

# **The Homelessness Crisis and the Battle Over Decriminalization**

Niki Giammarco and Ryan Murtfeldt

MLIS Program, University of Washington

LIS 526 A Au 23: Government Information: Production and Access

Instructor Cass Hartnett

December 7th, 2023

## **Abstract**

Homelessness is a chronic, widespread problem in the United States that worsened after the 2020 COVID-19 Global Pandemic. The 2022 Housing and Urban Development Annual Homelessness Report to Congress: Part 1 shows that there was an overall increase in homelessness nationwide between 2020 and 2022. Unhoused populations vary widely, ranging from veterans to families with children, to the chronically homeless. Access to affordable housing is a key factor leading to increased homelessness, as evidenced by data from the Department of Housing and Urban Development's Worst Case Housing Needs Reports to Congress. Homelessness has existed throughout the history of the United States and vagrancy, loitering, anti-camping, and other laws have been enforced to prosecute individuals who have had few or no viable choices for affordable housing. This article will show that even though there has been legislation, including recently proposed bills and resolutions, and many programs implemented by federal and state agencies aimed at mitigating homelessness, laws still exist, and more are being enacted to criminalize the acts of unhoused people. These laws have historically been racialized against African American communities and, per the 2022 Annual Homelessness Report to Congress, people who identify as Black or Indigenous are overrepresented among the homeless population in the United States, compared to the general population. We show that various government agencies, at all levels, are polarized in whether or not to criminalize homelessness and this controversy continues to disproportionately affect marginalized communities.

## **Article**

In October 2021, disabled veteran Joshua Rohrer was arrested for panhandling in Gastonia, North Carolina. During the arrest, Gastonia Police officers tasered his service dog, Sunshine, causing her to run away and she was later struck and killed by a car (Nostrant, 2021). In July 2023, Miriah Holmes was living in her car with her daughter and dog, and police charged her with felony child endangerment as well as a misdemeanor for animal cruelty (Willey, 2023). The most recent U.S. Housing and Urban Development (HUD) Annual Homelessness Assessment Report (AHAR) published in December 2022 shows that homelessness is growing, yet many cities and states are enacting and enforcing laws that criminalize and prohibit life-sustaining activities like sleeping or camping in public. This is an inhumane strategy because unhoused people have few or no options available to them due to lack of affordable housing or shelter space, and providing affordable housing is less expensive and more effective at getting unhoused individuals off the streets (Tars, 2021). Despite advocacy

efforts by organizations who work to support unhoused populations, homelessness remains a widespread problem and the cycle of arrest to jail and back to homelessness makes it extremely difficult, if not impossible, to transition out of homelessness.

Homelessness is certainly not a recent phenomenon in the United States, dating back to the colonial era, and modern homelessness can be traced back to the 1970s with the decline of single room housing (Coalition for the Homeless, n.d.). After the Civil War ended, the freedom of former slaves challenged the racial hierarchy and white people were concerned about their public safety, so the Virginia General Assembly created a law based on the 1836 Pennsylvania vagrancy law (Tarter, 2020). In 1866, Virginia passed an “Act Providing for the Punishment of Vagrants” that targeted unemployed individuals with the intent to control former slaves, many of whom were unemployed and didn’t have housing, and this law would essentially ensure that black labor would remain available for plantations (Virginia Museum of History & Culture, (n.d.). These black codes restricted the freedom of Black people and occurred in other southern states like Louisiana and Mississippi. In Louisiana, the Union army, the New Orleans police, and the Freedmen's Bureau arrested and charged thousands of people with vagrancy, and it frequently resulted in Black arrestees being forced to perform hard and uncompensated labor on Louisiana plantations (Bardes, 2018). Similarly, Mississippi passed vagrancy laws that prohibited Black people from being idle and were intended to deny them of their civil rights (Phillips, 2006).

There are many contributing factors to homelessness. Physical, behavioral, or mental health conditions can be major contributing factors for many who experience homelessness. Additionally, survivors of domestic violence often have nowhere to live after leaving an abusive relationship (National Alliance to End Homelessness, n.d.). However, according to many homeless advocacy groups like National Homelessness Law Center and National Alliance to End Homelessness, lack of affordable housing is the primary cause of homelessness. The U.S. Department of Housing and Urban Development’s report, Market Predictors of Homelessness (2019), details the causes of homelessness. Studies show there is a strong correlation between a community’s market conditions and the size of its homeless population in communities and while the overall homelessness rate decreased nationally between 2011-2019, the rate of “unsheltered homelessness rose by nearly 25 percent in major cities and largely urban Continuums of Care (CoCs) between 2015 and 2017” (Department of Housing and Urban Development, 2019). This increase was particularly dramatic in cities along the west coast of the United States. More than 550,000 people were homeless on a single night in 2018, which accounts for approximately 0.17% of all people in the U.S. The report (2019) also states that urban homelessness is a much bigger problem than rural homelessness, which has decreased in the 8 years leading up to this report. The statistics make a strong argument that high housing costs in cities is a major

contributing factor. The report states that in areas with “tight, high-cost rental markets,” the homeless rate is .37%, whereas it is .114% in areas with lower-cost available housing options. The United States is in the midst of an affordable housing crisis and lacks 7 million affordable homes, according to the Human Rights to Housing Scorecard 2023 (National Homelessness Law Center [NHLHC], 2023).

Though the HUD AHAR (2022) shows that there was an overall decrease in people accessing homeless shelters between 2019 to 2021, increased funds for Emergency Rental Assistance and the passage of laws that prevent landlords from evicting tenants at federal, state, and local levels helped to keep people housed and less likely to need shelter (Hall, 2023). In the HUD press release, *Data Reports Show that Surge in Homelessness Was Averted During COVID-19 National Emergency* (2023), HUD Secretary, Marcia L. Fudge, said,

“During the COVID-19 pandemic, the Biden-Harris Administration and Congress were able to prevent millions of people from experiencing evictions and housing loss. We were able prevent a spike in homelessness during the height of the pandemic. While we didn’t solve the challenge of homelessness - only ensuring an adequate supply of affordable housing and access to supportive care can do that - these data provide valuable insights about how we address homelessness and ensure every person has a safe and stable place to call home.”

