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### At What Cost: The Minimum Cost of Criminalizing Homelessness in Seattle and Spokane

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# AT WHAT COST:

## The Minimum Cost of Criminalizing Homelessness in Seattle & Spokane



**SEATTLE**  
**UNIVERSITY**  
SCHOOL OF LAW

**HOMELESS RIGHTS  
ADVOCACY PROJECT**

**At What Cost:**  
*The Minimum Cost of Criminalizing Homelessness  
in Seattle and Spokane*

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## **ACKNOWLEDGMENTS**

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**Table of Contents**

**EXECUTIVE SUMMARY** ..... iii

**INTRODUCTION**.....1

**I. Criminalization Ordinance Overview** .....2

**II. Case Study: The Cost of Criminalization Ordinances in Seattle and Spokane** .....5

    A. Policing Costs .....5

        1. *Citation Issuance* .....6

        2. *The Hidden Cost of Civil Infractions* .....9

        3. *Arrests* .....11

    B. Adjudication Costs.....12

        1. *Seattle’s Minimum Adjudication Costs* .....13

        2. *Spokane’s Minimum Adjudication Costs* .....16

    C. Incarceration Costs.....18

        1. *Daily Bed Costs*.....19

            a) Seattle’s Minimum Daily Bed Costs .....19

            b) Spokane’s Minimum Daily Bed Costs .....21

        2. *Medical Costs*.....23

**III. Alternatives: A Compilation of Cost-Saving Studies** .....24

    A. Local Scene—Washington State.....25

        1. *Permanent Housing* .....25

        2. *Temporary Shelter* .....27

    B. National Scene .....28

        1. *Permanent Housing* .....29

            a) Economic Impact in Florida .....29

            b) Cost Savings in Utah .....30

            c) Reduction in Recidivism in New York & New Mexico .....30

        2. *Temporary Shelter* .....31

            a) Florida .....31

            b) Hawaii .....32

            c) North Carolina .....32

            d) Washington, DC .....33

**CONCLUSION** .....33

## EXECUTIVE SUMMARY

Many studies around the country have demonstrated significant savings on incarceration, adjudication, and medical costs when funds are directed toward the creation of affordable housing. However, with the increasing prevalence of criminalization ordinances—ordinances that disparately impact the homeless—funds that could be used for affordable housing are being diverted toward their enforcement. Although existing studies address general costs and savings associated with housing homeless people, they do not address the costs directly attributable to criminalization ordinances. In an effort to shed light on these direct costs, the Seattle University Homeless Rights Advocacy Project has traced the following total costs directly to the enforcement of *less than half* of the identified criminalization ordinances in Seattle and Spokane:

***Seattle:*** An estimated 5-year minimum of \$2,300,000 is directly attributed to enforcing just 16% of the city’s criminalization ordinances.

***Spokane:*** An estimated 5-year minimum of \$1,300,000 is directly attributed to enforcing 75% of the city’s criminalization ordinances.

***Affordable Housing Alternatives:*** Investing the \$3.7 million spent in criminalization ordinances over the five years covered in this study in housing the homeless could save taxpayers over \$2 million annually and over \$11 million total over the five years.

Although these figures are substantial, they still underestimate the total overall costs that these two cities spend on criminalizing homelessness. For example, the vast majority of available data exists only for criminal violations, not civil infractions, which may constitute the largest percentage of enforcement costs in any given city.<sup>1</sup> Finally, due to limitations in data, this report focuses only on two cities as Washington case studies. Although these estimates are necessarily a mere fraction of the total costs of criminalizing homelessness in Washington state, at least two things are clear: (1) these ordinances are costly and do not address the underlying problems of homelessness; and (2) the redirection of funds currently being used to criminalize homelessness to support affordable housing would result in substantial cost savings.

Although a comprehensive list of policy recommendations regarding the discriminatory impact of homelessness is beyond the scope of this report, this report makes key recommendations to Washington policymakers:

- Policymakers should repeal of criminalization ordinances and re-direct funds that would be used for their enforcement to affordable housing.
- Policymakers should implement a detailed tracking system for the enforcement of criminalization ordinances.
- Interested parties should implement internal policies that mitigate the cost of these ordinances by not choosing to arrest, cite, or incarcerate individuals for conducting necessary, life-sustaining activities.

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<sup>1</sup> Civil violations often evolve into criminal violations because a homeless defendant fails to pay for the fine or cannot appear to contest it; although the costs of these civil-to-criminal incidents may be substantial, the data for these incidents is not readily available. See *infra*, Part II.A.2.

## INTRODUCTION

Nationally, and in Washington State, cities are reacting to society's discomfort with visible poverty, but at what cost? In Washington, many cities have enacted varying numbers of ordinances that disparately impact people experiencing homelessness—criminalization ordinances.<sup>2</sup> However, the costs of enforcing and maintaining these ordinances have yet to be calculated and compared to the cost savings of alternatives, like further investment in affordable housing and supportive services. This report is the first report to calculate the minimum cost of policing, adjudicating, and incarcerating people for violating criminalization ordinances in Washington. Through the analysis of data from case studies in Seattle and Spokane, this report reaches two main findings: first, hundreds of thousands of dollars are spent annually on enforcing less than half of the identified ordinances in just these two cities; and second, millions could be saved if these taxpayer dollars were redirected toward affordable housing.

This report, being the first of its kind, faced various limitations in the available data and will be updated as more precise data becomes available. Although this report is centered on a total of fourteen identified criminalization ordinances<sup>3</sup> between Seattle and Spokane, there are many notable ordinances that are not included.<sup>4</sup> Additionally, due to a lack of transparency,<sup>5</sup> the costs covered are minimum cost estimates. As more precise information becomes available, this document will be updated accordingly. Moreover, this report sets out a methodology for calculating the *baseline* costs of criminalization and will be a living document that will grow as the dialogue between advocates, cities, and other interested parties progress.

Part I of this report provides a general overview of criminalization ordinances. Part I examines the movement to criminalize homelessness and challenges underlying assumptions that the criminalization movement relies on. Additionally, Part I illustrates how criminalization ordinances not only fail to deter serious crime and improve business, but instead actively contribute to the myriad of problems already faced by people experiencing homelessness.

