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A Tale of 2 Cities:
Legal Strategies and Solutions for Handling Homelessness

How Public Land, Politics, Policing, and Property Values Shape Portland's Response to Homelessness

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I. Introduction

In 2008, the Ending Homelessness Advisory Council of Oregon drafted a 10-year action plan entitled, "A Home for Hope," which assessed Oregon's homeless populations and optimistically proposed solutions to end homelessness in Oregon by 2018.[1]

2018 is here, and despite efforts to increase services, homelessness has not been resolved in Oregon. The good news is that there are fewer homeless persons in Oregon now than there were a decade ago—13,953 in November 2017[2] as compared with approximately 16,221 in 2008.[3] The bad news is that there are still approximately 4,177 homeless persons in Multnomah County, which encompasses the City of Portland.[4]

While Portland's homelessness crisis shares characteristics with the homelessness concerns of many counties and municipalities nationwide, Portland faces some unique challenges. This paper will familiarize the reader with the similarities and differences between Portland's homeless persons and the homeless in other jurisdictions, and especially focus on the humanity of Portland's homeless. It also examines "the 4 P's" that explain and guide Portland's response to the homelessness crisis. And finally, it recounts some of the solutions Portland and Multnomah County have put in action to hopefully make the goal of 2008's Ending Homelessness Advisory Council of Oregon more achievable.

II. Causes of Homelessness – Nationwide Similarities

Portland is not unique in the demographics of its homeless population, as homeless persons throughout the nation share certain characteristics. The Portland Rescue Mission has identified the following as typical causes of homelessness[5]:

- Addiction – Roughly 68% of the nation's homeless are dependent on drugs.
- Domestic Violence – Roughly 50% of homeless women and children are fleeing abuse.
- Mental Illness – Roughly 25% of homeless persons suffer chronic mental illness.
- Job Loss/Underemployment – Periods of unemployment, economic downturns, and increasing rents that do not keep up with salaries can lead to evictions.
- Foreclosure – Roughly 10% of the nation's homeless have experience a loss of their last dwelling due to foreclosure.
- Teen Runaways/Throw-Aways (Poor family relationships) – 63% of teen-runaways have been physically or sexually abused and choose the streets over continued family conflict.
    - Research has also shown that homeless persons with child abuse backgrounds lack the ability to self-sooth, have quick tempers, and are

easily upset. This leads to difficulties in getting and maintaining jobs, and thus housing.[6]

- Lack of Support System – Many homeless persons have no friends or family that can or are willing to support them through financial crises.

- Grief – Many homeless persons cannot cope with the loss of a loved one and let themselves and their jobs go, resulting in eventual loss of housing.

- Despair – A common refrain among the homeless is that once you become homeless, you've reached such a low point that there is no coming back from it.
    - Interestingly, lack of knowledge and training regarding technology and computers and lack of access to computer facilities greatly increase the sense of despair, as unemployed homeless persons recognize the value of computers in today's economy and believe they cannot compete technologically with other potential employees possessing computer skills.[7]

- Disabled Veterans – Roughly 200,000 veterans suffering from PTSD or other afflictions are homeless throughout the nation on any given night.

Another contributing factor to homelessness is a criminal record. "People experiencing homelessness are more likely to report having a criminal record than the general public . . . [and] the first 30 days after release from prison or jail [i]s when people were most likely to experience homelessness."[8] Landlords may be more likely to choose the rental application of a person with a clear criminal record if given a choice of applicants.

Medical conditions and physical disabilities have also been linked to homelessness. Persons suffering major illnesses, such as communicable diseases or chronic pain, often cannot work and lose housing when their health care expenses start to exceed their income.[9] Work-related accidental injuries and advanced-age degenerative diseases also affect the ability to work, and thus the ability to secure housing.[10] Still further, there has been an increase in the number of autistic adults becoming homeless.[11]

Finally, a lack of communication and social skills can lead to homelessness.[12] Even where one does not meet the diagnostic criteria for having a mental illness or developmental disability, some persons just do not communicate effectively or get along with other people—skills necessary for both a job interview and ultimate employment, as well as the development of a social support system.

Compassion for these human difficulties drive Portland city government to pursue robust and practical solutions when responding to the homeless crisis.[13]

III. Portland's Homeless Data – The City's Unique Numbers

In 2017, Portland State University conducted an in-depth study of the homeless population of Multnomah County.[14] The study revealed the following about the demographics of those without homes in Portland:

- Race[15]
  - Caucasian 58.8%
  - People of Color 36.6%
  - No Response 4.6%

- Household Makeup[16]
  - Adults-Only Households (over age 18) 83.9%
  - Households with Children 15.7%
  - Teens (under age 18) 0.4%

- Age[17]
  - 25-44 39.2%
  - 45-54 22.9%
  - 55-69 18.5%
  - 18 or less 9.1%
  - 18-24 8.0%
  - Unknown 1.2%
  - Over 70 1.1%

- Gender[18]
  - Male 59.7%
  - Female 37.1%
  - Unknown 1.7%
  - Trans 1.1%
  - Gender Fluid 0.4%

- Physical and Mental Disabilities[19]
  - Disabled 60.5%
    - Mental Illness 44.8%
    - Physical 38.0%
    - Drug Abuse 37.5%
    - Chronic Condition 26.3%
    - Developmental 7.8%
    - HIV/AIDS 1.4%
  - Non-disabled 30.6%
  - Unknown 8.9%

- Length of Homelessness[20]
  - 2-5 years 20.5%
  - 1-6 months 15.1%

- Unknown 13.5%
- 5-10 years 13.2%
- 1-2 years 12.7%
- 10 years or more 6.2%
- 1 month or less 5.5%

- 21% of the homeless are women and children fleeing domestic abuse[21]

- 11.9% are military veterans[22]

- 29.1% are homeless for the first time[23]

- 11.8% of homeless are employed and making money, though not enough to afford housing[24]

IV. P1- Public Spaces – Pitching Tents on Public Land

The above statistics explain who is homeless in Portland and why. As human beings, these homeless persons need to carry on life. They need to sleep, eat, and maintain whatever property they have. People experiencing homelessness also still yearn for congregation with others and friendships.