It is evident from the reports and studies that homelessness is most frequently due to lack of affordable housing, and that finding more solutions to combat high housing and rental costs would be most beneficial, yet people experiencing homelessness continue to be stigmatized. According to architectural historian Iain Borden, the emergence of hostile architecture began with 1990s urban design and public-space management (Quinn, 2014). Hostile architecture, also referred to as anti-homeless or defensive architecture or exclusionary design, can consist of built-in objects like spikes, bars, or pegs on benches or handrails or sloped designs that only allow people to lean but not sit or lie down (Paules, 2019). The designs are intended to prohibit some activities like sleeping or loitering, and prevent people, particularly those experiencing homelessness, from using those spaces (The Neighborhood Design Center, 2023). Rowland Atkinson, co-director of the Centre for Urban Research at the University of York, states that “it is a kind of assault on the poor” (Quinn, 2014). These design solutions only address the symptoms of homelessness problems rather than the root causes and deny not only unhoused persons, but all of the general public, from relaxing in and enjoying public spaces. In an attempt to counteract this practice, some areas are attempting to ban hostile architecture. This year, Connecticut introduced House Bill 6400, An Act Prohibiting Hostile Architecture (Monk, 2023), and the

Massachusetts' House recently held a hearing about a ban on hostile architecture (Earls, 2023).

As people are forced into unsheltered areas due to lack of sufficient or adequate shelter space, people experiencing homelessness are subject to different laws that penalize them based on circumstances outside of their control. Over 25% of unhoused people report being arrested for activities that are a result of being homeless, including lying down, sleeping in public or loitering (Reentry and Housing Coalition, n.d.). Many cities and municipalities have laws that make it illegal to sit, sleep, or ask for money in public places, and some areas are even working to criminalize feeding the hungry, citing concerns about public safety and sanitation (Stevens, 2023). In 2009, Robert Martin and other homeless plaintiffs sued the City of Boise, alleging that the citations they were given under the City's Camping and Disorderly Conduct Ordinances violated their Eighth Amendment's rights (Cohen, 2023; Harvard Law Review, 2019). However, in a significant win for unhoused populations, the Ninth Circuit Court ruled for the plaintiffs in 2018 and determined that if sufficient shelter is not available, then individuals who are found sleeping in public cannot be cited or punished for sleeping outside on public property (Boeckel, 2021). The United States Court of Appeals for the Ninth Circuit document states, "A declaration that the city ordinances are unconstitutional and an injunction against their future enforcement necessarily demonstrate the invalidity of the plaintiffs' prior convictions" (Martin V. City of Boise, 2018).

Though the Ninth Circuit's ruling was a step in the right direction for decriminalizing actions of unhoused individuals, there have been several challenges to the decision. In 2019, the City of Boise's request to the U.S. The Supreme Court to review the case was denied, which means that the Supreme Court's ruling is binding in the Ninth Circuit, covering nine (mostly western) states (National Homelessness Law Center, 2019). Other cities and regions are also currently challenging the Martin V. Boise ruling. The City of Seattle and the state of California, along with dozens of places, are requesting that the Supreme Court overturn the rulings of both Martin V. Boise and a more recent similar case, Johnson V. Grants Pass, so that they can have more flexibility in handling homelessness, particularly homeless encampments (Kim, 2023). The National Law Center on Homelessness and Poverty, a Washington nonprofit that helped argue the Boise case, conducted a survey of 187 cities and found that from 2006 to 2016, the number of bans on camping in public increased by 69 percent, and bans on sleeping in public places increased by 31 percent (Zaveri, 2018). Some states are also looking at more punitive measures against outdoor sleeping, and some lawmakers are trying to push bills that would even penalize those cities that permit tent encampments (Cohen, 2023). In 2022, Tennessee Republicans, in an unprecedented move, enacted a law that makes it a felony for people to camp in parks or public property (Edelman, 2022). The recent trend is for major cities to clear out swaths of encampments, which is

costly, traumatizes the unhoused, and often displaces them to areas further from resources, while homeless advocates continue to say that the answer is more affordable housing (Rush et al, 2023).

There have been some efforts to legislate support and relief for unhoused individuals. The Stewart B. McKinney Homeless Assistance Act (later renamed the McKinney-Vento Homeless Assistance Act by President Clinton) was signed into law by President Reagan in 1987. As prior responses to homelessness had been at the local level, this was the first major federal legislation to address homelessness. The McKinney-Vento Act originally consisted of fifteen programs providing a range of services to homeless people including emergency shelter, transitional housing, job training, primary health care, education, and some permanent housing (National Coalition for the Homeless, n.d.). The McKinney-Vento Act continues to be important for funding programs that aid homeless populations. Homeless youth, for example, benefit from the Education for the Homeless Children and Youths (EHCY) Program, which funds school districts to ensure that unhoused youth can be enrolled in school even if they lack proof of residence, can access free transportation to and from school, and have support for academic success. While these programs benefit many people, there is still room for improvement such as increased funding, improved training school staff to ensure compliance, and increased awareness of the program, so unhoused students can be better served (Chen, 2023). According to the HUD's AHAR (2022), using the national Point-in-Time (PIT) counts, 161,070 people experiencing homelessness were part of a family with at least one adult and one child under the age of 18 and this accounted for 28 percent of the total population experiencing homelessness at that time. Using the McKinney-Vento's expanded definition of homelessness as "individuals who lack a fixed, regular, and adequate nighttime residence" (which can include hotel stays or substandard housing), the U.S. Department of Education identified that more than a million students experienced homelessness in the 2020–21 school year (Chen, 2023).