Part II of this report calculates the minimum costs associated with a fraction of the fourteen identified ordinances in Seattle and Spokane. Due to a lack of transparency,<sup>6</sup> the majority of costs for half of the ordinances are unavailable. Although this means the report underestimates the total costs, it sheds light on the minimum direct costs of criminalization and sets a baseline for comparison to the savings that can be achieved by pursuing other alternatives, such as providing permanent housing. Part II takes into account salary, time, and enforcement

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<sup>2</sup> See generally KATHERINE BECKETT & STEVE HERBERT, BANISHED: THE NEW SOCIAL CONTROL IN URBAN AMERICA (2009); see also Justin Olson & Scott MacDonald, Seattle University Homeless Rights Advocacy Project, WASHINGTON'S WAR ON THE VISIBLY POOR: A SURVEY OF CRIMINALIZING ORDINANCES & THEIR ENFORCEMENT (Sara Rankin ed., 2015).

<sup>3</sup> The eight identified ordinances for Spokane are: Urinating in Public; Nuisance, Occupy/build Transient Structure, Pedestrian Interference, Sit/lie on Sidewalk Retail Zone, Public Park Rules, Unlawful Transit Conduct, and Vagrancy. The six identified ordinances for Seattle are: Pedestrian Interference, Public Urination, Aggressive Panhandling, Sit/Lie, Camping in Public Places, and Storing Personal Property in Public.

<sup>4</sup> Some notable laws that disparately impact people experiencing homelessness that are not included are Scofflaw, Driving While License Suspended, Trespass, and Obstruction.

<sup>5</sup> See *infra* Part II.A.2.

<sup>6</sup> *Id.*

data and calculates the cost of policing, adjudicating, and incarcerating people that violate these criminalization ordinances. However, in doing so there were some limitations<sup>7</sup> that make the costs covered in Part II conservative estimates. Nonetheless, these case studies provide a helpful estimate of the minimum baseline costs associated with the criminalization of homelessness.

Part III of this report is a compilation of studies that illustrate the cost and effectiveness of housing the homeless. Part III focuses on two major categories of housing as non-punitive alternatives to criminalizing homelessness: permanent housing and temporary shelter. These studies consistently show that housing dramatically reduces recidivism rates and emergency health care use, particularly when provided to people experiencing homelessness that are frequently encountered by the jail and healthcare system. Part III makes one thing clear: affordable housing is a non-punitive alternative that is cheaper and more effective than criminalizing life sustaining activities among people experiencing homelessness. These three parts are geared toward answering the question that is central to this report: at what cost?

## I. Criminalization Ordinance Overview

“Sir, you cannot sit there. Please move along or I will have to give you a ticket.” Such statements characterize the movement to criminalize homelessness. This movement generally refers to the enactment and enforcement of local ordinances that discriminatorily target,<sup>8</sup> are selectively enforced against,<sup>9</sup> or disproportionately affect people experiencing homelessness.<sup>10</sup> These criminalization ordinances are often called “quality of life” ordinances by proponents. Although proponents tie this “quality of life” label to improved public safety and improved business,<sup>11</sup> there is no evidence that criminalization ordinances accomplish either of these purported goals.<sup>12</sup> Meanwhile, these ordinances adversely impact the quality of life of people experiencing homelessness and exacerbate the already dire circumstances that the homeless experience daily.<sup>13</sup> These types of ordinances often make it illegal for homeless people to

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<sup>7</sup> Because the methodology used in the case studies are based on salary and time, the lack of precision of available information affected the calculation of the ultimate figures. While the salary data used was precise because it was acquired through public records requests, the time data used was an empirical estimate (with the exception of incarceration time) as it was acquired through various interviews and questionnaires. Furthermore, the amount of available data also limited the precision of these case studies. With a focus on the costs of major players—police officers, attorneys, and judges—other significant costs such as administrative costs are also not included.

<sup>8</sup> See Bob Egelko, *U.N. panel denounces laws targeting homeless*, SF GATE (May 2, 2014, 9:18 PM), <http://www.sfgate.com/opinion/article/U-N-panel-denounces-laws-targeting-homeless-5449307.php>.

<sup>9</sup> See, e.g., Heidi Groover, *After SPD sit-lie comments, Stuckart proposes ‘bias-free policing’ ordinance*, INLANDER (Sept. 22, 2014, 5:18 PM), <http://www.inlander.com/Bloglander/archives/2014/09/22/after-spd-sit-lie-comments-stuckart-proposes-bias-free-policing-ordinance>.

<sup>10</sup> See NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, *CRIMINALIZING CRISIS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES* 6-7 (2011).

<sup>11</sup> See, e.g., Cathy Bussewitz, *New laws move the homeless out of Waikiki*, SEATTLE TIMES (Sep. 11, 2014, 11:45 AM), [http://seattletimes.com/html/travel/2024514095\\_honoluluhomelesshawaii.xml.html](http://seattletimes.com/html/travel/2024514095_honoluluhomelesshawaii.xml.html).

<sup>12</sup> BERKELEY LAW POLICY ADVOCACY CLINIC, *DOES SIT-LIE WORK: WILL BERKELEY’S “MEASURE S” INCREASE ECONOMIC ACTIVITY AND IMPROVE SERVICES TO HOMELESS PEOPLE*, available at <http://www.law.berkeley.edu/files/1023sit-lie2.pdf> (finding no meaningful evidence to support claims that sit-lie ordinances increase economic activity).