In Portland, homeless persons don't always meet these needs at a shelter. Indeed, while homeless persons taking advantage of shelter opportunities has risen in the last decade, the most recent point-in-time survey indicates that 1,668 homeless persons chose not to check into a shelter, electing to "sleep[ ] outside, in the worst conditions and with the least safety."[25] 15.4% of those unsheltered lived in vehicles.[26] 30% slept on a sidewalk or street.[27] But almost 33% identified as tent-dwellers.

While 33%, or about 458 persons, may not sound like a lot of people electing tent living compared to the homeless population as a whole, the point-in-time survey noted that 452 persons declined to answer the question of whether they lived in a tent.[28] Indeed, the number of tenters is likely much higher, as evidenced by the label of "Tent City" that some media outlets have branded Portland.

Portland, of course, is not the only municipality who has rightly or wrongly been referred to as a "Tent City" in response to the growing numbers of homeless persons living in tents all across the country. And like other major cities, being a "Tent City" is not an option for Portland. Unpermitted tent communities present safety problems, sanitation issues, civic concerns, and community resource constraints. Further, when tent communities set up on the grassy knolls of a park or the forested paths near public walkways and light rail stations, they violate City Code sections designed to protect parks and recreation access. Still further, when tent communities establish themselves under freeway overpasses, on concrete near fountains and art exhibits, or on the streets commuters use to navigate downtown, other City Code sections are violated. When City Code provisions are violated, policing and other regulatory decisions must be made.

Aside from code violations, homeless camps also infringe on the city's ability to carry out proprietary property management functions. Each City property-management bureau is tasked with administrative and operational responsibility to decide reasonable uses of the land assigned to it, consistent with the functional operations of the bureau. As an example, the Bureau of Environmental Services (BES) has operational and administrative responsibility over the public sewer and stormwater facilities of the City, along with decision-making authority over the public land assigned to it. Camps setting up on BES land can damage stormwater facilities, impact site activities, interfere with the City's ability to ensure the functioning of the stormwater system, and even subject the City to compliance obligation issues under federal or local environmental requirements. As another example, where tent communities obstruct pedestrian travel or vehicle parking, this can lead to citizen complaints of inability to access disabled services or non-compliance with the Americans with Disabilities Act.

Yet, despite the concerns with allowing homeless persons to set up camp, there are relatable reasons why homeless persons choose tents over shelters. In October of 2017, the Portland homeless were interviewed by a local Portland news station and asked why they live in tents instead of trying to check into City-sponsored shelters. [29] A Portland filmmaker also produced a documentary a year earlier that posed a similar question.[30] The following are some of the reasons noted in the documentary and news story for why homeless persons choose to live in tents:

- Shelters are overcrowded; there aren't enough beds to accommodate. There simply may not be enough shelter space to accommodate all those who need it.[31]
    - Example: One man has given up trying shelters because they are full when he arrives, and then he must sit on an uncomfortable chair for four hours waiting for a bed to open. Sometimes, a bed opens, but he does not get a full night's sleep, having waited for a bed. Sometimes, no beds come open, and he ends up getting no sleep. With a tent, there's always room for you.

- Shelters are crowded; there's too many other homeless persons with which to contend.
    - Example: Tensions can get heated when beds are mere feet apart and personal property mingles. People naturally like control of their environment and one woman described getting upset at shelters when other people are too loud, snore, smell bad, steal, etc.

- Shelters tend not to be clean; homeless persons worry about germs and disease.
    - Example: One person mentioned that, contrary to myth, many homeless people want to be clean and sanitary, but that shelters are usually not clean. There have been complaints of bed bugs, lice, and the presence of blood when new people check in. There are fears that the closed-in environment of a shelter breeds germs faster, leaving one person to believe that a personal tent with adequate venting is better for their health.

- A shelter can feel like a jail; rules and regulations do not make one feel at home.
    - Example: One man said that shelter curfews and rules make him feel like a child and not like an adult. Another said that adhering to shelter rules is stressful, and you don't feel like you can decompress like you can at your own place where you make your own decisions.

- Shelters do not accommodate drug use; addicts would rather be at a place where they can use than a place they cannot use.
    - Example: One woman commented that the addict's need to use outweighed the need to have shelter. An addict will choose a place to live where they can use in private and/or in a place where they are likely not to be caught.

- Shelters either expressly forbid or do not accommodate requests to cohabitate with significant others.
    - Example: One couple refused to shelter unless they could shelter together. This was not allowed at the shelter they tried, so they opted to live in a tent together.

- Shelters do not allow pets; many homeless persons refuse to let go of their animals.
    - Example: One woman with children refused to give up a family dog since the children had already lost a home, and she did not want them to have to lose their pet too. Thus, they chose a tent so they can keep their dog.

- Tenters tend to cluster, creating their own "communities" of people who don't judge them.
    - Example: Several people noted that tent communities feel like neighborhoods, where friendships are cultivated and where you feel like your neighbors "have your back." One woman also noted that homeless persons are keenly aware of the judgment they receive from the general public, and tenting around others in the same predicament brings you close to people in a similar situation that are not likely to judge.

- The weather in Portland is particularly conducive to tenting.
    - Example: One person noted that since it rarely snows in Portland nor gets below 30 degrees in the winter, the elements do not necessarily drive the homeless to shelters. That said, the constant rain does call for tents over just sleeping bags so that homeless persons can avoid the rain. (Contrary to this perception though, the elements are not always friendly to homeless persons. In 2017, four people living on the streets in Portland died from exposure to extreme cold weather, and the area got so cold, the City opened its own administrative building to the homeless for use as a warming shelter.[32]

Some of these concerns could perhaps be addressed by the shelter system, but others cannot. There are only as many beds as there is funding, and only as much personal space as square footage. And the prohibition of drugs is an unbendable legal requirement, while the prohibition of animals is a sanitation and liability concern that cannot be ignored. Thus, since some of the concerns described by tenters will always remain, tent camping by the homeless will likely continue.

