

# TOO HIGH A PRICE

WHAT CRIMINALIZING HOMELESSNESS  
COSTS COLORADO:  
DENVER CITY SPOTLIGHT



UNIVERSITY *of*  
DENVER

STURM COLLEGE OF LAW  
Homeless Advocacy Policy Project

# DENVER: “MOVING ON” DENVER’S HOMELESS

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Population:	663,862 <sup>1</sup>
Self-Sufficiency Standard:	\$63,069 <sup>2</sup>
Persons Below Poverty Level:	19.1% <sup>3</sup>
Homeless Population:	6,130 <sup>4</sup>

Denver is the economic, cultural, and political center of Colorado. Since 2013, Denver’s population has grown substantially, with an estimated 1,000 new residents arriving each month.<sup>5</sup> With a thriving economy, growing food scene, and crisp mountain air, Denver has become an increasingly desirable place to live. This attention, however, should not lead to overlooking the thousands of people struggling to survive on the streets of Denver. Additionally, many more individuals and families are teetering on the edge of becoming homeless due to skyrocketing rents and lack of affordable housing.

On an average night, Denver’s homeless population hovers around 3,800 people.<sup>6</sup> Of these individuals, some have been on the streets for years, while others have just arrived. As homelessness has become more prevalent within Denver, the pressure on the city to address visible poverty has grown—especially from local business owners and downtown apartment renters demanding that the city to do something to remove homeless people from their storefronts and doorways. Denver has chosen to appease these demands with laws that criminalize actions homeless people must perform in order to survive.

## Citations and Case Dispositions

Enacted Anti-Homeless Ordinances:	11 <sup>7</sup>
Citations Under Anti-Homeless Ordinances (2010-2014):	20,127
Number of Behaviors Banned:	11

Denver currently has eleven municipal ordinances that criminalize eleven categories of behaviors associated with homelessness. Five of them are aggressively enforced against homeless individuals. These ordinances include: Unlawful Camping (Sec. 28.86.2) (discussed in more detail below); Park Curfews and Closures (Sec. 39-3); Panhandling (Sec. 38.132); Solicitation on or Near a Street (Sec. 54-548); Urinating in Public (Sec. 38-99); and Trespass (Sec. 38-115). From 2010 to 2014, Denver issued over 20,000 citations for violations of the anti-homeless ordinances identified above.<sup>8</sup> Almost half of those were given out to individuals identified as homeless.<sup>9</sup> Further, the number of tickets issued to homeless individuals was 32% higher in 2014 than in 2010, without a similar increase in the homeless population.<sup>10</sup> These numbers show how Denver has increased the enforcement of municipal ordinances that target

homeless individuals, following the trend seen across many other cities in Colorado. Being homeless and completing life-sustaining activities, such as sleeping outside, have become a crime.

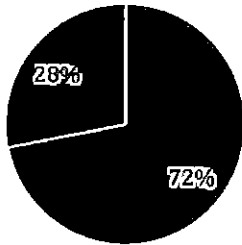
Citations to Homeless Individuals <sup>11</sup>					
Type of Arrest	2010	2011	2012	2013	2014
Panhandling	320	236	242	292	294
Solicitation on or near street or highway	8	1	10	25	17
Unauthorized Camping	0	0	0	0	14
Unlawful to Swim or Befoul Streams	0	0	1	0	0
Urinating in Public	232	120	152	210	244
Curfews and Closures	477	320	532	730	600
Sitting or Lying Down in Public Right of Way	0	0	0	0	0
Disposal of Encumbrances	0	0	0	0	0
Trespass	694	576	709	1080	1107
Total	1732	1253	1651	2353	2300

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Three ordinances in particular illustrate the way seemingly neutral ordinances are disproportionately enforced against those without homes: Denver's ordinances on panhandling, curfews and closures, and trespassing. Despite constituting less than one percent of Denver's population, over the last five years, from 40% to 72% of citations under these ordinances have been issued to homeless individuals. While those numbers represent five-year averages, the percentage of citations issued to homeless individuals under these ordinances has significantly increased in the past three years.