In July 2021, Missouri Democratic Representative Cori Bush introduced the Personhood Bill of Rights, a Resolution that expressed that "the United States is obligated to permanently end the unhoused crisis by 2025 and uphold, protect, and enforce the civil and human rights of unhoused individuals, including the human rights to housing, universal health care, livable wages, education, employment opportunities, access to public facilities, free movement in public spaces, privacy, confidentiality, internet access, vote, freedom from harassment by law enforcement, private businesses, property owners, and housed residents, and equal rights to health care, legal representation, and social services without discrimination based on housing status" (H. Res 568, 2021). It was last updated in July 2023 as H. Res 634, with 20 Democratic co-sponsors, to state that "the United States is obligated to permanently

end the unhoused crisis by 2027 (H. Res 634 2023). In May, 2023, the Biden-Harris Administration released a statement about an “ALL INside initiative,” a partnership between state and local governments and the U.S. Interagency Council on Homelessness (USICH) and its 19 federal member agencies, where the goal is to get unsheltered people into homes in the cities of Chicago, Dallas, Los Angeles, Phoenix Metro, Seattle, and the State of California (The White House, 2023). These acts show that the Democrats in government are attempting to curtail homelessness.

Despite the many bills, resolutions, and requests for increased funding of Housing Vouchers and programs that support eviction prevention, the battle to humanely handle the homelessness crisis is ongoing. In Arizona, Governor Katie Hobbs vetoed Bill 1413, which is a Republican backed bill that would require city officials to dismantle homeless encampments and charge them with criminal trespassing (Gomez, 2023). This article includes just a few (of many) examples of government activity that illustrate the ongoing battle between those who seek to enact productive and humane solutions to this national crisis, and those who believe that criminalizing homelessness is the best solution, thus causing further harm to a growing and vulnerable population.

## Overview Article

# “Rough Sleepers” — The Growing Problem Of Homelessness In America

**Judy Stone** Senior Contributor 

*I am an Infectious Disease specialist and author of Resilience: One Family's Story of Hope and Triumph...*

Follow



1

Jan 18, 2023, 01:00pm EST



NEW YORK, NY - SEPTEMBER 10: A homeless man sleeps under an American Flag blanket on a park bench on ... [\[+\]](#) GETTY IMAGES



Tracy Kidder's new work, "[Rough Sleepers](#)," brings our attention back to the problem of homelessness by focusing an in-depth look at Dr. Jim O'Connell, president of [Boston Health Care for the Homeless Program](#). Kidder something similar in "Mountains Beyond Mountains," his compelling biography of Dr. Paul Farmer, diseases of poverty, and [Partners in Health](#). Each time, he paints a detailed picture of people experiencing homelessness. Kidder forces us to recognize that homelessness could strike anyone, how vulnerable people are, and how dysfunctional our government's response has been.

Speaking with Kidder and O'Connell also led me to reflect more on what is happening in my small, rural community, as has a recent series by [Lindsay Renner-Wood](#) in the local paper and discussion with community members.

In the US, the number of homeless people is calculated by the Department of Housing and Urban Development by counting people on the street and in homeless shelters—but they do this only one night in January per year. In 2020, that number was 580,466.

[SOAR](#) (SSI/SSDI Outreach, Access, and Recovery) is an organization for people at risk of or experiencing homelessness), funded by SAMHSA Substance Abuse and Mental Health Services Administration (SAMHSA).

As Yvonne Perret, founder of SOAR told me, such figures grossly underestimate the scope of the problem. For example, they count in January, when many who are usually on the streets have sought refuge by couchsurfing with friends.

## Housing First

O'Connell has been caring for homeless people for almost 40 years and is a fierce proponent of "housing first." He said, "Housing should be a right to every person. Without doing that, we're never going to solve the problem. There's no way around that." O'Connell added, "What has been difficult for us is trying to understand the complexity of the lives of the people...so much trauma, physical, sexual, emotional, this neglect." He notes, for example, that "25% of the men we see on the streets cannot read or write... They just never got the services they needed. When these folks get into housing, they frequently need more rather than less in the sense of support and services." He emphasized that it is "permanent supportive housing, not just housing," they need.

Perret echoed the same longing, noting, "People want a home. They don't want just a shelter bed." My town, Cumberland, MD, has a relatively small homeless population, officially estimated at 103. Those in need are housed mainly at the [evangelical Union Rescue Mission](#). The Mission proselytizes and requires Bible study and sobriety to receive shelter. Despite this, the [City Council](#) gave Union Rescue \$750,000 in coronavirus relief funds to move to a vacant furniture outlet. The Rev. David Ziler, executive director of the Mission, said the new facility will include a work program to "make them employable at the region's hotels, casinos, and restaurants." "We believe people need to learn how to work," Ziler said. Cumberland's Mayor, Raymond Morris, again said last week that he [feels it is outside the city's role to establish a secular shelter](#).



CUMBERLAND, MD-NOV 01: Cumberland, Maryland is an old train town in coal country near the ...  
[+] THE WASHINGTON POST VIA GETTY IMAGES

In O’Connell’s experience, such religiously focused shelters are less than ideal because they are humiliating. He noted that in major Northeast cities, “all of those shelters started as faith-based things, but over time, it became pretty clear that it should be the government's responsibility—our society's responsibility—to take care of these folks, not the responsibility of volunteers.” He added, “We need a mosaic of solutions...Housing is the absolute necessary part of the solution, but it's not sufficient for many populations.” In his experience, as he got to know the street people, he learned that “almost everyone has been through something horrible, and that's why they're on the street.”