Accordingly, Portland, like other communities, will have to continue to balance the humanitarian considerations and constitutional rights of Portland tenters with the civic need to address the concerns of other Portland residents. Portland, however, is unique in *how* it can go about doing this.

Prior to 2008, the Portland Police Bureau (PPB) had been the City bureau tasked with policing and cleaning up homeless camp communities and homeless persons sleeping tentless on the streets, as a former Portland City Code section criminalized sleeping on public land.[33] However, in December of 2008, a class action federal lawsuit was filed entitled *Anderson et al. v. City of Portland et al*., challenging that Portland City Ordinance on several constitutional grounds. [34] After a district court judge granted dismissal of three claims but denied dismissal of claims based on the Eighth Amendment and Equal Protection,[35] Plaintiffs and the City of Portland entered into a comprehensive settlement agreement in 2012.[36] Though the City Code itself was not changed to reflect decriminalization public-land camping in the Settlement Agreement, the settlement both compensated individual claimants and committed to changes in how the City Code would be enforced. Namely, the settlement agreed to shift enforcement of no camping rules away from PPB and towards the individual property-owning bureau where such camping occurred.[37]

As a result of the Settlement Agreement, several City bureaus with street and sidewalk regulatory authority and proprietary property management responsibilities came together to coordinate efforts to address the growing homeless camp communities around the city. These included regulatory bureaus with enforcement authority over sidewalks and streets (such as PPB and Portland Bureau of Transportation (PBOT)) and with proprietary property management responsibilities (such as the Portland Parks and Recreation Bureau (Parks), BES, and Office of Management and Finance-Facilities Division (OMF)) assigned to manage City-owned real estate. The workgroup developed a document entitled the Unified Policy for Unlawful Camp Posting, Cleanup and Property Handling.[38] While not officially adopted across the board by the City (since all bureaus have different resources that dictate clean-up capabilities), the Unified Policy established the aspirational goals and practical processes that guided initial bureau efforts in camp clean-ups. Some bureaus within the City follow the Unified Policy, while others have used the Unified Policy as a template to create their own similar operating procedures.

The primary objectives of the Unified Policy and those like it are humane treatment of all homeless persons, safe removal of all camping equipment or personal property if the homeless person refuses to vacate, and increasing transparency by having

campsite clean-up occur during daylight hours when possible. Staff working on the Unified Policy began to focus on civil, administrative, and non-criminal strategies to clean-up tent communities that conflicted with the City's land management goals and needs for the particular real estate. With PPB no longer involved in the investigation of unlawful campsite complaints, the hope was that fewer arrests would be made, and homeless persons could be notified of non-compliance and asked to vacate in a way that they would feel less threatened.

The Unified Policy establishes proposed responsibilities of the bureau in charge of the clean-up, which in general would be the bureau with the property management responsibility. It encourages bureaus to[39]:

- Designate a single point of contact with authority to determine that a camp is illegal.
- Assure adequate posting of pending clean-up.
- Verify that appropriate social services have been notified of the possible need for beds.
- After arriving for clean-up, give campers approximately one hour to collect and remove their belongings.
- Photograph the beginning and end of the cleanup.
- Assure that personal property collected during cleanup is inventoried, photographed, bagged, protected from the elements, and secured for at least 30 days or until claimed by its owner, whichever comes first.
- Inform camp clean-up workers of potential hazards and provide them protective equipment.
- Dispose of trash and contaminated personal property.
- Clean the contaminated land.

As the result of the *Anderson* Settlement Agreement, due process for government action and adequate opportunity for campers to voluntarily comply became important City goals in executing camp clean-ups. The City of Portland wanted to ensure effective communication with homeless persons regarding camp clean-up, as it was felt that advanced notice of intent to clean would ease some of the stress of being made to leave. Further, it was believed that more clear notice of where confiscated property could be found would advance trust that homeless persons' belongings were not being viewed as trivial. Accordingly, the Unified Policy sets forth the following notice requirements[40]:

- The bureau must post 24-hour written notice of intent to clean-up the area and should retain proof of the posting. The wording of the notice must include: "This campsite will be cleared no less than 24 hours after and within seven (7) days of [the date and time the site is posted for cleanup]. Cleanup may take place at any time within the seven-day period."

- The notice must be visible to those occupying the site.

- The notice must state that the camp is an illegal camp.

- The notice must state referral information and current contact numbers for social service agencies and shelters.

- The notice must state the address and phone contact information for the place where any collected property will be stored and that unclaimed property will be disposed of after 30 days from date and time of notice.

- The notice must be in English and Spanish.

Additionally, to assist displaced homeless persons, the Unified Policy encouraged bureaus to provide notice to a social service agency coordinator. This notice would include the location of the camp, the date and time of the clean-up notice's posting, the estimated number of campers at the site to be cleaned, and contact information for the bureau's point of contact.[41] This coordinator would then reach out to various service agencies to prepare them that they may receive increased requests for assistance after a camp clean-up.

The Unified Policy notes three exceptions to the notice requirement. First, pre-action notice was not required where PPB had probable cause to believe criminal activity was occurring at the camp. e.g. prostitution or drug sales, and some sort of property confiscation occurred in conjunction with arrests. Second, in the event of an emergency, e.g. the camp is contaminated by hazardous materials, camp activities cause a fire, an active shooter in the camp, etc., PPB or other emergency responders may immediately remove homeless persons to a safe area and restrict entry back to the camp land until the danger is over, also without the need for notice. Third, if no property is going to be removed and movement is only a matter of directing persons to vacate, e.g. intel indicates homeless persons have only just arrived at an area intent on camping, but have yet to set up camp, a verbal warning with a reasonable time to relocate is sufficient.[42]

Although the requirements of the Unified Policy apply only to occupied campsites, City bureaus have also found it useful to provide similar notice and act in accord with the Unified Policy where personal property is going to be removed from public land even in the absence of an established active camp, such as an abandoned site with left-behind personal property.[43]

Over the years since the *Anderson* agreement went into effect, because many homeless persons erect tents on land considered a city park, Parks has evolved into the entity at the forefront of Portland's efforts to clean-up unlawful homeless camps or sleeping situations. As a property management bureau that also has civil administrative enforcement responsibilities, its small cadre of Park Rangers have become the ambassadors of the City to the homeless population.[44] Of course, whether it be Parks or another bureau charged with camp clean-up, it is Portland's city government that monitors and directs clean-up in a manner consistent with Portland's values.