### PANHANDLING

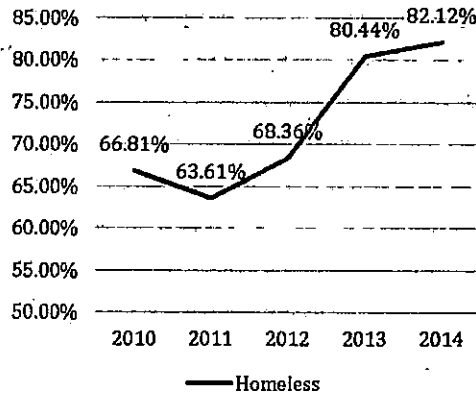
Total Citations to Homeless Individuals as Portion of Citations: Denver 2010-2014



■ Homeless ■ Not Homeless

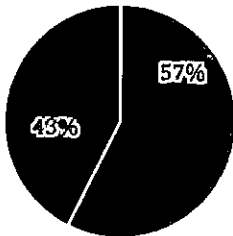
### PANHANDLING

Citations to Homeless Individuals as Percentage of All Citations per Year: Denver 2010-2014



### CURFEWS AND CLOSURES

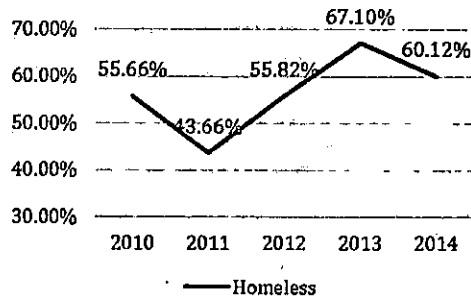
Total Citations to Homeless Individuals as Portion of All Citations: Denver 2010-2014



■ Homeless ■ Not Homeless

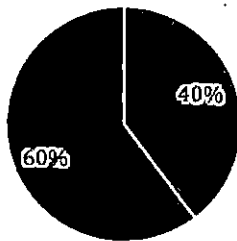
### CURFEWS AND CLOSURES

Citations to Homeless Individuals as Percentage of All Citations per Year: Denver 2010-2014



### TRESPASSING

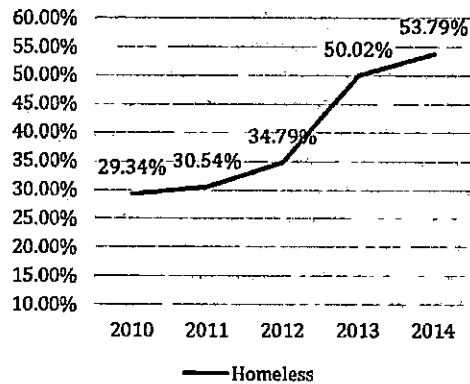
Total Citations to Homeless Individuals as Portion of All Citations: Denver 2010-2014



■ Homeless ■ Not Homeless

### TRESPASSING

Citations to Homeless Individuals as Percentage of All Citations per Year: Denver 2010-2014



## If Not Here, Then Where?

These numbers powerfully illustrate how Denver is aggressively enforcing its anti-homeless ordinances by issuing tickets for alleged ordinance violations. But the issuing of tickets only reflects one chapter of the story often told by Denver's homeless community. The city is utilizing other methods such as police contacts, "move on" orders, and area restrictions<sup>12</sup> to further enforce these anti-homeless ordinances. Such methods represent a hidden level of enforcement that the number of tickets issued under specific ordinances fails to capture.

One of these hidden enforcement methods is the use of "move on" orders. Move on orders occur when Denver police officers or local park rangers require a homeless person found sleeping in a public park or sitting on a public bus bench to "move along," and go somewhere else. The rationale of these orders is to control public spaces, but they disproportionately affect homeless individuals, who must occupy public areas because they have nowhere else to go. A survey conducted by Denver Homeless Out Loud found that over 80% of homeless respondents reported having multiple contacts with police that involved being told to "move along,"<sup>13</sup> forcing them to move out of public parks or off of public benches. As one Denver homeless man stated, "You're constantly on the move, because [you're] told to get up and move on."<sup>14</sup> According to City of Denver statistics, three different Denver Police Department officer teams created to work with Denver's homeless community had nearly 20,000 street checks and homeless outreach contacts from January through November of 2015.<sup>15</sup> These numbers do not indicate how often a Denver police officer requires a homeless person to move from his or her current location. Yet, it is clear that Denver Police officers and Denver's homeless community are constantly interacting, and those interactions are not always to provide referral services.