The emphasis on housing first is not unique to Boston. It is a [broadly accepted model](#) by many and has been adopted in [Finland](#) with notable success.

But housing first is floundering, partly because of a severe shortage of rental units—7 million, per the [National Low Income Housing Coalition](#). This translates to an average of only 36 affordable units per 100 households in need. Markets are particularly tight in California, Oregon, Texas, Florida, and Nevada (the bottom at 18 rental units per 100 households in need). Housing first has a strong proponent in HUD (Dept. of Housing and Urban Development) and had [successful trials in Canada, Texas, and Florida](#), for example, but there has been a conservative backlash.

For example, Missouri, with a more-than 2:1 Republican majority in its legislature, has just [criminalized sleeping on state-owned land](#), including streets, parks, and beneath bridges. Besides penalties of fines and jail sentences, the bill stipulates that local governments must either enforce the ban or risk losing state funds for homeless services.

Missouri is not alone in criminalizing homelessness. Tennessee's bill includes longer prison sentences and makes it a felony to camp on public property, resulting in [loss of voting rights](#). There are other states joining these efforts.

Other cities are employing a variety of ways to make “[hostile architecture](#).” This includes putting spikes on grates or sheltered sidewalks or having slanted benches or closely placed armrests that prevent laying down. Some businesses—including [St. Mary's Cathedral](#) in San Francisco installed sprinklers above their alcoves (since removed after public outcry). This week, an astonishingly cruel example of this occurred when art gallery owner Collier Gwin nonchalantly leaned against a rail, his legs casually crossed, as he intentionally drenched a homeless woman and her belongings on the sidewalk.

Gwin has not been charged with assault and has since received police protection for his property.

Across the country, many areas are deliberately [razing homeless encampments](#), further traumatizing the people living there when their few belongings are destroyed as they are forced to leave.

In an accompanying post tomorrow, I'll share more of O'Connell's and Kidder's perspectives and some thoughts as to how we might help address homelessness.

*Post has been corrected. Perret was the founder of SOAR, not president.*

*Follow me on [Twitter](#) or [LinkedIn](#). Check out my [website](#) or some of my other work [here](#).*



Judy Stone

Follow

I am an Infectious Disease specialist and author of Resilience: One Family's Story of Hope and Triumph over Evil and of Conducting Clinical Research, the essential guide to the... **Read More**

Stone, J. (2023, January 20). "Rough Sleepers"- The growing problem of homelessness in America. Forbes.

<https://www.forbes.com/sites/judystone/2023/01/18/rough-sleepers--the-growing-problem-of-homelessness-in-america/?sh=1cd5ce278998>



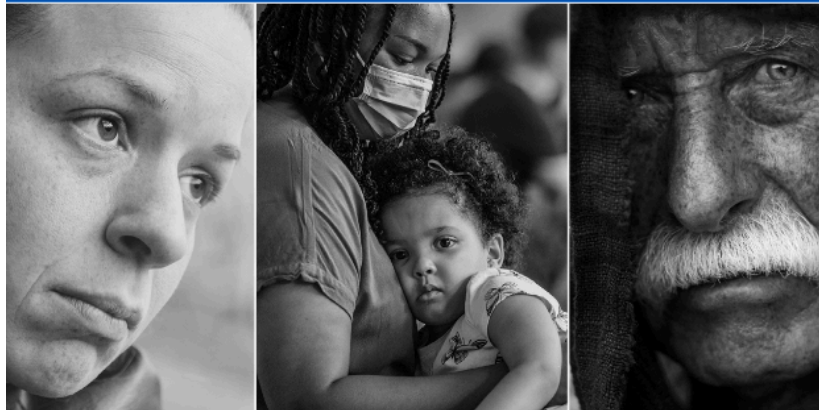
# Timeline

- **1866 - Virginia passed “Act Providing for the Punishment of Vagrants”**
  - Virginia and other Southern states police vagrancy
- **1987 - The McKinney-Vento Homeless Assistance Act**
  - Signed into law in July 1987, the McKinney-Vento Homeless Assistance Act was the first major federal response to homelessness
- **1990s - Emergence of “hostile architecture”**
  - Urban planning includes architectural designs that are intended to deter unhoused people from sleeping or sitting in public spaces
- **2018 - Martin V. Boise, a landmark case for homeless**
  - In 2018, the 9th Circuit ruled that homeless persons cannot be punished for sleeping outside on public property in the absence of adequate alternatives
- **2019 - HUD’s Market Predictors of Homelessness report**
  - Published in March of 2019, this report detailed the many factors that precipitated the homelessness crisis, and proposed specific solutions, including more access to affordable housing
- **2020 - Global Pandemic**
  - Loss of jobs and income meant that many could not afford to pay rents or mortgages but Covid-19 Relief funds helped many retain their housing
- **2022 - HUD’s Annual Homeless Assessment Report (AHAR) to Congress**
  - The most recent AHAR detailing increasing rate of homelessness
- **2023 - H. Res. 634: Unhoused Persons Bill of Rights is introduced**
  - In July 2023, Cori Bush introduced the Unhoused Persons Bill of Rights



The U.S. Department of  
Housing and Urban Development  
OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

## The 2022 Annual Homelessness Assessment Report (AHAR) to Congress



The U.S. Department of Housing and Urban Development. (2022). *The 2022 Annual Homelessness Assessment Report (AHAR) to Congress: Part 1*. The U.S. Department of Housing and Urban Development.

<https://www.huduser.gov/portal/sites/default/files/pdf/2022-ahar-part-1.pdf>

The Annual Homelessness Assessment Report to Congress: Part 1 provides  
Point-in-Time

(PIT) estimates of the number of sheltered and unsheltered people on a single night.