<sup>13</sup> Kristen Brown, *Outlawing Homelessness*, NAT’L HOUSING INST. (July/Aug. 1999), <http://www.nhi.org/online/issues/106/brown.html>.



conduct many necessary, life-sustaining activities, even when there are no reasonable alternatives available. Activities that are often prohibited include sitting and sleeping in public spaces, urinating and defecating in public, rummaging through garbage, and panhandling.<sup>14</sup>

Many cities across the country and in Washington have adopted these ordinances that prohibit and punish conduct that is typical and often necessary of homeless people. These ordinances are enacted in an effort to remove such people from sight and improve the aesthetics of their cities.<sup>15</sup> Some cities have even prohibited public food sharing with the homeless in order to minimize the congregation or visibility of homeless people in public spaces.<sup>16</sup> However, such laws have not been shown to improve public health or safety; to the contrary, criminalization laws have been shown to prolong and intensify the cycle and problem of homelessness.<sup>17</sup>

These types of ordinances follow the Broken Windows Theory.<sup>18</sup> The rationale behind this theory is “[i]f one window in a building is broken and left unfixed . . . it is likely that the rest of the windows will be broken soon, too.”<sup>19</sup> The theory focuses on policing minor crimes in hopes of preventing more serious crimes; if people are not held accountable for these minor acts, they will be encouraged to commit even more serious acts.<sup>20</sup> In regards to homelessness, the belief is that policing minor activities, such as camping, panhandling, and urinating in public, will prevent homeless people from committing more egregious acts and crimes. For supporters of this theory, “order begets accountability” and “disorder begets crime.”<sup>21</sup>

However, critics of the Broken Windows Theory identify numerous weaknesses and unjustified assumptions.<sup>22</sup> For example, the theory and studies supporting the theory’s effectiveness fail to answer the root question that drives the Broken Windows Theory: why do people choose to commit crimes in the first place?<sup>23</sup> Instead of taking into account extraneous social influences, the theory assumes that people choose to commit crimes because they believe

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<sup>14</sup> See NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 10; see also Olson & MacDonald, *supra* note 2.

<sup>15</sup> WESTERN REGIONAL ADVOCACY PROJECT (WRAP), NATIONAL CIVIL RIGHTS OUTREACH FACT SHEET (Nov. 21, 2014), available at

<http://wraphome.org/images/stories/hbr/NationalCivilRightsFactSheetResultsNov14EnglishRev.pdf>; See Kristen Brown, *supra* note 13; see also Bryce Covert, *California City Bans Homeless From Sleeping Outside: If They Leave, ‘Then That’s Their Choice’*, THINK PROGRESS (Nov. 10, 2014), available at <http://thinkprogress.org/economy/2014/11/10/3590672/manteca-homeless/>.

<sup>16</sup> See, e.g., Bryce Covert, *supra* note 15.

<sup>17</sup> NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 10 at 10.

<sup>18</sup> Joel J. Roberts, *Fixing Broken Windows Doesn’t fix Broken People*, POVERTY INSIGHTS (Mar. 12, 2012), <http://www.povertyinsights.org/2012/03/12/fixing-broken-windows-doesnt-fix-broken-people/>.

<sup>19</sup> Lauren Kirchner, *Breaking Down the Broken Windows Theory*, PACIFIC STANDARD (Jan. 7, 2014, 4:00 AM), <http://www.psmag.com/navigation/politics-and-law/breaking-broken-windows-theory-72310/>.

<sup>20</sup> James Q. Wilson & George L. Kelling, *Broken Windows*, THE ATLANTIC (Mar. 1, 1982) at 29–38, available at <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

<sup>21</sup> Lauren Kirchner, *supra* note 19.

<sup>22</sup> *Id.*

<sup>23</sup> RANDALL G. SHELDEN, ASSESSING “BROKEN WINDOWS”: A BRIEF CRITIQUE 5 (Center on Juvenile and Criminal Justice 2004), available at <http://www.cjcj.org/uploads/cjcj/documents/broken.pdf>. The theory and supporting studies have also been criticized for failing to consider the effects of increased surveillance; employing skewed methods of measurement; and disregarding the fact that crime rates in cities that did not employ the Broken Windows Theory had also declined during the same periods of time.

that they can get away with it.<sup>24</sup> In regards to homelessness, the theory relies on the invalid assumption that homeless people have a choice of whether to violate laws that prohibit them from conducting necessary, life-sustaining activities in public.<sup>25</sup>

Ordinances that criminalize homelessness by merely removing them from public spaces are treating the symptoms at the expense of efforts to address the cause. Instead of directly addressing the underlying causes, criminalization ordinances merely exacerbate problems affecting homeless people.<sup>26</sup> For example, the country's already high recidivism rates for the general incarcerated population<sup>27</sup> are even higher among homeless people who are released from jail or prison without housing.<sup>28</sup> Moreover, criminalization ordinances do nothing to address mental health and substance abuse issues that are prevalent within the homeless community.<sup>29</sup> And yet cities in Washington<sup>30</sup> and throughout the nation<sup>31</sup> increasingly pass criminalization ordinances without taking into account their cost and ineffectiveness.

The cost of criminalization ordinances come in many forms; some can be quantified, while others can only be observed and experienced. Although emotional and psychological costs are all but impossible to quantify, other monetary costs can be calculated through the collection of information and implementation of sensible methodologies.<sup>32</sup> Because criminalization ordinances fail to address the underlying causes of homelessness, it is important to note that these costs are cyclical. The cyclical nature of the costs associated with criminalization ordinances are of particular concern because housing as a non-punitive alternative has been shown to save money, reduce the cyclical costs associated with criminalizing homelessness, and reduce recidivism.<sup>33</sup> Generally, the baseline costs of criminalization ordinances can be placed into three categories: (1) policing, which includes citation and arrest costs; (2) adjudication, which includes judicial, prosecution, and defense costs; and (3) incarceration, which includes

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<sup>24</sup> *Id.* at 6.

<sup>25</sup> See BECKETT & HERBERT, *supra* note 2 at 93; see also NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 16 (2014), available at [http://nlchp.org/documents/No\\_Safe\\_Place](http://nlchp.org/documents/No_Safe_Place).

<sup>26</sup> See Kristen Brown, *supra* note 13.

<sup>27</sup> A study of over 30 states conducted by the Pew Center on the States showed that "45.4 percent of people released from prison in 1999 and 43.3 percent of those sent home in 2004 were re-incarcerated within three years, either for committing a new crime or for violating conditions governing their release." PEW CTR. ON THE STATES, STATE OF RECIDIVISM: THE REVOLVING DOOR OF AMERICA'S PRISONS 1 (2011), available at <http://www.pewtrusts.org/en/research-and-analysis/reports/2011/04/12/state-of-recidivism-the-revolving-door-of-americas-prisons>.