V. P2 - Politics – Portland's Progressive Paradigm

The decisions any city makes regarding how it handles its homeless population will be largely shaped by its political landscape. In Portland, a proudly progressive city, the views of most citizens have generally created a "safe space" for the homeless. More conservative cities might engage with their homeless populations differently.

Even so, the public's opinion about homelessness issues in Portland can be complex and nuanced. In a recent survey, 75% of Portland citizens said they felt compassion when they think about or see homeless people. However, 67% of people surveyed also oppose allowing homeless people to camp in their neighborhood parks.[45] In the same survey, the average Portlander reported seeing someone living in a tent and someone panhandling five times a week, while observing drug paraphernalia and human waste or urine more than twice a week.[46] Other residents have observed trash build-up, drug paraphernalia and drug deals, car and home break-ins, garbage ransacking, and the open deposit of urine and feces on public streets that they allege comes with the territory of tolerating homeless camps nearby.[47] Such sightings lead many Portlanders to feel negatively about homeless camping. 92% consider homeless camps a public health hazard without clean water, bathrooms or trash collection. 74% believe tent camping harms Portland's economy.[48] This concern is supported by another statistic—34% of residents have considered moving out of the city because of the homelessness they observe.[49]

These survey results are reflected in citizen complaints about homeless encampments near homes, schools, and neighborhoods, which have steadily been on the rise. In January of 2016, there were 210 encampment complaints. Six months later, in June of that year, there were 891 complaints. By March of 2017, the number of complaints reached 1,906. And by the end of summer 2017, there were 2,730 citizen complaints of homeless camps in or near Portland residential areas.[50]

Yet, negative feelings about the homeless are not attributable to all Portlanders, and the City sometimes has to balance competing public demands surrounding homelessness issues. For example, in Portland's Eastside Montavilla neighborhood, the Montavilla Neighborhood Association Board submitted a resolution to the City asking it not to interfere with the constitutional rights of tenters to camp in their neighborhood, while individual homeowners otherwise represented by that Board have submitted a petition to the City asking it to ignore the Neighborhood Association resolution and

continue camp clean-ups.[51] As another example, some business owners have threatened to leave Portland due to homeless persons allegedly interfering with their business[52;] while other businesses simply erect metal gates to keep homeless persons off their doorsteps at night but otherwise keep doing business with no threats of closing shop.[53]

Still, Portland remains a City deeply connected to progressive roots and compassionate ideals and has tried several ideas to aid the homeless. For example, back in 2016, with the support of various homeless-rights groups, former Mayor Charles Hales instituted what was called a "Safe Sleep Policy," which allowed an individual or a group of up to six people to camp on a city sidewalk or city right-of-way undisturbed by police or other bureaus overnight from 9:00 p.m. until 7:00 a.m.[54] However, the policy had to be rescinded six months later due to the police and community confusion over its meaning (did it permit only a safe night's sleep or unsanctioned camping?) and the fact that many campers did not pick-up camp and move by 7:00 a.m. [55]

More recently, in another push to compassionately provide for Portland's homeless, the City of Portland and Multnomah County both voted to increase budget allocations for homeless services. The City's budget under new Mayor Ted Wheeler provided a 10% funding increase for the Joint Office of Homeless Services, up to more than $31 million a year.[56] The new budget also includes $2.95 million to increase housing placements for people in shelters and people with disabling conditions who've been on the streets for a year or more.[57] It increased funding for Behavioral Health Unit police officers trained in dealing with homeless persons in mental health crisis and created the position of Houseless Community Engagement Liaison for PPB.[58]

While offering help to those experiencing homeless, Portland has also acted to address community concerns about the impact of tent camping. For example, the City established the Homelessness and Urban Camping Impact Reduction Program (HUCIRP), a program designed to reduce the economic and environmental impact of unsanctioned camping.[59] HUCIRP runs the One Point of Contact reporting system, a computer website that allows citizens to lodge complaints about homeless camps and related issues.[60] HUCIRP is also responsible for campsite clean-up coordination with affected bureaus and external agencies, and responds to community complaints to close the loop on communication.[61] In the second quarter of 2018, HUCIRP received and responded to 6,934 community complaints about issues surrounding homeless camping, and it was able to coordinate clean-up of approximately 600 campsites throughout Portland.[62]

In sum, the City's compassionate character will continue to address the needs of those experiencing homelessness while responding to the concerns of the community.

VI. P3 – Policing –Homelessness is Not a Crime, But Sometimes the Homeless Commit Crimes

Given the *Anderson* settlement agreement, one would think PPB wouldn't be involved much in homeless issues in Portland. But, as in all American cities, the police

remain the face of law enforcement, and officers still have an active role to play in responding to calls for service involving the homeless.

The aspirational Unified Policy for Unlawful Camp Posting, Cleanup and Property Handling describes the scope of expected police involvement in homelessness. (PPB is one of the bureaus that closely follows the Unified Policy). Using the Unified Policy as its template, PPB's role in camp clean-up is generally limited to[63]:

- Providing security for whichever bureau is tasked with posting clean-up notices of sites. This is upon request and only if needed. In City parks, Park Rangers generally handle security for Park's postings. For public sidewalks, PBOT utilizes HUCIRP-procured contractors to post notices for sidewalk and right-of-way camp clean-up.