The  
report also provides estimates and information regarding different homeless populations  
and

provides a snapshot of what homelessness looks like in the United States. The source  
provides a comprehensive summary of homelessness from 2007 to 2022.

This report is important because it is frequently referenced in many articles about  
homelessness, as it quantifies homelessness in the United States and provides  
geographic,

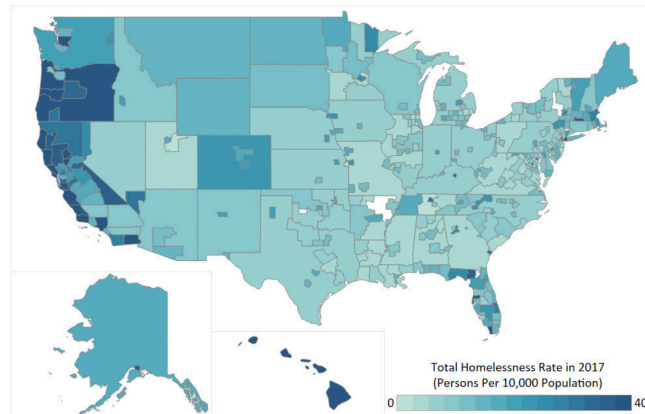
urban/rural/suburban, and demographics statistics. It also shows how the numbers,  
including

changes of occupied shelter beds have changed over time. It doesn't, however, give us  
reasons for homelessness or for the 2021-2022 increases or future predictions. This

limits the  
report's usefulness for those attempting to plan for future shelter capacities and  
intervention  
strategies. Another concern is the report's suggestion that the 7% increase in  
homelessness  
between 2021-2022 was due to the easing of covid restrictions and to an increase in  
capacity  
due to an influx of covid-related funds, as there could be other factors at play as well,  
including  
increasing housing costs and a lack of access to affordable housing.



Exhibit ES-1 | Map of Total Homelessness Rates (Per 10,000 Population) Across CoCs



Sources: U.S. Census's (Census) intercensal population estimates; U.S. Department of Housing and Urban Development (HUD) Point-in-Time (PIT) count data

## Market Predictors of Homelessness:

How Housing and Community  
Factors Shape Homelessness  
Rates Within Continuums of Care

Multidisciplinary Research Team

March 26, 2019

Prepared by:

Hiren Nisar  
Mallory Vachon  
Charles Horseman  
Jim Murdoch  
ZM Research

Department of Housing and Urban Development. (2019, March). *Market predictors of homelessness: How housing and community factors shape homelessness rates within continuums of care*. The United States Department of Housing and Urban Development. <https://www.huduser.gov/portal/sites/default/files/pdf/Market-Predictors-of-Homelessness.pdf>

*The Market Predictors of Homelessness* report is an excellent source of information for any individual, organization, or municipality wishing to understand and address issues of homelessness across the United States. The report is well organized and easy to understand. It includes many charts and data tables illustrating its main points, and provides Appendices with more fine-grain data. We were impressed with how the report boiled the data down to primary causes of homelessness, but also made room to discuss secondary causes such as demographics, climate, and immigration. One aspect that we found lacking was the ease of accessing raw data. While many data tables are provided in the Appendices, we could not find links to raw data or spreadsheets that would enable other researchers to manipulate the data for themselves. This would be valuable for reproducibility of results, and for additional computations on the same data. This report was important to include because it lends scientific evidence to the argument that a lack of affordable housing is a major contributor to homelessness, and is thus out of the control of most people experiencing homelessness.

Public Law 100-77  
100th Congress

## An Act

July 22, 1987  
[H.R. 558]

To provide urgently needed assistance to protect and improve the lives and safety of the homeless, with special emphasis on elderly persons, handicapped persons, and families with children.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*Stewart B.  
McKinney  
Homeless  
Assistance Act.  
Disadvantaged  
persons.  
42 USC 11301  
note.**TITLE I—GENERAL PROVISIONS****SECTION 101. SHORT TITLE AND TABLE OF CONTENTS.**(a) **SHORT TITLE.**—This Act may be cited as the “Stewart B. McKinney Homeless Assistance Act”.(b) **TABLE OF CONTENTS.**—**TITLE I—GENERAL PROVISIONS**Sec. 101. Short title and table of contents.  
Sec. 102. Findings and purpose.  
Sec. 103. General definition of homeless individual.  
Sec. 104. Funding availability and limitations.  
Sec. 105. Audits by Comptroller General.**TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS**Sec. 201. Establishment.  
Sec. 202. Membership.  
Sec. 203. Functions.  
Sec. 204. Director and staff.  
Sec. 205. Powers.  
Sec. 206. Transfer of functions.  
Sec. 207. Definitions.  
Sec. 208. Authorization of appropriations.  
Sec. 209. Termination.**TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM****Subtitle A—Administrative Provisions**Sec. 301. Emergency Food and Shelter Program National Board.  
Sec. 302. Local boards.  
Sec. 303. Role of Federal Emergency Management Agency.  
Sec. 304. Records and audit of National Board and recipients of assistance.  
Sec. 305. Annual report.**Subtitle B—Emergency Food and Shelter Grants**Sec. 311. Grants by the Director.  
Sec. 312. Retention of interest earned.  
Sec. 313. Purposes of grants.  
Sec. 314. Limitation on certain costs.  
Sec. 315. Disbursement of funds.  
Sec. 316. Program guidelines.**Subtitle C—General Provisions**Sec. 321. Definitions.  
Sec. 322. Authorization of appropriations.

Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. § 11301 (1987).