<sup>28</sup> The Council of State Governments, *NRRC Facts & Trends*, JUSTICE CTR., <http://csgjusticecenter.org/nrrc/facts-and-trends/> (last visited Oct. 11, 2014) (finding homeless people to be found to be seven times more likely to be re-incarcerated than those that are released to some form of stable housing).

<sup>29</sup> Kaya Lurie & Breanne Schuster, Seattle University Homeless Rights Advocacy Project, *DISCRIMINATION AT THE MARGINS: THE INTERSECTIONALITY OF HOMELESSNESS AND OTHER MARGINALIZED GROUPS* (Sara Rankin ed., 2015).

<sup>30</sup> See Olson & MacDonald, *supra* note 2.

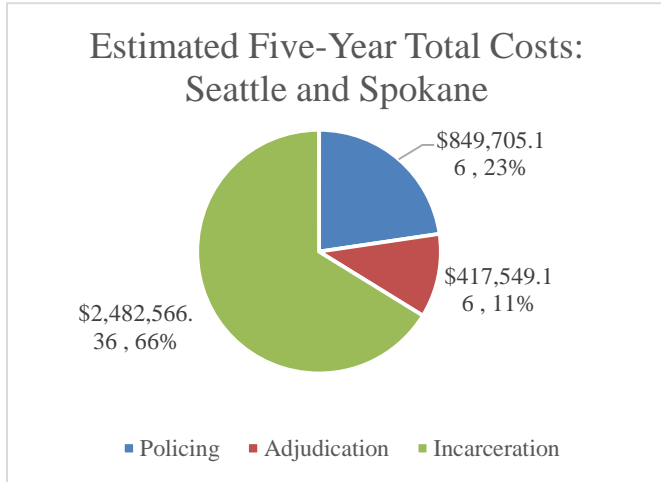
<sup>31</sup> See generally NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 25.

<sup>32</sup> Generally, the calculation of these costs involves the use of time and salary information for police officers, judges, prosecutors, and public defenders to calculate the cost of each violation and/or instance of incarceration.

<sup>33</sup> See generally NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 25.

daily bed and medical costs. These costs not only compromise the lives of homeless people, but also drain city budgets.

**II. Case Studies: The Minimum Cost of Criminalization Ordinances in Seattle and Spokane**



Although some costs associated with criminalization cannot be quantified, a few categories of costs are more amenable to calculation. To help better understand the many different costs that criminalization ordinances impose on the public and society as a whole, this part utilizes information gathered through public records requests, interviews, and other methods to create baseline case studies for two major cities in Washington: Seattle and Spokane.<sup>34</sup>

The following case studies are an analysis of some of the monetary costs incurred through the enforcement of Seattle and Spokane’s criminalization ordinances, which include (1) police costs for time spent citing and arresting violators; (2) adjudication costs for times spent resolving and handling these violations; and (3) incarceration costs for imprisoning those who are sentenced under these ordinances. Seattle and Spokane potentially spent a minimum of \$3.7 million enforcing criminalization ordinances during the five year period covered by this report.<sup>35</sup>

<sup>34</sup> Generally, the calculation of these costs involves the use of time and salary information for public defenders, prosecutors, and judges to calculate the cost of each violation and/or instance of incarceration. Additionally, incarceration costs were based on time sentenced—this overall total many days are ultimately served.

<sup>35</sup> The five year period measured in this case study is 2009–2013.

A. Policing Costs

The police are the first point of contact in enforcing an ordinance; therefore, policing costs can be understood as the initial costs incurred in enforcing criminalization ordinances. Policing costs can be divided into at least two distinct categories: the cost of issuing citations and the cost of arrests.

Specific limitations in data for citation issuance and arrests will be discussed in their respective sections. However, both citation issuance and arrests suffer from two important limitations that affect policing costs generally. First, the calculations are based solely on interactions with police officers that result in citation or arrest; therefore, the study does not capture the cost of interactions that do not result in citation or arrest. Second, the results do not take into account concentrated enforcement costs, such as increased police patrols implemented to enforce criminalization ordinances. Considering the substantial number of people who report being harassed but not cited for violating these ordinances<sup>36</sup> and the substantial cost and general ineffectiveness associated with any concentrated increase in policing,<sup>37</sup> it is safe to say that the costs captured in this report underrepresent the actual police costs associated with criminalization ordinances.

<b>COSTS AT A GLANCE: POLICING</b>
<i>Seattle</i> : Spent a minimum of \$100,000 policing criminalization ordinances over the last 5 years.
<i>Spokane</i> : Spent a minimum of \$745,000 policing criminalization ordinances over the last 5 years.

Keeping these limitations in mind, the following analysis establishes: (1) costs associated with citation issuance; (2) the hidden cost of civil infractions; and 3) the costs associated with arrests in Seattle and Spokane from 2009 through 2013.

1. Citation Issuance

The cost of issuing citations, comparatively speaking, is a small portion of the overall enforcement costs associated with criminalization ordinances. However, citation issuance is also the most readily quantifiable category of cost for Seattle and Spokane.<sup>38</sup> The methodology used to calculate citation is the product of Washington state police officers’ mean hourly wage, the average time per citation, and the number of citations.<sup>39</sup> In other words, the cost of issuing