- When complaints received at One Point of Contact include observations of criminal activity, investigating and taking control of potential crime scenes.

- Provide security during camp clean-up to whatever bureau is tasked with clean-up, if requested.

- Arrest individuals for criminal trespass where the bureau tasked with clean-up identifies an individual as interfering with clean-up or failing to vacate after the posted deadline.

PPB has compiled these goals into an operating directive, 835.20.[64]As with the Unified Policy, Directive 835.20 focuses on PPB's role as peacekeepers and security support.[65] The directive also clarifies that PPB's response to camp clean-up calls for service are limited to responding to the bureau-in-charge of the cleanup.[66]

But camp clean-up is only one aspect of police involvement with the homeless. When a homeless person commits a crime, he or she is subject to law enforcement the same as anyone else that commits a crime. That said, being homeless is not a crime. Thus, policing the homeless can be an incredibly nuanced task, so much so that community concerns can be raised if it appears the homeless are subject to disparate treatment by police.[67]

In March of 2018, PPB adopted Directive 344.05.[68] As an overhaul of a prior racial profiling policy, the newly enacted policy prohibits many more forms of discriminatory policing and guides officers in techniques to recognize implicit bias and not profile anyone based on anything other than criminal activity. As a police organization in a more progressive city, PPB made the decision not only to forbid discrimination based on the traditional legally-protected categories (race, color, national origin, citizenship, ethnicity, religion, sex, pregnancy, sexual orientation, gender identity, age, actual or perceived mental or physical disability, language, marital or familial status, or veteran status), but also to prohibit profiling and discrimination based on categories that are not legally protected but instead socially vulnerable.[69] This includes a

prohibition against profiling or discriminating against the homeless.[70] So, while police officers cannot make arrests or search or seize a person just because the individual is homeless, they can consider a person's homeless status in certain police decisions.

Specifically, under Sections 2.2. and 2.2.1., it is permissible to use homelessness as a description of a person to investigate, along with other characteristics.[71] For instance, if a 9-1-1 call says that a homeless-looking person with brown hair in a red coat stole a purse on Morrison Street, PPB may look in homeless camps or areas where homeless persons congregate near Morrison Street for a brunette person in a red coat.

Under Section 2.4., PPB officers cannot engage in mere conversation (for the purpose of formulating reasonable suspicion or probable cause) or seek consent to search based solely on a person being homeless; however, under Section 2.4.1., officers can engage in mere conversation with the homeless for the purpose of community engagement or trying to connect them with services.[72] In fact, PPB has increased its walking beats by six units in an effort to better engage the homeless and encourage them towards shelters or other services.

The goal and edict of PPB is that an officer's focus should be on homeless persons that commit crimes and not homelessness as a crime. As one can see though, policing under Directive 344.05 is complex because certain crimes are directly related to or disproportionally committed by the homeless.

For example, Portland City Code (PCC) 14A.50.010 criminalizes the use of alcohol in public spaces, while PCC 14A.50.020 makes it a crime to camp on a public space.[73] A good number of public intoxication arrests are likely to occur where the person drinking has no home in which to drink, and those without homes are far more likely to be the persons who camp on public land in the first place. Further, even where the acts of the homeless are not criminal, they still might act as an impediment to acceptable land usage and may result in them being administratively excluded from the area where they are tenting. For example, PCC 20.12.030 prohibits urination and defecation in a public park; PCC 20.12.040 prohibits the possession and use of alcohol and drugs in parks; and PCC 20.12.090 forbids littering in a park.[74] All of these acts form the basis of a possible administrative exclusion, and where one trespasses in a place from which they have been excluded, there is a possibility that arrests for trespass will be made under ORS 164.245.

Unfortunately, despite best the City's commitment to unbiased policing of the homeless, police actions taken in the scope of homelessness can attract criticism. Homeless persons themselves note that police action won't change their homelessness—arresting them for misdemeanors they won't be jailed for, or citing and releasing them, puts them right back on the streets and merely shifts them to yet another public place where it is illegal to camp, and now with a ticket or fines they can't pay.[75] Homeless advocates feel that without available affordable housing, essentially creating homelessness, police should use discretion not to arrest for certain violations as a means to offer the homeless some stability.[76] Nonetheless, PPB will continue to enforce

criminal laws with a keen eye towards Directive 344.05 and arrest for crimes committed by the homeless in lieu of arresting the homeless just because they are homeless.

VII. P4 – Property Values – Ending Homelessness Requires Affordable Housing

Mike Timbrook moved as a homeless person from Las Vegas to Portland because he heard Portland was more accepting of the homeless. With help from a local church, he secured temporary housing and a job at the VA. Mr. Timbrook's take-a-way from his time as a homeless person and now as a homeless advocate sums up the housing problems in Portland: "So many people want to help here in Portland. There are so many programs, and so many free meals, and so many places you can go . . . The only thing that's rough is actually finding a place to live. Everyplace you turn, there's a wait list, a six-month wait list, a nine-month wait list. It's no wonder some people just give up."[77]

Indeed, many in Portland view the issue as an affordable housing problem rather than a homelessness problem.[78]

Portland has a smaller number of public housing projects than other cities because much of the city's growth occurred after the federal government stopped building homes for the poor in the 1960's.[79] Additionally, some argue that Multnomah County restrictions do not make it easy for developers to make money on low-cost housing projects and that urban growth boundaries limit new build locations such that development can generally only occur on more expensive land.[80] Sill further, state laws prohibiting zoning variance tools and disallowing fee waivers for affordable-housing projects contribute to a lack of affordable units.[81] In short, many private developers have no financial incentive to, and aren't, building units for lower-income buyers and renters.[82]

Another startling housing statistic that helps explain the homelessness crisis is an analysis of rental increases in just a few short years. In 2013, rent for a one-bedroom apartment in Portland was about $550. In 2015, the same apartment cost $750 to $900. As of April 2018, fair market value for a one-bedroom apartment is now $1,132, with a monthly income of $3,772 needed to qualify for the rental.[83] As a result of these sharp increases, more than half of Portland's tenants spend more than 30 percent of their income on rent.[84]

