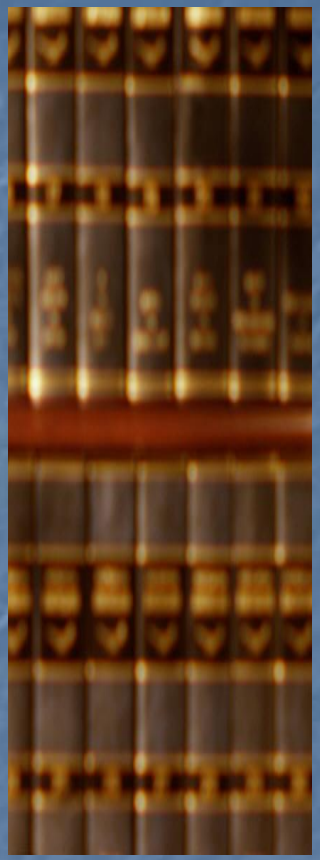
Legislating the Use of Public Spaces by Homeless Individuals: Creative and Balanced Solutions

2017 Mid-Year Seminar
Washington D.C.
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Overview



- 2016 Los Angeles Homeless Numbers
- Relevant Case Law
- Regulation of Storage and Encampments in Public Areas
- Regulation of Vehicular Dwelling on Public Streets

2016 Los Angeles County Homeless Numbers

- The total estimated number of people experiencing homelessness in Los Angeles County was **46,874,** an overall increase of **2,515** people or **5.7%** from 2015 (44,359)