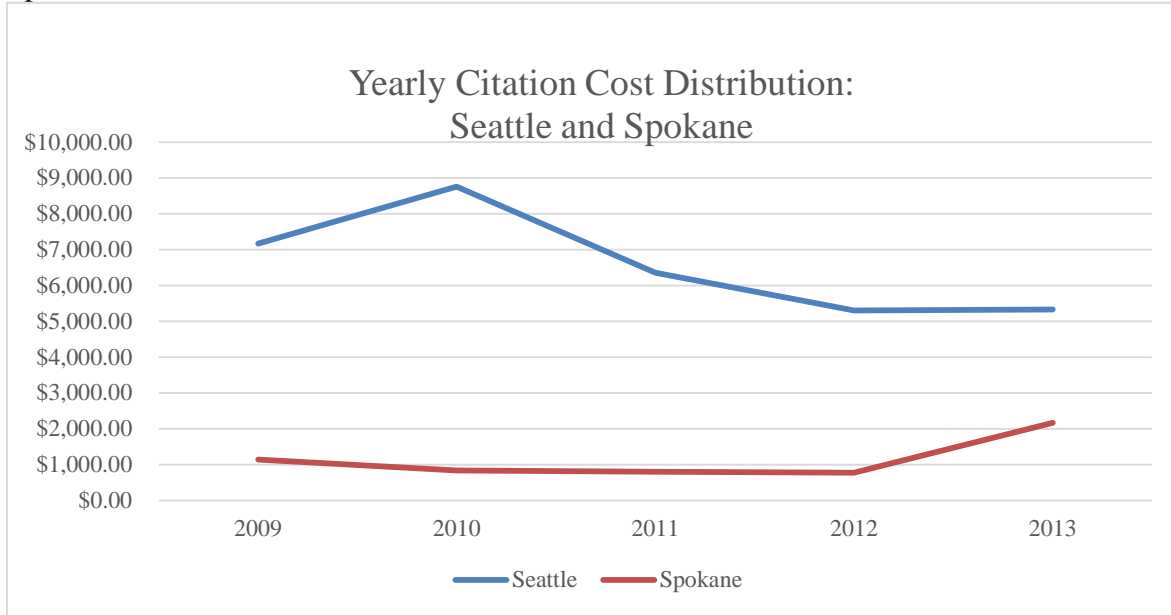
<sup>36</sup>WESTERN REGIONAL ADVOCACY PROJECT (WRAP), *supra* note 15 (sleeping in public 81% harassed compared to 41% cited; sitting or lying on the sidewalk: 77% harassed compared to 43% cited; loitering: 66% harassed compared to 42% cited).

<sup>37</sup> See generally GARY BLASI & FORREST STUART, HAS THE SAFER CITIES INITIATIVE IN SKID ROW REDUCED SERIOUS CRIME? (2013), available at [http://wraphome.org/downloads/safer\\_cities.pdf](http://wraphome.org/downloads/safer_cities.pdf) (showing little to no reduction in serious crime even in light of \$6 million put toward enhanced enforcement).

<sup>38</sup> Seattle Municipal Court responded to Seattle University Homeless Rights Advocacy Project’s public records request with incarceration for only one ordinance in Seattle, while giving citation information for all ordinances.

<sup>39</sup> The number of citations were calculated by counting the number of unique case numbers under each respective ordinance—here we assume that every unique case number began with an initial citation.

citations is the product of the time-cost per citation multiplied by the number of citations. Applying this methodology to Seattle and Spokane reveals two conclusions: first, total citation costs in Seattle greatly exceed costs in Spokane; and second, Seattle and Spokane’s costs follow a converging trend in which Seattle’s citation costs are decreasing while Spokane’s costs are increasing. The following graph illustrates the minimum citation cost trends in both Seattle and Spokane.



As illustrated in the graph above, Seattle’s citation costs exceeded Spokane’s citation costs in each year. Assuming an average of ten minutes per citation<sup>40</sup> at the Washington state Police Officers’ mean hourly wage of \$33.96,<sup>41</sup> the time-cost per citation is \$5.66. Applying this per-citation time-cost to Seattle’s five-year total of 5,814<sup>42</sup> citations over five years results in a \$32,907.24 five-year total. In comparison, Spokane’s 1,015<sup>43</sup> citations result in a projected cost of \$5,744.90. While the aggregate numbers indicate significant differences in citation issuance in Seattle and Spokane, the 5-year trend of citation costs indicate increasing similarity between the two municipalities.<sup>44</sup> Seattle has experienced a relative decline in citation issuance over five years, while citation issuance in Spokane has remained relatively consistent over five years, with a significant increase in citations issued in 2013.

<sup>40</sup> JEFFREY SELBIN & POLICY ADVOCACY CLINIC, COST ANALYSIS OF THE CRIMINALIZATION OF HOMELESSNESS (Dec. 3, 2013) (citing ten minutes per citation--based on interviews with homeless rights advocates)

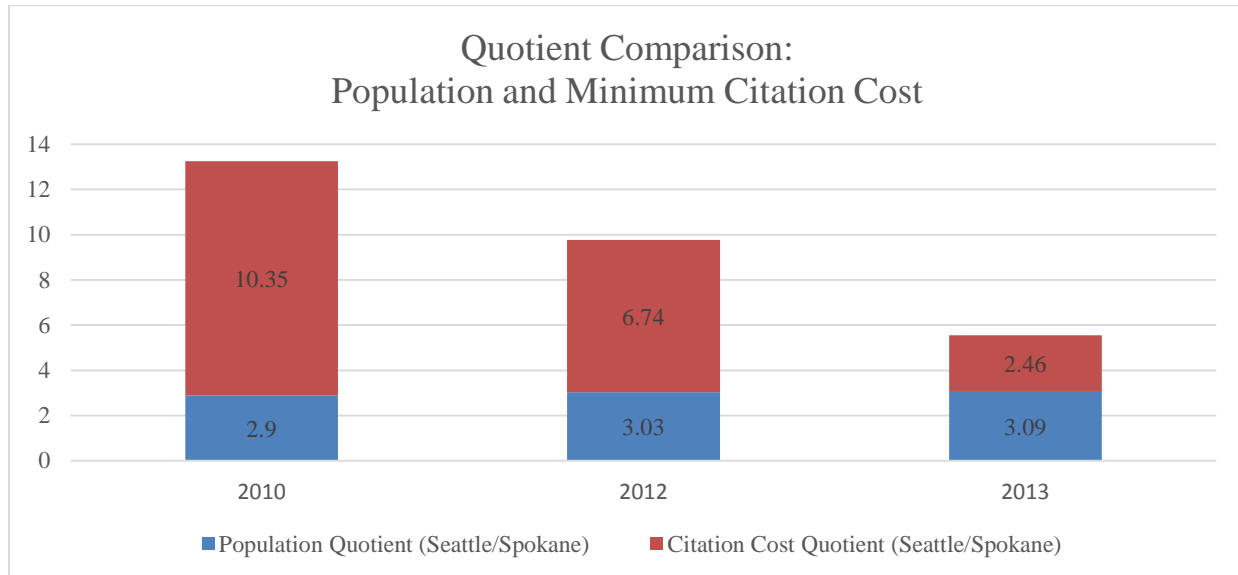
<sup>41</sup> BUREAU OF LABOR STATISTICS, OCCUPATIONAL EMPLOYMENT STATISTICS: POLICE AND SHERRIFF’S PATROL OFFICERS (May 2013), available at <http://www.bls.gov/oes/current/oes333051.htm> (stating that the bureau of labor statistics estimates a \$33.96 hourly mean wage of a police officer in Washington state for 2013).