"One time, I was sitting at a bus stop. My feet were tired. I got off from a landscaping job and I couldn't walk any further. I've been up all night. I was sitting at a bus stop off of Blake Street. A police officer approached me, and told me to 'move on' and that I couldn't camp here. I said, 'I'm not camping.' He said, 'Are you waiting for the bus?' I said, 'No, I'm not waiting for the bus. My feet are hurting. I've been wearing these boots all night. I've worked all day. My feet were throbbing. ... He made me get up and move on.'<sup>A2</sup>

For example, in just three months, Denver Police officers made over 1,194 contacts regarding the "sit and lie" ordinance, yet the city has no record of any tickets being issued between 2010-2014, for violating the ordinance.<sup>16</sup> Therefore, although no one may have gone to court for violating the "sit and lie" ordinance in Denver, that does not mean that a homeless person was not forced to move along. Thus, no matter if it is a ticket is issued or a police contact made, both enforcement methods support the same ideology—that, being visibly homeless in public places is intolerable, and at times, even criminal.

## The Use of Move On Orders Results in Hidden Enforcement of Denver's Camping Ban

Since Denver's City Council passed the Urban Camping Ban in 2012, Denver reports that only 15 citations/arrests have occurred, all in 2014. However, this number doesn't represent the whole picture. According to City of Denver's Police Department statistics, from June of 2012 through November of 2015, police officers made over 3,000 street checks with regard to unauthorized camping.<sup>A3</sup> Three thousand contacts is substantially different than fifteen. The number of tickets issued for violations of the camping ban does not represent the full extent of the ordinance's enforcement.

This conclusion is supported by interviews of homeless individuals since the camping ban went into effect. Over 200 homeless individuals agreed that the police had contacted them multiple times regarding the camping ban, yet rarely ever offered services to help them get off the street.<sup>A4</sup> Therefore, there might only have been 15 citations issued under Denver's camping ban, but to understand the true effect of Denver's most aggressive anti-homeless ordinance, the number of police contacts must be brought into the enforcement equation.

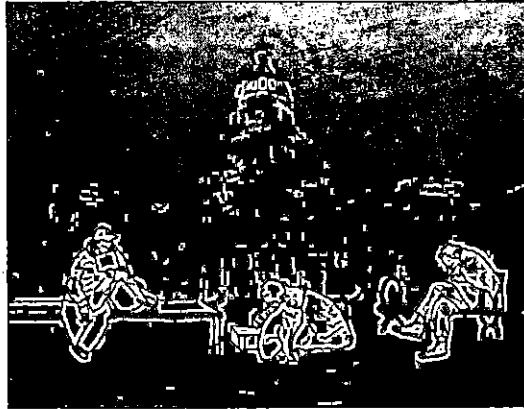
As Leslie Foster, the president/CEO of The Gathering Place, a daytime drop-in center for women, children, and transgender individuals, said "This is the wrong metric." The lack of tickets or arrests "isn't necessarily a sign of 'success.' ... The police have a protocol, as they should. They approach someone and ask them to move along. If the person moves along, no ticket is issued. No services are provided, and nothing has really changed in anyone's life; they have just 'moved along.' Success is seen in housing, not in the lack of tickets issued."<sup>A5</sup>

## Ways in which Denver is Succeeding in Helping Denver's Homeless Community

Even though Denver's use of criminalization ordinances and move-on orders attempt to push homeless individuals out of the downtown area and away from the only location for social services within the metro area, Denver has also been making positive strides towards helping some within the homeless community. Beginning when John Hickenlooper was elected mayor in 2003, a multi-pronged approach to addressing homelessness began to take shape. In 2005, a ten-year plan to end homelessness was created.<sup>17</sup> From this plan came Denver's Road Home, an offshoot of Denver's Department of Human Services, which addressed some of the root causes behind Denver's homeless population. Some of the successes of Denver's Road Home include: generating more employment and training opportunities for homeless people; starting a Homeless