Still further, Section 8 housing-subsidy vouchers have come to a standstill. In 2015, the wait for a government voucher-subsidized apartment ran from six months to two years.[85] But as of 2017, and still currently, Home Forward, Multnomah County's Section 8 Voucher administrator, has closed all applications and waiting lists for Section 8 vouchers until further notice.[86]

Simply, until Portland has more affordable housing units for low-income renters and more funding for Section 8 subsidies, homelessness will continue here. While Multnomah County might have to rely on the federal government to solve the Section 8 problem, there is at least hope on the horizon that more low-income units will soon be available in Portland. In 2017, the City added over 100 low-income units targeted at

extremely impoverished households. 700 more affordable units are in production for 2018 openings and 1,300 more units will be ready in 2019.[87]

VIII. Solutions – What is Portland Doing to Address the Homelessness Crisis?

To address the homelessness problem, many believe you have to go to the root cause. In some cases, that means providing more robust mental health and addiction services. In other cases, it means assisting veterans. And in still other cases, it means preventing evictions and loss of housing in the first place. This is why one of Portland's main strategies is aimed at prevention.

Portland's Housing Bureau recently chipped in $10 million in funding to the provision of mental health services to prevent chronic homelessness. This was in addition to the $2 million contributed by Oregon Housing and Community Services and a commitment of $350,000 per year from the Joint Office of Homeless Services and Multnomah County Mental Health & Addiction Services.[88] Multnomah County Chair Deborah Kafoury acknowledged that "[f]or some people, having an apartment or a room they can afford isn't enough on its own to end their homelessness[;] [t]hey need supportive housing."[89] She further noted, "[s]ometimes that means housing with addiction treatment. Sometimes it means housing with counseling support from a community of peers. Or sometimes it means independent living with regular visits from a case manager[.] Whatever it looks like, we need to make sure that once someone has a home, they get the support they need to stay in their home."[90] Accordingly, Portland's response to the homelessness crisis does not just focus on space; it also focuses on the service needs of the person in the space.

Veterans are also getting a big housing boost in Portland, with many thanks to private companies and non-profit organizations. A Home for Everyone launched a Veteran's initiative designed to assist homeless veterans and those at-risk of becoming homeless.[91] Services offered include: assisting the veteran with applying for VA and other state and federal veteran's benefits; offering financial incentives to landlords that agree to house a low-income veteran; and offering temporary transitional housing at Bud Clark Commons, a facility primarily housing veterans.[92] Additionally, in September of 2018, an organization called Portland Stand Down held a support event at the Portland Veterans Memorial Coliseum, with the goal of coordinating veteran's assistance services into a one-stop shop.[93] Military veterans who have fallen on hard times were provided access to numerous resources, from getting haircuts, to having pets examined, to applying for housing assistance, to accessing health care.[94] With private assistance, Portland has become one of a handful of cities to meet the federal Criteria and Benchmarks for Ending Veteran Homelessness, an initiative of the Mayors' Challenge to End Veteran Homelessness as sponsored by the United States Interagency Council on Homelessness.[95]

Yet another way to combat homelessness is to work with landlords to decrease evictions and stop rental increases. In October of 2017, the Portland City Council passed an ordinance requiring landlords to pay relocation costs for tenants displaced by rising rents or evicted without cause. Specifically, the ordinance requires landlords to pay

$2,900 to $4,500 in relocation costs to renters who are evicted without cause or who are constructively forced to move as the result of a 10% or higher increase in rent.[96] Such rules act to ease the financial burden on tenants when they are forced to find a new place to live.

When prevention fails, however, the challenge is to find spaces where people can reside. And since it doesn't have to be a big space, Portland as a City is looking to the innovative tiny house movement for inspiration and building tiny house communities for the homeless. The tiny house concept offers an alternate sheltering model that is more than tarp and tent but less than formal social service mass shelters, essentially giving the homeless small; neighborhoods of their own not made of tents.

In June of 2018, Kenton Women's Village opened its gates to 14 displaced women, who, after agreeing to the "HOA" rules of the Village, were each given the keys to their own small living pod.[97] The land for the Kenton Women's Village was leased by the City from the Portland Development Commission and subleased to a community service entity, Catholic Charities, which then engaged a site operator to operate the Village and manage the services for the community. The Right 2 Dream Too community (called R2D2) occupies an unneeded City right-of-way between the Willamette River and Moda Center and contains "rest stops," tiny homes where residents who agree to work shifts upkeeping the community can sleep for 12 hours at a time.[98] The City entered into a site use agreement with the nonprofit entity Right 2 Dream Too and permitted the entity to manage the activities of individuals using the rest stop. The Dignity Village is a third-of-an-acre of City-owned land upon which many residents have self-built tiny homes. Similarly, the City engaged with the nonprofit Dignity Village and the entity uses the City land to manage the individuals at the community.[99] With more funding and more community support, alternative sheltering through tiny homes for the homeless could eventually become a new norm in Portland.

In sum, as long as there are Portlanders without homes, the City of Portland and Multnomah County will continue to seek solutions, both traditional and creative, to house them.

IX. Conclusion

Portland and Multnomah County share in the nation's overall homelessness crisis. Portland's public spaces, progressive politics, police directives, and property values will continue to guide how Portland can solve homelessness, which may mean different approaches than other communities would or could take. Yet, as noted in the discussion above, Portland will uniquely do what it can to combat the problem.

While this analysis does not offer a conclusive answer to the question of homeless, nor indeed could it, it does offer some insight and ideas that may be of help to other cities who face growing tent populations or increasing homeless numbers. And while not all cities will do things the same because of the vast differences in politics that influence us, all cities can share in the same goal of ending homelessness.

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[2] *See* Oregon Housing and Community Services, *Oregon Housing and Community Services, Point-in-time Count Summary*, OREGON.GOV (Nov. 14, 2017), https://public.tableau.com/profile/oregon.housing.and.community.services#!/vizhome/InformationDashboardPITCount_1/Point-in-TimeCount.