<https://www.congress.gov/100/statute/STATUTE-101/STATUTE-101-Pg482.pdf>

Prior to the McKinney-Vento Act of 1987, the Homeless Persons' Survival Act was introduced in 1986 in both houses of Congress and then the Urgent Relief for the Homeless Act was introduced in late 1986, which incorporated Title 1 of the Homeless Persons' Survival Act, to include relief provisions for shelter, food, mobile health care, and transitional housing (National Coalition for the Homeless, n.d.). It was passed by both houses in 1987 and was signed into law in 1987 by President Reagan (as the Stewart B. McKinney Homeless Assistance Act. It was later renamed the McKinney-Vento Homeless Assistance Act by President Clinton, which is how it is referred to now.) The Act contains nine titles:

**I. General Provisions**

II. Interagency Council on the Homeless

III. Federal Emergency Management Food and Shelter Program

IV. Housing Assistance

V. Identification and Use of Surplus Federal Property

VI. Healthcare for the Homeless

VII. Education, Training, and Community Services Programs

VIII. Food Assistance for the Homeless

IX. Veterans Provisions

We included this document as it was the first major federal response and was a landmark in terms of major national legislation to abate homelessness. The Act has been amended numerous times over the years to expand services, programming, and to be more inclusive of who is considered homeless and has been particularly beneficial for the needs of homeless youth. The fact that it still continues to be an essential piece of legislation that has bipartisan support shows that we need more federal-level responses.

FOR PUBLICATION

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

ROBERT MARTIN; LAWRENCE LEE  
SMITH; ROBERT ANDERSON; JANET  
F. BELL; PAMELA S. HAWKES; and  
BASIL E. HUMPHREY,  
*Plaintiffs-Appellants,*

v.

CITY OF BOISE,  
*Defendant-Appellee.*

No. 15-35845

D.C. No.  
1:09-cv-00540-  
REB

OPINION

Appeal from the United States District Court  
for the District of Idaho  
Ronald E. Bush, Chief Magistrate Judge, Presiding

Argued and Submitted July 13, 2017  
Portland, Oregon

Filed September 4, 2018

2

MARTIN V. CITY OF BOISE

SUMMARY\*

Civil Rights

The panel affirmed in part and reversed in part the district court's summary judgment in an action brought by six current or formerly homeless City of Boise residents who alleged that their citations under the City's Camping and Disorderly Conduct Ordinances violated the Eighth Amendment's prohibition on cruel and unusual punishment.

Plaintiffs sought damages for the alleged violations under 42 U.S.C. § 1983. Two plaintiffs also sought prospective declaratory and injunctive relief precluding future enforcement of the ordinances. In 2014, after this litigation began, the ordinances were amended to prohibit their enforcement against any homeless person on public property on any night when no shelter had an available overnight space.

The panel first held that two plaintiffs had standing to pursue prospective relief because they demonstrated a genuine issue of material fact as to whether they faced a credible risk of prosecution on a night when they had been denied access to the City's shelters. The panel noted that although the 2014 amendment precluded the City from enforcing the ordinances when shelters were full, individuals could still be turned away for reasons other than shelter capacity, such as for exceeding the shelter's stay limits, or for

Martin V. City of Boise, 15-35845 (9th Cir. 2018).

<https://law.justia.com/cases/federal/appellate-courts/ca9/15-35845/15-35845-2018-09-04.html>

In 2009, Robert Martin and five other plaintiffs sued the City of Boise because they had been charged violating Boise, Idaho ordinances that made it illegal to sleep or camp in streets, sidewalks, parks or public places. They alleged that the citations they were given violated their Eighth Amendment's rights (which prohibits cruel and unusual punishment), and that being punished for sleeping outside when there are no alternatives is unconstitutional. In 2018, the 9th Circuit Court ruled for the plaintiffs and that in the absence of adequate alternatives, it is cruel and unusual punishment under

the 8th Amendment to punish someone for sleeping, resting, or attempting to be sheltered.

This case was a landmark for decriminalization of homelessness. Even though the City of Boise requested a review of the case in 2019, the petition was denied for a panel rehearing and the panel “ordered that no further petitions shall be entertained” (Robert Martin V. Boise, 2019). This case has been polarizing for many communities, however. The inclusion of it in our article demonstrates how important it is for protecting the rights of unhoused individuals who have no access to adequate shelter but that the case continues to be challenged, even now. Many government officials have written amicus briefs to the Supreme Court asking for the Court to overturn both Martin V. Boise and Johnson V. Grants Pass (a similar case and outcome) rulings (Kim, 2023). If the Supreme Court ultimately decides to review and overturn the rulings, it could result in increasing numbers of unhoused folks who become arrested, face jail time and end up with fines that are nearly impossible for them to pay.

118TH CONGRESS  
1ST SESSION

# H. RES. 634

Expressing that the United States is obligated to permanently end the unhoused crisis by 2027 and uphold, protect, and enforce the civil and human rights of unhoused individuals, including the human rights to housing, universal health care, livable wages, education, employment opportunities, access to public facilities, free movement in public spaces, privacy, confidentiality, internet access, vote, freedom from harassment by law enforcement, private businesses, property owners, and housed residents, and equal rights to health care, legal representation, and social services without discrimination based on housing status.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2023

Ms. BUSH (for herself, Ms. TLAIB, Ms. NORTON, Ms. LEE of California, Ms. JAYAPAL, Mr. BOWMAN, Mrs. WATSON COLEMAN, Ms. CLARKE of New York, Mr. CARSON, Mr. DAVIS of Illinois, Mr. BLUMENAUER, Mr. CASAR, Ms. VELÁZQUEZ, Mr. MCGOVERN, Ms. WILLIAMS of Georgia, Ms. PRESSLEY, and Ms. OCASIO-CORTEZ) submitted the following resolution; which was referred to the Committee on Financial Services, and in addition to the Committees on Energy and Commerce, Education and the Workforce, the Judiciary, Agriculture, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

H. Res. 634 - 118<sup>th</sup> Congress (2023-2024): Unhoused Persons Bill of Rights. (2023, July 28). <https://www.congress.gov/bill/118th-congress/house-resolution/634>

Missouri Representative Cori Bush originally introduced the Unhoused Persons Bill of Rights (H. Res 568, 2021) in 2021, considered the first of its kind in which unhoused

individuals are granted civil and human rights. The original bill intended to end homelessness by 2025.