Court; organizing Project Homeless Connect; and creating a Denver Police Department outreach team. All of these programs have helped many homeless individuals get off of the streets and into better situations.<sup>18</sup> Unfortunately though these initiatives have not slowed the criminalization of homelessness, nor have they made homelessness around Denver a "brief and rare" situation, rather than a chronic one.<sup>19</sup>

So, as Denver continues to strive to be a national destination, business owners, residents, and city officials should recognize that though it might be easier in the short term to criminalize homelessness, it is not a long term solution. Moving people along or "disappearing" some of the most marginalized members of our community, who have nowhere else to go, does not deal with the root causes of homelessness. Therefore, in this time of innovation for the City of Denver, it should strive to change the policy of criminalizing homelessness, and instead support more effective and morally sound policies that actually help the many who must call Denver's streets their home.



Drawing by Ariel Schreiber

# ENDNOTES

- <sup>1</sup> This number only reflects the estimated population for Denver County as of 2014. The entire metro area includes seven counties and has a population of over 3 million people. *State & County QuickFacts: Denver, Colorado*, U.S. CENSUS BUREAU (Dec. 2, 2015), <http://quickfacts.census.gov/qfd/states/08/08031.html>.
- <sup>2</sup> A self-sufficiency standard represents how much income a family must earn in order to meet their basic needs. The amount of money will vary depending on the location of where the family is living, as well as the number of family members. According to the Center for Law and Policy, in 2015, for two adults, one preschooler, and one school-aged child, the family needed to make a minimum of \$63,069 to be able to make ends meet. Diana M. Pearce, *The Self-Sufficiency Standard For Colorado 2015*, Diana M. Pearce, *The Self-Sufficiency Standard for Colorado 2015*, COLO. CTR. ON L. & POL'Y 55 (June 2015), <http://cclponline.org/wp-content/uploads/2015/06/SSS-FINAL.pdf>.
- <sup>3</sup> *QuickFacts*, *supra* note 1.
- <sup>4</sup> On January 26, 2015, Metro Denver Homeless Initiative (MDHI) volunteers collected point-in-time data of the people experiencing homelessness within seven counties around the Denver metropolitan area. Through individual surveys and utilization of the Homeless Management Information System for the specific counties, MDHI was able to capture a snapshot of the homeless populations within the counties. Of the 6,130 homeless individuals counted, 3,737 were identified as being in Denver County. It should be recognized that many feel that point-in-time surveys are extremely under-inclusive, so these numbers are looked at as the minimum number of homeless individuals on the night of January 26, 2015, within the seven-county area. *See 2015 Point-In-Time Report*, METRO DENV. HOMELESS INITIATIVE 23, (2015), <http://mdhi.org/wp-content/uploads/2015/07/FINAL-DRAFT-07.17.15.BCUpdated.pdf>.
- <sup>5</sup> Robert Sanchez, *The Two Sides to Denver's Real Estate Boom*, 5280 Magazine, October 2015, <http://www.5280.com/news/magazine/2015/09/two-sides-denvers-real-estate-boom>.
- <sup>6</sup> *2015 Point-In-Time Report*, *supra* note 4.
- <sup>7</sup> The eleven anti-homeless ordinances identified are: panhandling, solicitation, unauthorized camping, unlawful swimming, urinating in public, park curfews and closures, sitting or lying down in public right of way, obstruction of streets, food sharing ban, disposal of encumbrances, and trespass. *See* <http://www.law.du.edu/documents/homeless-advocacy-policy-project/chart/Ordinance-Count.html> (last visited Feb. 14, 2016).
- <sup>8</sup> Between 2010-2014, Denver issued a total of 20,127 tickets under 10 anti-homeless ordinances. Of those 20,127 tickets, 9,289 were issued to individuals identified as homeless. Data gained from Denver's response to records request. *See* <http://www.law.du.edu/index.php/homeless-advocacy-policy-project/enforcement-of-anti-homeless-ordinances> (last visited Feb. 14, 2016).
- <sup>9</sup> *Id.*
- <sup>10</sup> According the U.S. Department of Housing and Urban Development's Homeless Point-In-Time data, in 2010, there were 8,752 homeless individuals in the Denver metro area; and in 2014, there were 6,621. *See* excel spreadsheet for more details: <https://www.hudexchange.info/resources/documents/2007-2015-PIT-Counts-by-CoC.xlsx>. As stated above, this is a likely under-representation of the actual number of those experiencing homelessness.
- <sup>11</sup> The City of Denver identifies these citations as "Arrests to Transients for Move on Orders," after requesting clarification about the meaning of this language we determined that this number represents number of citations issued to homeless individuals. For more discussion, *see* Rachel A. Addock et. al, *Too High A Price: What Criminalizing Homelessness Costs Colorado*, HOMELESS ADVOCACY POLICY PROJECT, available at <http://www.law.du.edu/index.php/homeless-advocacy-policy-project/policy-report>.