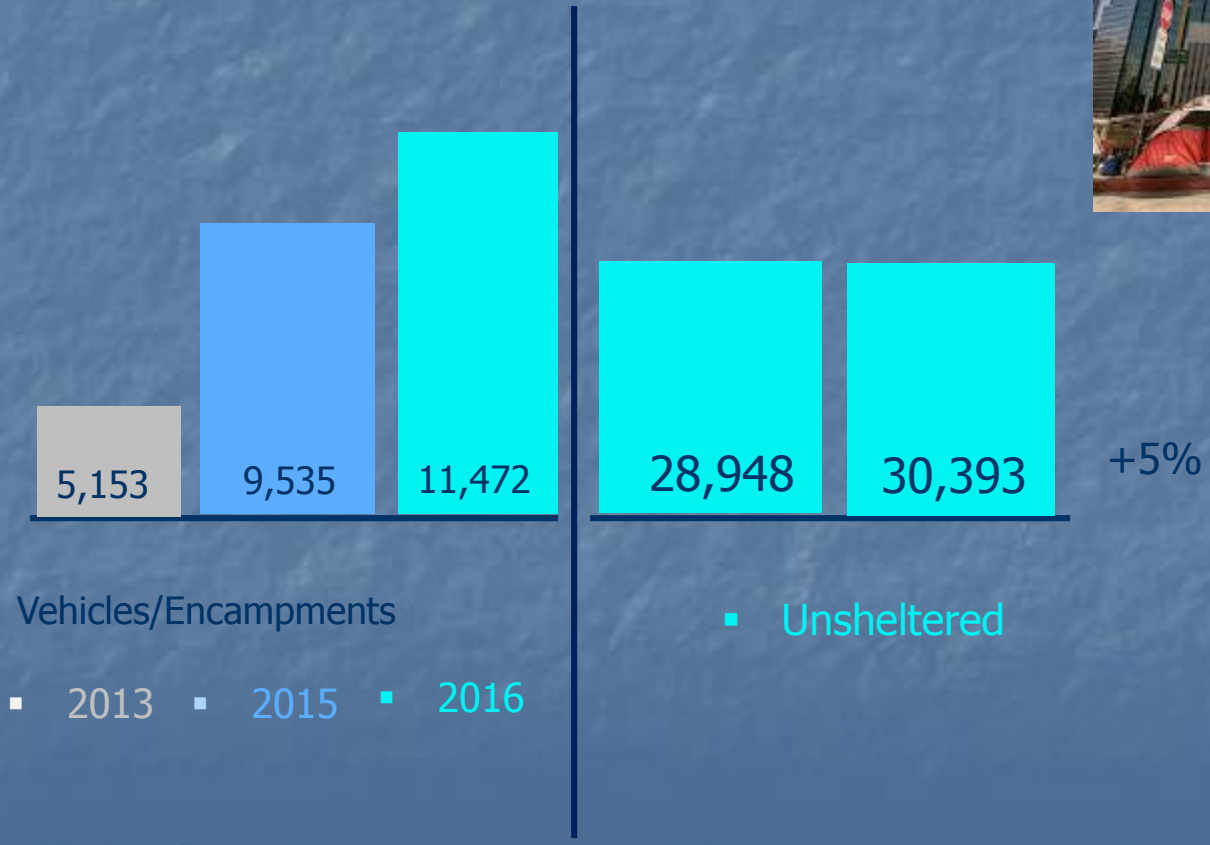


2016 Increase in Encampments in Los Angeles County

- Unsheltered Count population increased **5%**



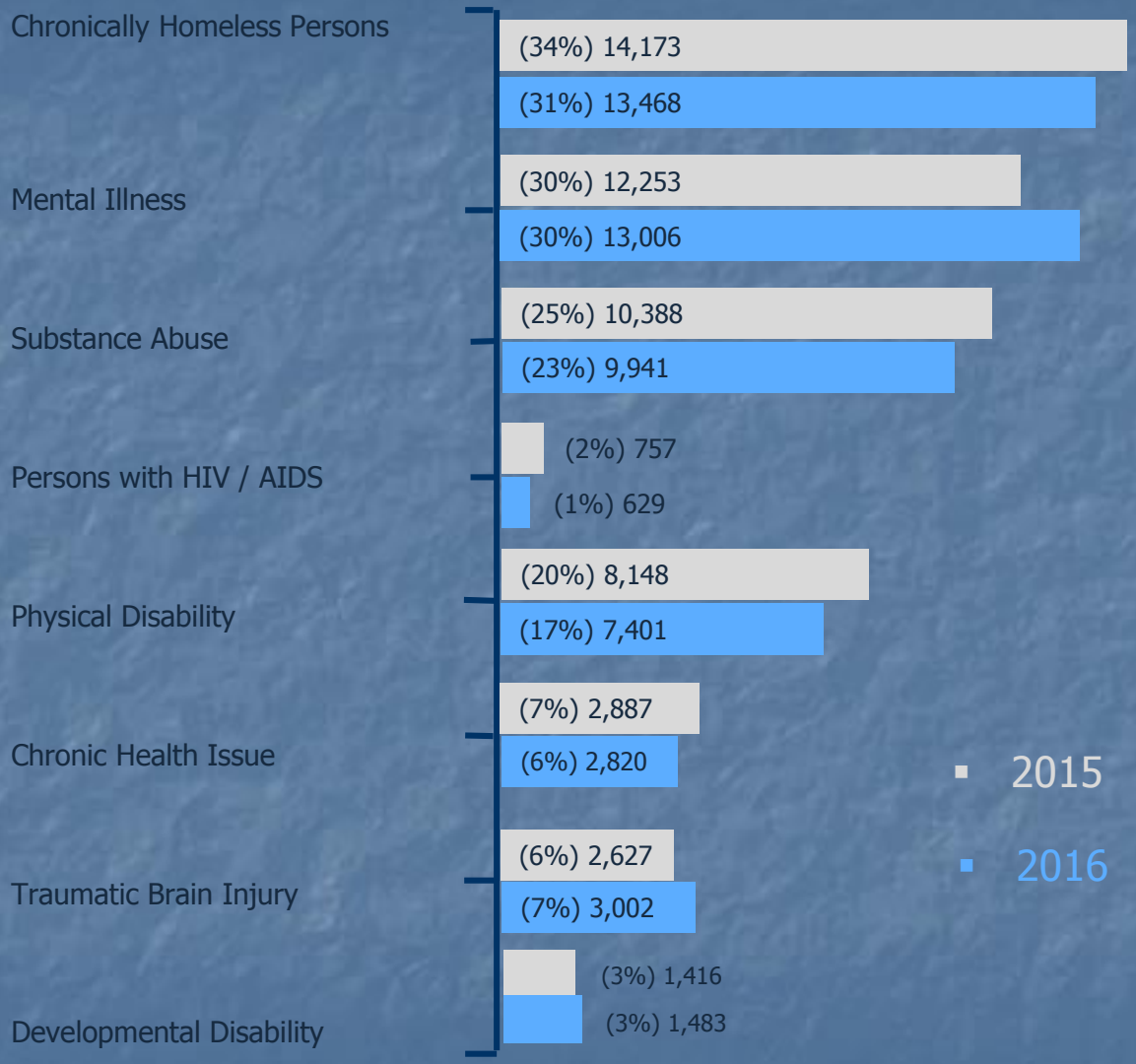
Vehicles, tents, and encampments increased 20% in LA CoC