<sup>42</sup> This number is based on Seattle Municipal Court’s response to Seattle University’s Homeless Rights Advocacy Project’s public records requests.

<sup>43</sup> This number is based on the City of Spokane’s response to Seattle University’s Homeless Rights Advocacy Project’s public records requests.

<sup>44</sup> Applying the per-citation time-cost to Seattle’s 941 citations and Spokane’s 383 citations resulted in costs of \$5,326.06 and \$2,167.78, respectively in 2013. The downward trend in citation issuance in Seattle, combined with the upward trend in citation issuance in Spokane, has made the \$3,158.28 margin between the two cities in 2013 the slimmest margin between the two cities in the last five years.

Although this discrepancy may be partly related to differences in population,<sup>45</sup> the discrepancy cannot be completely attributed to population. If citation costs were completely derivative of population size, the cross-jurisdictional comparison of citation costs and population would likely be similar. In other words, the comparative population between Seattle and Spokane would decrease or increase at a similar rate as the comparative number of citations issued in a single year. However, the data does not support this correlation. The following graph compares the difference in population to the difference in citation costs between Seattle and Spokane.



As illustrated in the graph above, in 2010 Seattle spent approximately ten times more than Spokane on citation issuance, even though Seattle's population was only approximately three times the size of Spokane's population. However, due to the converging trend in citation issuance between the two cities over the five year period, Seattle spent only twice as much on citation issuance as Spokane in 2013 while maintaining a similar difference in population. Since these ordinances disparately impact unsheltered people, this datum may be a reflection of the discrepancy between the unsheltered in Seattle and Spokane.<sup>46</sup> However, given the cost convergence in 2013, Seattle and Spokane's unsheltered population and vigilance in enforcement may be becoming more similar. In sum, the above graph shows that increased citation rates do not appear to correlate with in the overall populations in Seattle and Spokane.

<sup>45</sup> U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS: SPOKANE, WASHINGTON (2014) available at <http://quickfacts.census.gov/qfd/states/53/5367000.html> (citing 209,440 population in 2010 and projections of 209,754 and 210,721 for 2012 and 2013 respectively); U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS: SEATTLE, WASHINGTON (2014), available at <http://quickfacts.census.gov/qfd/states/53/5367000.html> (citing 209,440 population in 2010 and projections of 209,754 and 210,721 for 2012 and 2013 respectively).

<sup>46</sup> SEATTLE/KING COUNTY COAL. ON HOMELESSNESS, *Summary of the 2013 Unsheltered Homeless Count in Selected Areas of King County* (2013), available at <http://www.homelessinfo.org/resources/publications.php> (reporting 1989 unsheltered people in the one night count in Seattle).

For the people who are ultimately arrested for their conduct, cities incur additional costs associated with arrests. However, due to a lack of transparency, the costs for half of this report's identified ordinances cannot be tracked past the initial cost of issuing citations. This is due to a difference in how the conduct is classified. Conduct that is considered criminal is tracked from citation through incarceration. However, conduct that is considered a civil infraction is only tracked through citation issuance. The reason for this difference is because the civil infraction does not, itself, carry a criminal penalty and result in arrest and incarceration. Although this may be technically true, in reality there are various ways a civil infraction can escalate to criminal punishment. For many cities the majority of criminalization ordinances start as civil infractions; however, data on the number of such civil-to-criminal cases is not readily available. Therefore, this report does not account for a potential majority of the cost associated with enforcing criminalization ordinances. The following analysis illustrates these hidden costs.

## 2. *The Hidden Costs of Civil Infractions*

Although civil infractions can constitute the greatest percentage of criminalization laws in a given city,<sup>47</sup> the remainder of this report is necessarily limited to only reviewing certain minimum costs for criminal violations only. Ordinances that begin as criminal have a clear and consistent paper trail. When someone is arrested for criminal conduct they have a right to counsel and after going through the judicial process they are either sentenced or the case is dismissed. Anecdotal time-costs and proxies can be used to measure the costs at certain steps in this process. By contrast, civil infractions are much more difficult to track due to a lack of transparency.<sup>48</sup> This lack of transparency manifests itself through the various avenues where a civil infraction can morph into criminal punishment. This report identifies at least three avenues through which a civil infraction can escalate to criminal punishment: (1) ancillary ordinances, (2) failure to respond ordinances, and (3) the enhancement of criminal sentencing.

First, although it is true that a civil infraction itself does not carry a criminal penalty, some civil infractions have a related ancillary ordinance that does carry a criminal penalty. For example, under Seattle's Parks Exclusion ordinance, a police officer can ban an individual from a park for up to one year with an "exclusion notice" without charging the person with a crime or infraction.<sup>49</sup> This ordinance is civil and does not carry a criminal penalty. However, a related ancillary ordinance, the Parks Trespass ordinance, makes a violation of the exclusion notice a misdemeanor.<sup>50</sup> Under the Parks Trespass ordinance a person can be imprisoned for up to 364 days, even if the merits of the underlying exclusion notice are being appealed.<sup>51</sup> In other words, the Parks Trespass ordinance effectively adds a criminal punishment to the Parks Exclusion ordinance, which is considered a civil infraction. It is unclear how prevalent these related ancillary ordinances are and none are taken into account in this report.

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<sup>47</sup> Seattle classifies five of the six identified ordinances in Seattle as civil infractions. Spokane classifies six of the eight identified ordinances as civil infractions.

<sup>48</sup> In response to public records requests, both Seattle and Spokane indicated that the remaining seven ordinances were civil infractions, and therefore, did not track information relating to incarceration under these ordinances.

<sup>49</sup> SMC 18.12.278.

<sup>50</sup> SMC 18.12.279.