Its current iteration intends to end homelessness by 2027

This bill is important because it recognizes the unhoused as people deserving of human and civil rights and that as humans, people deserve access to “housing, universal health care, livable wages, education, employment opportunities, access to public facilities, free movement in public spaces, privacy, confidentiality, internet access, vote, freedom from harassment by law enforcement, private businesses, property owners, and housed residents, and equal rights to health care, legal representation, and social services without discrimination based on housing status. This bill is incredibly ambitious though in essence, is looking to grant unhoused people the same rights as everyone else. The bill also acknowledges the disproportionate representation of marginalized communities that include Black, indigenous, and queer people among others. Unfortunately, though the bill has 20 Democratic co-sponsors (and no Republican co-sponsors), this bill is very early in the introductory stage and the outlook for its success could depend upon upcoming election cycles.

## References

- Bardes, J. K. (2018). Redefining Vagrancy: Policing Freedom and Disorder in Reconstruction New Orleans, 1862-1868. *Journal of Southern History*, 84(1), 69+. [https://link-gale-com.offcampus.lib.washington.edu/apps/doc/A529046264/AONE?u=wash\\_main&sid=googleScholar&xid=e089ba7e](https://link-gale-com.offcampus.lib.washington.edu/apps/doc/A529046264/AONE?u=wash_main&sid=googleScholar&xid=e089ba7e)
- Boeckel, C. (2021). *Martin v. Boise: Sleeping in Public Case Summary*. Idaho Law Review. <https://digitalcommons.law.uidaho.edu/cgi/viewcontent.cgi?article=1015&context=ilrspotlight>
- Chen, B. (2023, January 25). *The McKinney-Vento Act Helps Thousands of Students Every Year. How Could It Help Even More?* Housing Matters. <https://housingmatters.urban.org/articles/mckinney-vento-act-helps-thousands-students-every-year-how-could-it-help-even-more>
- Cohen, R. (2023, June 12). *The little-noticed court decision that changed homelessness in America*. Vox. <https://www.vox.com/23748522/tent-encampments-martin-boise-homelessness-housing>
- Coalition for the Homeless. *Why are so many people homeless?* (n.d.). Coalition for the Homeless. <https://www.coalitionforthehomeless.org/why-are-so-many-people-homeless/>
- Dholakia, N. (2022, January 1). *How the U.S. Criminalizes Homelessness*. Forbes. <https://www.forbes.com/sites/forbeseq/2022/01/01/how-the-us-criminalizes-homelessness/?sh=5b7898044869>
- Earls, A. (2023, December 2). *Beacon Hill Roll Call*. Franklin Observer. <https://franklinobserver.town.news/g/franklin-town-ma/n/227788/beacon-hill-roll-call>
- Edelman, A. (2022, June 12). *Tennessee made homeless camps a felony. Colorado is trying something else*. NBC News. <https://www.nbcnews.com/politics/politics-news/tennessee-made-homeless-camps-felony-colorado-trying-something-else-rcna32516>
- Gomez, G. (2023, June 5). *Katie Hobbs vetoes GOP bills criminalizing homelessness*,



*ranked-choice voting*. AZ Mirror.

<https://www.azmirror.com/2023/06/05/katie-hobbs-vetoes-gop-bills-criminalizing-homelessness-ranked-choice-voting/>

Greg, K. (2023, October 15). *One court case changed how West Coast cities deal with homeless encampments*. The Seattle Times.

<https://www.seattletimes.com/seattle-news/homeless/one-court-case-changed-how-west-coast-cities-deal-with-homeless-encampments/>

Hall, A. (2023, September 19). *Impacts of COVID-19 Relief on Sheltered Homelessness*.

National Alliance to End Homelessness.

<https://endhomelessness.org/blog/impacts-of-covid-19-relief-on-sheltered-homelessness/>

Harvard Law Review. (2019, December 10). *Martin V. City of Boise*. *Harvard Law Review*,

133(2). <https://harvardlawreview.org/print/vol-133/martin-v-city-of-boise/>

H. Res. 568 - 117th Congress (2021-2022): Expressing that the United States is obligated to

permanently end the unhoused crisis by 2025 and uphold, protect, and enforce the civil and human rights of unhoused individuals. (2021, August 13).

<https://www.congress.gov/bill/117th-congress/house-resolution/568>

H. Res. 634 - 118<sup>th</sup> Congress (2023-2024): Unhoused Persons Bill of Rights. (2023, July 28).

<https://www.congress.gov/bill/118th-congress/house-resolution/634>

Kim, G. (2023, October 15). *One court case changed how West Coast cities deal with homeless encampments*. Seattle Times.

<https://www.seattletimes.com/seattle-news/homeless/one-court-case-changed-how-west-coast-cities-deal-with-homeless-encampments/>

Martin V. City of Boise, 15-35845 (9th Cir. 2018).

<https://law.justia.com/cases/federal/appellate-courts/ca9/15-35845/15-35845-2018-09-04.html>

Monk, G. (2023, February 24). *CT Politics: Bill would ban 'hostile architecture' in Connecticut*

*public spaces*. CT Mirror.

<https://ctmirror.org/2023/02/24/ct-hostile-architecture-ban-proposal/>

National Alliance to End Homelessness. (n.d.). *What Causes Homelessness?* National

Alliance to End Homelessness.

<https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/>

National Coalition for the Homeless. (2006, June) *McKinney-Vento Act*.

<https://nationalhomeless.org/publications/facts/McKinney.pdf>

National Homelessness Law Center. (2023). *Human Rights to Housing Report Card 2023*.