- <sup>12</sup> Due to limited data, this Report will not specifically address the use of area-restrictions and how they may be disproportionately affecting homeless residents.
- <sup>13</sup> *Criminalization of Homelessness in Denver, Colorado Constitutes Cruel, Inhuman, and Degrading Treatment*, DENV. HOMELESS OUT LOUD 2, <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/dholshadowreport.pdf> (last visited Feb. 14, 2016).
- <sup>14</sup> Tony Robinson and Allison Sickels, *No Right To Rest: Criminalizing Homelessness in Colorado*, DENV. HOMELESS OUT LOUD 48, (Apr. 24, 2015), <http://www.cpr.org/sites/default/files/homelessness-study.pdf>.
- <sup>15</sup> City Of Denver Police Department Supportive Services PowerPoint 3, [https://www.denvergov.org/sirepub/meeting.aspx?cabinet=published\\_meetings&docid=30755](https://www.denvergov.org/sirepub/meeting.aspx?cabinet=published_meetings&docid=30755) (“5 Notebook\_Supportive Services\_DPD\_Deputy Chief Quinones\_Revised.pptx”) (highlighting Denver Police Department Homeless Outreach Team and the Neighborhood Impact Team Statistics).
- <sup>16</sup> *Id.* at 5; *see also* City of Denver Records Request Data.
- <sup>17</sup> *See, e.g., Ten Year Plan to End Homelessness*, THE DENV. COMM’N TO END HOMELESSNESS, [http://denversroadhome.org/files/10\\_Year\\_Plan\\_to\\_End\\_Homelessness\\_in\\_Denver.pdf](http://denversroadhome.org/files/10_Year_Plan_to_End_Homelessness_in_Denver.pdf) (last visited Feb. 14, 2016); *see also Denver’s Ten-Year Plan to End Homelessness*, DENV.’S RD. HOME (2013), [http://denversroadhome.org/files/DRH\\_Report\\_FinalFINAL.pdf](http://denversroadhome.org/files/DRH_Report_FinalFINAL.pdf).
- <sup>18</sup> *See* Kristin Pazulski, *Denver Set out to End Homelessness—Is the Finish Line in Sight?*, WESTWORD, Nov. 4, 2015, <http://www.westword.com/news/denver-set-out-to-end-homelessness-ten-years-ago-is-the-finish-line-in-sight-6053904>.
- <sup>19</sup> *Id.*
- <sup>A1</sup> City of Denver Records Request Data.
- <sup>A2</sup> *No Right To Rest*, *supra* note 14, at 49.
- <sup>A3</sup> City Of Denver Police Department Supportive Services PowerPoint, *supra* note 15, at 5.
- <sup>A4</sup> Tony Robinson and Denver Homeless Out Loud, *The Denver Camping Ban-A Report from the Street*, DENV. HOMELESS OUT LOUD, April 3, 2013, <https://issuu.com/denverhomelessoutloud/docs/surveyreport>.
- <sup>A5</sup> Pazulski, *supra* note 18.