[3] *See A Home for Hope*, *supra* note 1.

[4] *See Multnomah County, Oregon, Homeless Point-In-Time Counter 2017*, MULT. CTY. (Feb. 2017), https://multco.us/file/63263/download. Note: this count was completed in February of 2017.

[5] *See Causes of Homelessness*, PORTLAND RESCUE MISSION (2016), https://www.portlandrescuemission.org/get-involved/learn/causes-of-homelessness/.

[6] *See* CHRISTIAN JARRETT, *Helping the Homeless*, *in* THE PSYCHOLOGIST: THE BRITISH PSYCHOLOGICAL SOCIETY 284-87 (vol. 23, 4th ed. 2010).

[7] *See* Office of the Assistant Secretary for Planning and Evaluation, *Toward Understanding Homelessness: The 2007 National Symposium on Homelessness Research. Employment and Income Supports for Homeless People. Barriers to Work Faced by Homeless People*, U.S. DEP'T. OF HEALTH & HUM. SERVS. (Mar. 1, 2007), https://aspe.hhs.gov/report/toward-understanding-homelessness-2007-national-symposium-homelessness-research-employment-and-income-supports-homeless-people/barriers-work-faced-homeless-people.

[8] *See Barriers to Housing*, REENTRY AND HOUSING COALITION, http://www.reentryandhousing.org/public-housing.

[9] *See Homelessness, Health, and Human Needs*, INST. OF MED. (U.S.) COMM. ON HEALTH CARE FOR HOMELESS PEOPLE, (National Academies Press, 1988).

[10] *See id*.

[11] *See* William Mandy, *Autistic people at greater risk of becoming homeless – new research*, *THE CONVERSATION* (Jun. 12, 2018, 5:02 AM), http://theconversation.com/autistic-people-at-greater-risk-of-becoming-homeless-new-research-97227.

[12] *See Factors Contributing to Homelessness*, UNIV. OF WOLLONGONG AUSTRALIA (2017), https://www.uowblogs.com/ag679/2017/05/06/factors-contributing-to-homelessness.

[13] *See City of Portland Response to Homelessness – January-March 2018, Issue 1*, THE CITY OF PORTLAND, OR. 5 (Mar. 2018), https://www.portlandoregon.gov/toolkit/article/681643.

[14] *See 2017 Point-in-Time Count of Homelessness in Portland/Gresham/Multnomah County, Oregon*, PORTLAND STATE UNIV. (Oct. 2017), https://www.portlandmercury.com/images/blogimages/2017/10/23/1508781908-psu_2017_point-in-time_final_clean.pdf.

[15] *See id*. at 31.

[16] *See id*. at 46.

[17] *See id*. at 57.

[18] *See id*. at 60.

[19] *See id*. at 70.

[20] *See id*. at 89.

[21] *See id*. at 74.

[22] *See id*. at 77.

[23] *See id*. at 88.

[24] *See id*. at 93.

[25] *See id*. at 82. *See also* Amelia Templeton, *How Portland Tried, and Failed, to Provide a Bed for All its Homeless Children*, OREGON PUBLIC BROADCASTING (Mar. 13, 2018) https://www.opb.org/news/article/portland-oregon-homeless-children-shelter-families/.

[26] *See id*.

[27] *See id*. at 85.

[28] *See id*.

[29] *See* Sara Roth, *Tent City, USA*, KGW8 (Jun. 22, 2018, 5:30 PM), https://www.kgw.com/article/news/investigations/tent-city-usa/283-481821382.

[30] *See* Christian Krantz, *Homefree: PDX - A Documentary on Homelessness*, YOUTUBE (Sept. 4, 2016), https://www.youtube.com/watch?v=8QZ2XCNF7c0.

[31] *See* Amelia Templeton, *supra* note 25.

[32] Lauren Drake, *Four Homeless People Die of Exposure in Portland in First 10 Days of 2017*, THE GUARDIAN (January 11, 2017), https://www.theguardian.com/society/2017/jan/11/homeless-deaths-winter-portland-oregon).

[33] *See* Sara Roth, *supra* note 29.

[34] *See Anderson et al. v. City of Portland et al*., CV01447-AA (D. Or. Jul. 30, 2009).

[35] *See id.*

[36] *See* Kevin Harden, *City, homeless people settle federal anti-camping lawsuit*, PORTLAND TRIBUNE (Jan. 22, 2012), https://portlandtribune.com/pt/9-news/18653-city-homeless-people-settle-federal-anti-camping-lawsuit.

[37] *See City of Portland Unified Policy for Unlawful Camp Posting, Cleanup, and Property Handling*, LEAGUE OF OREGON CITIES (2012), http://www.orcities.org/Portals/17/Events/OCAA/Fri1100-1200/WobHomelessCampsUnifiedPolicy.pdf.

[38] *Id.* Also of note is that the *Anderson* Settlement Agreement is only binding on PPB. Other bureaus like Parks are not necessarily bound to the same clean-up requirements, but nonetheless have opted to similarly follow the *Anderson* tenants for consistency in city practices and as a mechanism of protecting due process.

[39] *See id*. (as applied to list)

[40] *See id.* (as applied to list)

[41] *See id.*

[42] *See id.*

[43] *See id.*

[44] *See* Kandra Kent, *City of Portland offers another day of warnings for illegal homeless camp in natural area*, FOX 12 OREGON (Feb. 1, 2018, 1:24 PM), http://www.kptv.com/story/37407414/city-of-portland-offers-another-day-of-warnings-for-illegal-homeless-camp-in-natural-area; *see also City of Portland Response to Homelessness – April-June 2018, Issue 2*, THE CITY OF PORTLAND, OR. (Jun. 2018), https://www.portlandoregon.gov/toolkit/article/693137.

[45] *See* Sara Roth, *supra* note 29.