Demographic Characteristics

People experiencing chronic homelessness, people with mental illness, and people with substance abuse represent a large share of the homeless population





People can have multiple characteristics
Data are for LA CoC Only and exclude Long Beach, Glendale, and Pasadena

2016 City of Los Angeles

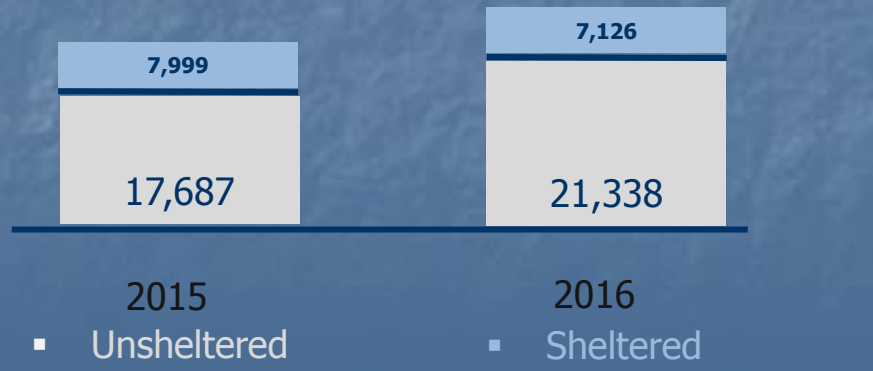
- City of Los Angeles saw an **11%** increase in total homelessness
  - 28,464 people (**65%** of LA County)
  - 1,445 from Youth Count are **52%** of total increase
- The **unsheltered** population in the City increased by **21%** and the **sheltered** population decreased by **11%**

City of LA Total



*Unsheltered Count is de-duplicated of Youth age 18 - 24

City of LA Sheltered and Unsheltered



Case Law Impacting How Los Angeles Legislates with Regard to Homelessness and Public Spaces

1. Jones v. City of Los Angeles
   Case No. 04-55324
   (9th Cir. 2008) Settled

2. Lavan v. City of Los Angeles
   693 F. 3d 1022 (9th Cir. 2012)

3. Desertrain v. City of Los Angeles
   754 F. 3d 1147 (9th Cir. 2014)



Homeless Storage / Encampments Ordinance Los Angeles Municipal Code Section 56.11

- (a) No Person shall Store any Unattended Personal Property in a Public Area. With pre-removal notice as specified in Subsection 4(a), the City may impound any Unattended Personal Property in a Public Area, regardless of volume. Post-removal notice shall be provided as set forth in Subsection 4(b), below.

- (r) **"Unattended"** means no Person is present with the Personal Property who asserts or claims ownership over the Personal Property. Conversely, property is considered **"Attended"** if a Person is present with the Personal Property and the Person claims ownership over the Personal Property.

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (b) No Person shall Store any Attended Excess Personal Property in a Public Area. With pre-removal notice as specified in Subsection 4(a), the City may impound any Attended Excess Personal Property Stored in a Public Area. Post-removal notice shall be provided as set forth in Subsection 4(b), below.

- (o) **"Store," "Stored," "Storing" or "Storage"** means to put Personal Property aside or accumulate for use when needed, to put for safekeeping, and/or to place or leave in a Public Area. Moving Personal Property to another location in a Public Area or returning Personal Property to the same block on a daily or regular basis shall be considered Storing and shall not be considered to be removing the Personal Property from a Public Area. This definition shall not include any Personal Property that, pursuant to statute, ordinance, permit, regulation or other authorization by the City or state, is Stored with the permission of the City or state on real property that is owned or controlled by the City..

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (c) No Person shall Store any Personal Property in a Public Area in such a manner as to obstruct City operations, including a Street or Sidewalk maintenance or cleaning. Without prior notice, the City may temporarily move Personal Property, whether Attended or Unattended, which is obstructing City operations in a Public Area, including a Street or Sidewalk maintenance or cleaning, during the time necessary to conduct the City operations. The City also may impound Personal Property that is obstructing City operations in a Public Area, pursuant to Subsection 3(a) or 3(b).

