells the I-Team it has issued just seven citations for these violations this year, even though our cameras have observed hundreds of open fires around tents in LA.

The LA Fire Department also has authority to issue citations, but a spokesman could not provide the number of citations issued to homeless tent dwellers.

Nelson thinks the city should not allow the homeless to live right behind homes like hers, putting her at risk from fires.