[46] *See id.*

[47] *See id.*

[48] *See id.*

[49] *See id.*

[50] *See id.*

[51] *See* Lyndsey Hewitt, *Many Portlanders Split Over Handling of Homeless Camping*, PORTLAND TRIBUNE (Jul. 14, 2017), https://pamplinmedia.com/pt/9-news/366256-246740-many-portlanders-split-over-handling-of-homeless-camping.

[52] *See* Thacher Schmid, *Portland homeless crisis: sportswear CEO's threat prompts soul-searching*, THE GUARDIAN (Dec. 11, 2017, 6:00 AM), https://www.theguardian.com/us-news/2017/dec/11/columbia-sportswear-ceo-tim-boyle-homeless-portland.

[53] *See SE Hawthorne businesses add metal gates to prevent homeless from sleeping in doorways*, KATU 2 (Apr. 18, 2018), https://katu.com/news/local/businesses-add-metal-gates-to-prevent-homeless-from-sleeping-in-doorways.

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[55] *See* Emily E. Smith, *Charlie Hales Ends "Safe Sleep" Policy Allowing Homeless Camping*, THE OREGONIAN (Aug. 1, 2016), https://www.oregonlive.com/portland/index.ssf/2016/08/charlie_hales_ends_safe_sleep.html.

[56] *See* THE CITY OF PORTLAND, OR., *supra* note 42 at 2.

[57] *See id.*

[58] *See id*. at 3.

[59] *See id*. at 10.

[60] *See id.*

[61] *See id.*

[62] *See* THE CITY OF PORTLAND, OR., *supra* note 42 at 10.

[63] *See* LEAGUE OF OREGON CITIES, *supra* note 35 (as applied to list).

[64] https://www.portlandoregon.gov/police/article/541447.

[65] *Id*., Policy Sections 1 and 2.

[66] *Id*., Section 1.1.1. et seq.

[67] *See* Rebecca Woolington and Melissa Lewis, *Portland Homeless Accounted for Majority of Police Arrests in 2017, Analysis Finds*, THE OREGONIAN (Jun. 27, 2018), https://www.oregonlive.com/portland/index.ssf/2018/06/portland_homeless_accounted_fo.html.

[68] *See* PORTLAND, OR., POLICE BUREAU DIRECTIVE 0300, 0344.05 (2018).

[69] *See id.* at. "Policy, section 2."

[70] *See id.* at. "Policy, section 3."

[71] *See id.* at. "Procedure, section 2.2, 2.2.1."

[72] *See id.* at. "Procedure, section 2.4; 2.4.1."

[73] *See* PORTLAND, OR., CITY CODE, sec. 14A.50.010 (2018); *see also* PORTLAND, OR., CITY CODE, sec. 14A.50.020 (2018).

[74] *See* PORTLAND, OR., CITY CODE, sec. 20.12.040 (2018); *see also* PORTLAND, OR., CITY CODE, sec. 20.12.090 (2018).

[75] *See* Sara Roth, *supra* note 29.

[76] *See* Rebecca Woolington and Melissa Lewis, *Portland Homeless Accounted for Majority of Police Arrests in 2017, Analysis Finds*, THE OREGONIAN (Jun. 27, 2018), https://www.oregonlive.com/portland/index.ssf/2018/06/portland_homeless_accounted_fo.html.

[77] *See* Anna Griffin, *Our Homeless Crisis*, THE OREGONIAN (Jan. 17, 2015), https://www.oregonlive.com/portland-homeless/.

[78] *See id*.

[79] *See id*.

[80] *See id*.

[81] *See id*.

[82] *See id*.

[83] *See id.* (as applied to 2015 data); *see also* Ambar Espinoza, *People living throughout greater Portland share their search for an affordable place to live*, METRO NEWS (Apr. 24, 2018, 5:35 PM), https://www.oregonmetro.gov/news/you-are-here-snapshot-greater-portlands-need-affordable-housing (as applied to 2018 data).

[84] *See* Anna Griffin, *supra* note 72.

[85] *See id*.

[86] *See Join Waiting Lists for Subsidized Apartments*, HOME FORWARD (2017), http://homeforward.org/find-a-home/join-waiting-lists-for-subsidized-apartments.

[87] *See* Portland Housing Bureau, *Portland Housing Bureau Releases New State of Housing Report*, CITY OF PORTLAND, OR. (Apr. 2018), https://www.portlandoregon.gov/phb/article/681954.

[88] *See* Elizabeth Hayes, *Portland to Fund Affordable Housing and Mental Health Services*, PORTLAND BUS. J. (Jul. 30, 2018, 5:49 AM), https://www.bizjournals.com/portland/news/2018/07/27/portland-to-fund-affordable-housing-and-mental.html.

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[90] *See id.*

[91] *See Veteran Initiative – Are You a Homeless Veteran?*, A HOME FOR EVERYONE (2018), http://ahomeforeveryone.net/veteran-resources/.

[92] *See id.*

[93] *See 2018 Portland Veterans Stand Down*, TRANSITION PROJECTS (2018), https://www.tprojects.org/standdown/veterans/.

[94] *See id.*

[95] *See Mayors Challenge to End Veteran Homelessness*, U.S. Interagency Council on Homelessness (Jun. 5, 2018), https://www.usich.gov/solutions/collaborative-leadership/mayors-challenge/.

[96] *See* Jessica Floum, *Portland City Council Extends Renter Protection and "Housing Emergency"' Policies*, THE OREGONIAN (Oct. 4, 2017), https://www.oregonlive.com/politics/index.ssf/2017/10/portland_city_council_extendpo.html.

[97] *See* Molly Harbarger, *Tiny Homes for the Homeless? Portland and Beyond Experiment*, THE OREGONIAN (Oct. 21, 2017), https://www.oregonlive.com/portland/index.ssf/2017/10/tiny_homes_for_the_homeless_po.html.
Note: the Kenton Women's Village is being moved from its current location to make way for a 64-unit complex of low-income housing slated to be built at the site.

[98] *See id*.

[99] *See id.*