<sup>51</sup> *Id.*

Second, an individual may be incarcerated for failing to respond to a civil infraction. Under a Failure to Respond ordinance, a person can be prosecuted for a misdemeanor if he or she fails to respond to a civil infraction. This is particularly problematic for homeless people who typically do not have the means to pay a fine and often lack the means to appear in court to contest the infraction.<sup>52</sup> Unlike the related ancillary ordinance, a failure to respond can attach to any civil infraction. Although the information may ultimately be obtainable by tracking the failure to respond infraction back to the underlying citation, this exercise is not practical.

Third, civil infractions may be taken into account in sentencing for cases involving of criminal conduct in some jurisdictions.<sup>53</sup> For example, an advocate in Florida identified an Open Bottle ordinance that is civil in nature but is taken into account in sentencing for criminal offenses.<sup>54</sup> Although the prevalence of this sentencing practice in Washington is unclear, it is an additional way that civil infractions may escalate to criminal punishment. This creates another layer of inadequate transparency. The frequency at which this occurs is impossible to trace outside of anecdotal accounts.

The above examples effectively add criminal punishment to conduct that originated as a civil infraction. This “morphing” quality creates a lack of transparency—the punishment is no longer tied to the original civil infraction.<sup>55</sup> Additionally, there is evidence that cities intentionally use these civil ordinances to circumvent the due process rights of violators.<sup>56</sup> For example, in 2010 the Seattle Human Rights Commission opined that the adoption of the proposed aggressive panhandling ordinance violated an indigent offender’s right to due process by limiting their access to representation through a two-track system.<sup>57</sup> This proposed two-track system had two steps: first, it penalized an offender with a civil infraction and second, it escalated the civil infraction to criminal conduct if the offender failed to appear to contest the infraction or failed to pay the fine.<sup>58</sup> This ordinance did not pass and aggressive panhandling has remained criminal in Seattle and is encompassed in the Pedestrian Interference ordinance.

Due to the lack of transparency, the remainder of this study has a significant limitation: it can only account for minimum costs relating to the ordinances that start as criminal violations—which are only half of the identified criminalization ordinances in Seattle and Spokane. In other

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<sup>52</sup> Interview with Martin Powell, Public Defender, Society of Counsel Representing Accused Persons (Oct. 16, 2014) (expressing worry that homeless people he represents will not make court dates even if they are set).

<sup>53</sup> Although it is unclear whether and to what extent this may exist in Washington, a Florida activist identified their open container laws as infractions taken into account in sentencing. Telephone interview with Kirsten Clanton, Attorney, Southern Legal Counsel, Inc. (Mar. 3, 2015).

<sup>54</sup> *Id.*

<sup>55</sup> Note—it may be possible to trace all failure to respond misdemeanors back to their original infraction, however, this is beyond the scope and resources available for this report.

<sup>56</sup> Although it is unclear whether and to what extent this might be the case in Washington, a Colorado police officer identified a phenomenon where city the city council members reclassified criminal ordinances as civil when cases were not pursued on the merits. *See, e.g.*, interview by Bridget Barr and Joseph Ostrowski of Officer Daniel McCormack, Colorado Springs Police Department Homeless Outreach Team, SEATTLE UNIVERSITY HOMELESS RIGHTS ADVOCACY PROJECT (Feb. 20, 2015).

<sup>57</sup> SEATTLE HUMAN RIGHTS COMMISSION, REPORT TO THE SEATTLE CITY COUNCIL ON COUNCIL BILL 116807: AGGRESSIVE SOLICITATION 4-5 (Apr. 6, 2010), *available at* [http://www.seattle.gov/council/licata/attachments/20100406aggressive\\_solicitation\\_report.pdf](http://www.seattle.gov/council/licata/attachments/20100406aggressive_solicitation_report.pdf).

<sup>58</sup> *Id.*

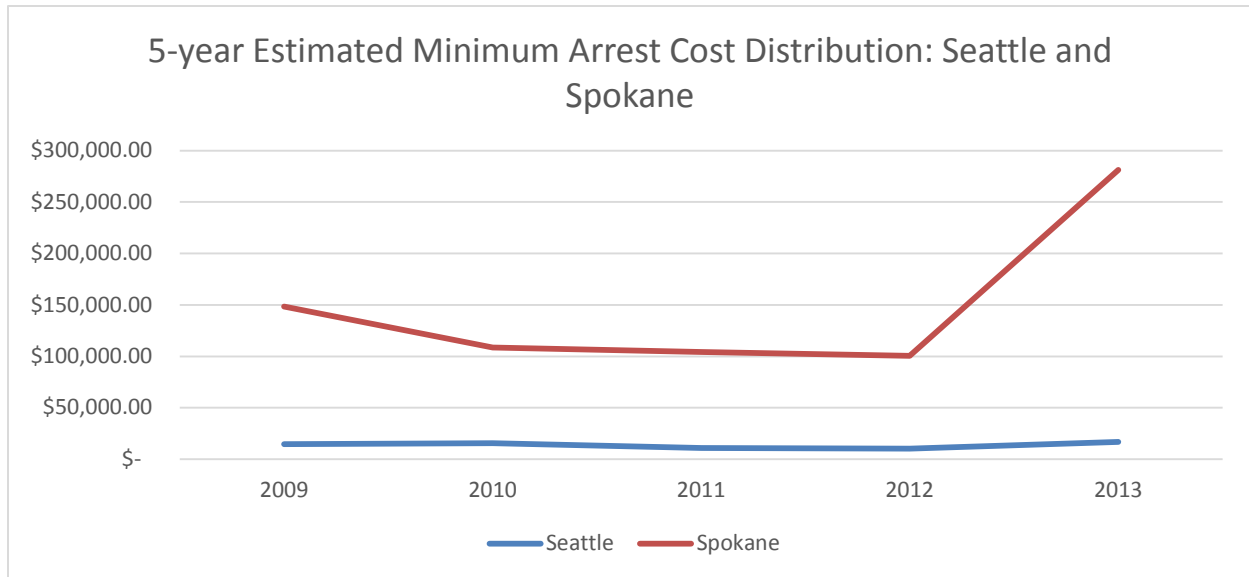


words, the cost of civil infractions are functionally hidden. Due to this and other indicated limitations, this report severely underestimates the total costs of criminalizing homelessness in both case studies.