- (f) **"Excess Personal Property"** means any and all Personal Property that cumulatively exceeds the amount of property that could fit in a 60- gallon container with the lid closed.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (d) No Person shall Store any Personal Property in a Public Area in such a manner that it does not allow for passage as required by the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990), as amended from time to time (ADA). Without prior notice, the City may move and may immediately impound any Personal Property, whether Attended or Unattended, Stored in a Public Area in such a manner that it does not allow for passage as required by the ADA. Post-removal notice shall be provided as set forth in Subsection 4(b), below.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (e) No Person shall Store any Personal Property within ten feet of any operational and utilizable entrance, exit, driveway or loading dock. Without prior notice, the City may move and may immediately impound any Personal Property, whether Attended or Unattended, Stored in a Public Area within ten feet of any operational and utilizable entrance, exit, driveway or loading dock. Post-removal notice shall be provided as set forth in Subsection 4(b), below.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

(f) No Person shall Store in a Public Area that has a clearly posted closure time any Personal Property after the posted closure time. Without prior notice, the City may remove and impound Personal Property, whether Attended or Unattended, Stored in a Public Area that has a clearly posted closure time, provided the Personal Property is removed and impounded after the posted closure time. Post-removal notice shall be provided as set forth in Subsection 4(b), below.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (g) No Person shall Store any Personal Property in a Public Area if the Personal Property, whether Attended or Unattended, constitutes an immediate threat to the health or safety of the public. Without prior notice, the City may remove and may discard any Personal Property Stored in a Public Area if the Personal Property poses an immediate threat to the health or safety of the public.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (h) No Person shall Store any Personal Property in a Public Area if the Personal Property, whether Attended or Unattended, constitutes an evidence of a crime or contraband. Without prior notice, the City may remove and may discard any Personal Property that constitutes evidence of a crime or contraband, as permissible by law.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (i) No Person shall Store any Bulky Item in a Public Area. Without prior notice, the City may remove and may discard any Bulky Item, whether Attended or Unattended, Stored in a Public Area unless the Bulky Item is designed to be used as a shelter. For any Bulky Item that is designed to be used as a shelter but does not constitute a Tent as defined in Subsection 2(q), with pre-removal notice as specified in Subsection 4(a), the City may remove and discard the Bulky Item, whether Attended or Unattended. If the Bulky Item violates Subsection 3(d)-(h) herein, even if it is designed to be used as a shelter, without prior notice, the City may remove and discard the Bulky Item, whether Attended or Unattended.

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (c) **"Bulky Item"** means any item, with the exception of a constructed Tent, operational bicycle or operational walker, crutch or wheelchair, that is too large to fit into a 60-gallon container with the lid closed, including, but not limited to, a shed, structure, mattress, couch, chair, other furniture or appliance. A container with a volume of no more than 60 gallons used by an individual to hold his or her Personal Property shall not in itself be considered a Bulky Item.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (j) Upon the creation of any new Storage Facility, increased capacity at an Existing Storage Facility or subsidized transportation assistance to a Storage Facility, the Chief Administrative Officer shall report to the Council to inform the Council's consideration of whether to prohibit a Person from Storing more than Essential Personal Property in a Public Area in a specified radius from a Storage Facility, based upon the amount of the additional storage capacity and the accessibility thereto. In consideration of the CAO's report, the Council may, by resolution, prohibit a Person within a specified radius of a Storage Facility from Storing more than Essential Personal Property in a Public Area.

- (e) **"Essential Personal Property"** means any and all Personal Property that cumulatively is less than two cubic feet in volume, which, by way of example, is the amount of property capable of being carried within a backpack.

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- **Repossession.** The owner of impounded Personal Property may repossess the Personal Property prior to its disposal upon submitting satisfactory proof of ownership. A Person may establish satisfactory proof of ownership by, among other methods, describing the location from and date when the Personal Property was impounded from a Public Area, and providing a reasonably specific and detailed description of the Personal Property. Valid, government-issued identification is not required to claim impounded Personal Property.