<https://homelesslaw.org/wp-content/uploads/2023/09/ReportCard2023.pdf>

The Neighborhood Design Center. (2023, October 2). *Understanding Hostile Architecture: The*

*Cause and Effect of Restricting Public Space.*

<https://ndc-md.org/news-and-stories/understanding-hostile-architecture-the-cause-and-effect-of-restricting>

Nguyen, L. (2023, September 25). *Seattle, Tacoma among cities pushing for Supreme Court*

*review over camping ban enforcement.* KOMO News.

<https://cbs2iowa.com/news/nation-world/seattle-homeless-crisis-tacoma-cities-pushing-supreme-court-review-camping-ban-enforcement-homelessness-unhoused-camp-housing-treatment-local-authority-sleeping-outside-case>

Nostrant, R. (2021, October 27). *"She was just doing her job": Homeless vet loses service dog during arrest for panhandling.* Military Times.

<https://www.militarytimes.com/news/your-army/2021/10/27/i-just-wanted-to-die-homeless-veteran-loses-service-dog-during-arrest-for-panhandling/>

Quinn, B. (2014, June 13). *Anti-homeless spikes are part of a wider phenomenon of "hostile architecture."* The Guardian.

<https://www.theguardian.com/artanddesign/2014/jun/13/anti-homeless-spikes-hostile-architecture>

Paules, R. (2019, June 25). *Photos of the Most Egregious 'Anti-Homeless' Architecture.* Vice.

<https://www.vice.com/en/article/kzm53n/photos-of-the-most-egregious-anti-homeless-architecture>

Phillips, J. (2006, May). *Reconstruction in Mississippi, 1865-1876.* Mississippi History Now.

<https://www.mshistorynow.mdah.ms.gov/issue/reconstruction-in-mississippi-1865-1876>

Reentry and Housing Coalition. (n.d.). *Homelessness - What We Know.* Reentry and Housing

Coalition. <http://www.reentryandhousing.org/public-housing>

- Robert Martin V. City of Boise, 15-35845 (9th Cir. 2019).  
<https://law.justia.com/cases/federal/appellate-courts/ca9/15-35845/15-35845-2019-04-01.html>
- Rush, C., Har, J., & Casey M. (2023, November 28). *Cities crack down on homeless encampments. Advocates say that's not the answer.* Associated Press.  
<https://apnews.com/article/homelessness-encampment-sweeps-cities-08ff74489ba00cfa927fe1cf54c0d401>
- Stevens, A. (2023, August 7). "*Criminalizing the Samaritan*": *Why cities across the US are making it illegal to feed the homeless.* Salon.  
<https://www.salon.com/2023/08/07/criminalizing-the-samaritan-why-cities-across-the-us-are-making-it-illegal-to-feed-the-homeless/>
- Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. § 11301 (1987).  
<https://www.congress.gov/100/statute/STATUTE-101/STATUTE-101-Pg482.pdf>
- Stone, J. (2023, January 20). "*Rough Sleepers*"- *The growing problem of homelessness in America.* Forbes.  
<https://www.forbes.com/sites/judystone/2023/01/18/rough-sleepers--the-growing-problem-of-homelessness-in-america/?sh=1cd5ce278998>
- Tars, E. (2021). *Criminalization of Homelessness.* National Low Income Housing Coalition.  
[https://nlihc.org/sites/default/files/AG-2021/06-08\\_Criminalization-of-Homelessness.pdf](https://nlihc.org/sites/default/files/AG-2021/06-08_Criminalization-of-Homelessness.pdf)
- Tarter, B. (2020, December 07). *Vagrancy Act of 1866.* Encyclopedia Virginia.  
<https://encyclopedia.virginia.org/entries/vagrancy-act-of-1866>
- The U.S. Department of Housing and Urban Development. (2022, December). *The 2022 Annual Homelessness Assessment Report (AHAR) to Congress: Part 1.* The United States Department of Housing and Urban Development.  
<https://www.huduser.gov/portal/sites/default/files/pdf/2022-ahar-part-1.pdf>
- The U.S. Department of Housing and Urban Development (2023, August 22). *Data Reports Show that Surge in Homelessness Was Averted During COVID-19 National Emergency.* [Press Release]. The United States Department of Housing and Urban Development.  
[https://www.hud.gov/press/press\\_releases\\_media\\_advisories/hud\\_no\\_23\\_178](https://www.hud.gov/press/press_releases_media_advisories/hud_no_23_178)
- The U.S. Department of Housing and Urban Development. (2019, March). *Market predictors of homelessness: How housing and community factors shape*

*homelessness rates within continuums of care*. The United States Department of Housing and Urban Development.

<https://www.huduser.gov/portal/sites/default/files/pdf/Market-Predictors-of-Homelessness.pdf>

Virginia Museum of History & Culture. *Reconstruction*. (n.d.).

<https://virginiahistory.org/learn/story-of-virginia/chapter/reconstruction>

The White House. (2023, May 18). *FACT SHEET: Biden-Harris Administration Announces New*

*Initiative to Tackle Unsheltered Homelessness*. [Press release].

<https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/18/fact-sheet-biden-harris-administration-announces-new-initiative-to-tackle-unsheltered-homelessness>

Wiley, J. (2023, July 14). *"Mother accused of endangering daughter and dog: 'I've never neglected my child'".* ABC13 Houston.

<https://abc13.com/mother-arrested-accused-abandoning-child-animal-cruelty-miriah-holmes/13500476/>

Zaveri, M. (2018, September 5). *Laws Punishing Homeless People for Sleeping in Public Are*

*Cruel and Unusual, Court Rules*. New York Times.

<https://www.nytimes.com/2018/09/05/us/-homeless-sleeping-on-street-ruling.html>