

The vicious cycle of criminalized homelessness

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Russell Bartholow spent 15 years living on the streets of Sacramento. He estimates that he's been arrested or cited by police for one violation or another hundreds of times. Most of the time his crimes were for things like sleeping or camping in public, or for failure to pay a fine — a fine that typically was for sleeping or camping in public.

"It starts out as a \$125 fine. Ok, well I can't pay that — I have no money. I live on the street," he told *Vocativ*. "Then it snowballs and snowballs — more tickets, more arrests, more fines. More tickets, more arrests, more fines. It's this cycle you can't get out of. I had nowhere to go. So by simply falling asleep or setting up a tent, I was breaking the law." Startlingly, he says those fines now amount to more than \$300,000.

Bartholow's story is all too common, according to the Department of Justice and homeless advocacy groups. The criminalization of homelessness — locking people up for crimes as petty as trespassing or sleeping in public — has been a focus of the department for the last year. Recently, the agency announced plans to help local governments reform their policies on fines and court fees that often land people behind bars because they aren't able to pay the bill.

Bartholow, 55, has been off the streets for the past two years after reconnecting with an estranged niece who was under the impression that he was dead after not seeing him for more than a decade. She happens to be an attorney and was able to help him find housing and obtain medical coverage and social security benefits. Despite her profession, there is little she can do to help her uncle escape the small fortune that he owes the city for unpaid fines dating back to the mid-1990s. (The city of Sacramento didn't immediately confirm the amount Bartholow owes, but an advocacy group he's worked with also estimated it to be in the hundreds of thousands of dollars.)

"I'm in a house now for the first time in a long time," Bartholow said. "I'm safe. I pay rent. I get groceries. But they could come and arrest me at any time because I owe all this money," he said, adding that he currently has 19 open warrants that he's aware of.

"The consequences of the criminalization of poverty are not only harmful — they are far-reaching," Attorney General Loretta E. Lynch said in a statement Monday accompanying the DOJ's announcement. "They not only affect an individual's ability to support their family, but also contribute to an erosion of our faith in government. One of my top priorities as Attorney General is to help repair community trust where it has frayed, and a key part of that effort includes ensuring that our legal system serves every American faithfully and fairly, regardless of their economic status."

The National Law Center on Homelessness and Poverty published a study in 2014 outlining the pitfalls of criminalizing homelessness and the challenges it creates for homeless people in terms of improving their situations. The report found that 34 percent of all U.S. cities have city-wide bans on camping in public. Nearly 20 percent of all cities can fine people for simply sleeping in public. If they don't pay the fine — something people who live on a sidewalk are often unable to do — they can be arrested and jailed.

"Many homeless individuals are unable to secure shelter space because city shelters are over capacity or inaccessible to people with disabilities," said Principal Deputy Assistant Attorney General Vanita Gupta, head of the agency's Civil Rights Division. "Criminally prosecuting those individuals for something as innocent as sleeping, when they have no safe, legal place to go, violates their constitutional rights."

Gupta went on to say that needlessly putting homeless people into the criminal justice system for violations of petty ordinances is "poor public policy" that "imposes further burdens on scarce judicial and correctional resources, and it can have long-lasting and devastating effects on individuals' lives." Just ask Lawrence Lee Smith, whose story was outlined in the NLCHP report.

Smith lost his job as a construction worker after a degenerative joint disease made it impossible for him to work a grueling, physical job. He spent the next several years living in a camper near Boise, Idaho, until it was towed. When he couldn't afford to get it out of impound, Smith became homeless. The homeless shelters in Boise were full, so Smith was forced to camp out on the streets with little more than fishing equipment, a tent, and a stove. Camping on the streets is illegal in Boise, so Smith was arrested and thrown in jail for more than 100 days. When he got out, his tent, his fishing equipment and his stove were gone.

The economic impact on cities and states is also burdensome. A 2010 study from the U.S. Interagency Council on Homelessness found that the average city spends \$87 a day to keep a person in jail compared to \$28 a day to provide a homeless person with shelter. In Utah, a 2013 study found that the average annual cost of jail stays and emergency room visits for the city's homeless population cost about \$16,600. To provide those same people with housing and a social worker cost about \$11,000. In Albuquerque, a 2013 study found that the city reduced homelessness-related jail costs by 64 percent by providing additional housing for those living on the streets.

The DOJ's plan doesn't force local courts and law enforcement to change anything — it's a series of recommendations on how local jurisdictions can reform the policies regarding court fines and fees, many of which, the DOJ said, are "harmful and unlawful." The DOJ is also providing \$2.5 million in competitive grants for local governments to "test strategies to restructure the assessment and enforcement of fines and fees."

The DOJ's letter "is another piece of that puzzle to encourage local government officials to have an honest conversation about how to deal with homelessness in their communities, rather than criminalizing it, pushing it temporarily out of public view, but doing nothing to solve the source of the problem, and in fact making it worse, at high cost to the tax payer," Eric Tsars, a senior attorney with the NHLHC, told Vocativ.

For Bartholow, he just hopes he gets to remain in his house and isn't snared by a cop who could lock him up if he discovers he has open warrants.

"I shouldn't have been homeless for 15 years," he said. "But things just got worse and worse. But they're better now. I'm a productive member of society. I'm living proof that you can give to homeless people and they won't go spend it on drugs and alcohol."

This article originally appeared at Vocativ.com: The crime of sleeping: tackling criminalized homelessness.