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- **Ban on Erection of Tent during Certain Daytime Hours.** No Person shall erect, configure or construct a Tent in any Public Area from 6:00 a.m. to 9:00 p.m. (except during rainfall or when the temperature is below 50 degrees Fahrenheit). A Person must take down, fold, deconstruct or put away any Tent erected, configured or constructed in any Public Area between the hours of 6:00 a.m. and 9:00 p.m. (except during rainfall or when the temperature is below 50 degrees Fahrenheit). Without prior notice, the City may deconstruct and may impound any Tent, whether Attended or Unattended, located in any Public Area in violation of this subsection or in violation of Subsections 3(c)-(h) hereof. The City shall provide post-removal notice for any impounded Tent, as set forth in Subsection 4(b), herein.

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- (q) **"Tent"** means a collapsible shelter made of fabric such as nylon or canvas or a tarp stretched and sustained by supports, which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the fabric. In order to qualify as a Tent for purposes of this subsection, a Tent, when deconstructed, must be able to fit within a 60-gallon container with the lid closed.



Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- **Ban on Attachments to Public and Private Property.**

- (a) **Public Property.** No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any public property, including but not limited to, a building or portion or protrusion thereof, fence, bus shelter, trash can, mail box, pole, bench, news rack, sign, tree, bush, shrub or plant, without the City's prior written consent.

- (b) **Private Property.** No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any private property in such a manner as to create an obstruction on or across any Street or area where the public may travel.

- (c) **Removal.** Without prior notice, the City may remove any barrier, string, wires, ropes, chains or other attachment of Personal Property, whether Attended or Unattended, to any public property, or to any private property which creates an obstruction to any Street or area where the public may travel.

Homeless Storage / Encampments Ordinance
Los Angeles Municipal Code Section 56.11

- **Unlawful Conduct.** Los Angeles Municipal Code Section 11.00 shall not apply to violations of this section except as follows:
- **(a)** No Person shall willfully resist, delay or obstruct a City employee from moving, removing, impounding or discarding Personal Property Stored in a Public Area in violation of Subsections 3(a)-(h).
- **(b)** No Person shall refuse to take down, fold, deconstruct or otherwise put away any Tent erected or configured between the hours of 6:00 a.m. and 9:00 p.m., in violation of Subsection 7, or willfully resist, delay or obstruct a City employee from taking down, folding, deconstructing, putting away, moving, removing, impounding or discarding the Tent, including by refusing to vacate or retreat from the Tent.
- **(c)** No Person shall refuse to remove any barrier, string, wire, rope, chain or other attachment that violates Subsection 8, or willfully resist, delay or obstruct a City employee from deconstructing, taking down, moving, removing, impounding or discarding the barrier, string, wire, rope, chain or other attachment, including by refusing to vacate or retreat from an obscured area created by the attachment.
- **(d)** No Person shall willfully resist, delay or obstruct a City employee from removing or discarding a Bulky Item Stored in violation of Subsection 3(i), including by refusing to vacate or retreat from within the Bulky Item or from an obscured area created by the Bulky Item.
- **(e)** If Subsection 3(j) becomes operative by resolution in any area of the City, no Person shall willfully resist, delay or obstruct a City employee from removing or impounding any Personal Property that exceeds the limit on Essential Personal Property.

Potential Model for Regulating Vehicular Dwelling on Public Streets

(a) Use of Vehicles for Lodging Prohibited on City Streets. Between the hours of 9:00 p.m. and 6:00 a.m., no person shall use a vehicle for lodging on any public street in the City of Los Angeles. Vehicle lodging means the combination of one or more activities in Subdivision (1) with one or more activities in Subdivision (2) where it reasonably appears, in light of all the circumstances, that a person is using a vehicle for lodging.

(1) storing of contents inside a vehicle that are not associated with ordinary vehicle use, such as a sleeping bag, bedroll, blanket, sheet, pillow, kitchen utensils, cookware, cooking equipment, bodily fluids, or the storing of personal possessions or belongings that obscure some or all of the vehicle's windows; and

(2) engaging or engaged in one or more of the following inside a vehicle: preparing or cooking meals or sleeping.

As used in this section, vehicle shall mean any motor vehicle, trailer, house car and trailer coach as defined by the California Vehicle Code.

This subsection shall not apply to a person who displays on the vehicle dashboard a vehicle lodging pass and is parked on a street in a non-residential area as designated on a map issued by the City. The City will contract with one or more homeless service providers to make available vehicle lodging passes and maps to persons who request a pass and map after receiving homeless outreach services. A pass will expire on a date certain after its issuance, but new passes can be sought from the homeless service provider.



Thank you for your participation.