### 3. Arrests

Although the number of people ultimately arrested is substantially fewer than those cited, the costs associated with arrests are significantly higher than the costs associated with citation issuance. Costs in this section were calculated using the unique case numbers that resulted in incarceration (UCN-I)<sup>59</sup> and Washington’s Institute for Public Policy’s \$734 average police cost per arrest for a misdemeanor.<sup>60</sup> The 93 people arrested in Seattle, combined with the 1,012 incarcerated in Spokane resulted in a 5-year total cost of approximately \$811,070. Combining this figure with the costs of citation issuance<sup>61</sup> results in a total of \$849,721.90 in projected costs for police time. Although the estimated costs of arrests are significant, they are underestimations.

First, Spokane has demonstrated a 5-year trend toward increased arrest and incarceration, while the 5-year trend in Seattle has remained relatively constant. As previously discussed, the way each city classifies criminalization ordinances has created significant limitations on the total cost estimates for the remaining sections.<sup>62</sup> The following graph illustrates the 5-year trends for arrest costs in Seattle and Spokane.



<sup>59</sup> Unlike the number of citations, which were based on the number of unique case numbers under each respective ordinance, arrests, along with judicial costs, were calculated using only unique case numbers that resulted in incarceration. This number is based on the responses by Spokane and Seattle Municipal Court to HRAP’s public records requests. These numbers underestimate actual totals because they do not take into account arrests that did not result in incarceration.

<sup>60</sup> STEVE AOS, ET AL., THE COMPARATIVE COSTS AND BENEFITS OF PROGRAMS TO REDUCE CRIME 82 (May 2001), available at <http://www.wsipp.wa.gov/ReportFile/756>.

<sup>61</sup> See *supra* Part II.A.1.

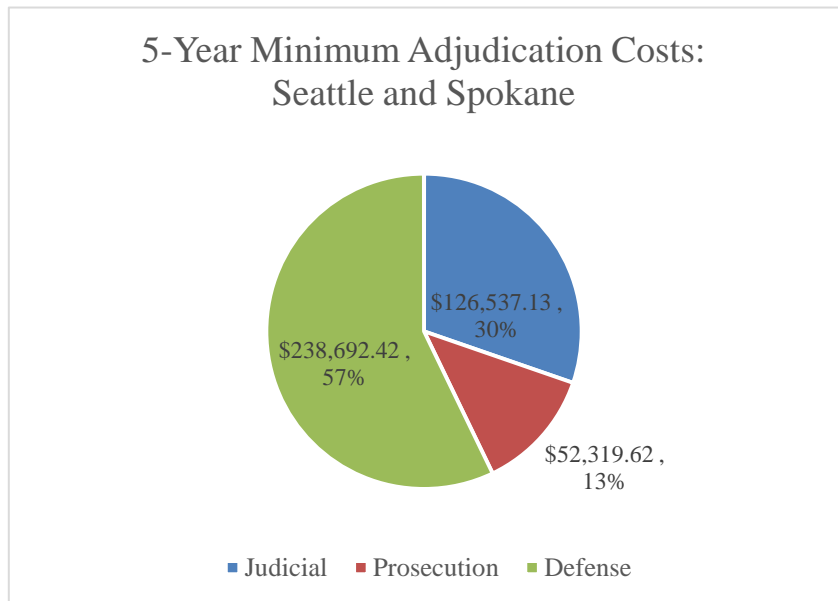
<sup>62</sup> In response to a public records request by the Seattle University Homeless Rights Advocacy Project, Seattle Municipal Court stated that it did not keep track of other identified ordinances, as they were “civil in nature” and “did not carry with them a criminal penalty.” See *supra* II.A.2.

Although the trend seems to indicate that Spokane spends more on arrests annually, the data from Seattle is significantly limited: Spokane’s costs are based on arrests attributed to six of Spokane’s eight (75%) identified criminalization ordinances, but estimated costs in Seattle can only be attributed to one of Seattle’s six (16%) identified criminalization ordinances.<sup>63</sup> Any civil infractions that evolve into criminal charges<sup>64</sup> are necessarily excluded from these estimates; if the relevant data was more readily available, the inclusion of that data could result in a dramatic increase in estimated arrest costs.

B. Adjudication Costs

Police costs are the initial costs incurred in enforcing these ordinances, but adjudication costs frequently follow. In the past five years, adjudicating violations of these ordinances cost Seattle and Spokane a

combined total of \$417,549.16. Such costs can be attributed to the major players that are involved in the adjudication process: judges, prosecutors, and defense attorneys. All of these groups are involved in criminalization cases. Therefore, this section provides insight into the costs incurred by the cities of Seattle and Spokane for the involvement of such groups through the implementation of a salary-based methodology.<sup>65</sup>



The baseline cost figure is calculated by taking the average amount of time spent on each case by judges, prosecutors, and defense attorneys, and multiplying that number by the average starting salary of each group.<sup>66</sup>

Yet, these projected figures are merely a fraction of the actual total costs. As indicated above, the amount and type of data available limited the scope of the calculations in these studies. The figures produced in these case studies do not include the costs for subsequent court appearances; the costs associated with stops and arrests for failing to appear; the costs that

<sup>63</sup> See *supra* Part II.A.2.

<sup>64</sup> *Id.*

<sup>65</sup> The salary figures used in this study were obtained from public records requests sent to the King County Public Records Department and Spokane Public Records Department.

<sup>66</sup> Starting salary is used because it is the most conservative, bottom-line cost that can be consistently found for various jurisdictions.

resulted from infraction citations; nor the costs of administrative staff time and work.<sup>67</sup> Moreover, each city only reported traceable data for violations that start as criminal in nature. Therefore, as with the report generally, this section presents a minimum estimated cost for adjudicating cases that criminalize homelessness.

To adjudicate criminalization cases, each judge, prosecutor, and defense attorney must invest time to properly prepare for their roles. For judges, each case can involve reviewing the case file, holding an initial hearing, holding a final hearing, and entering the final disposition.<sup>68</sup> Each prosecutor typically reviews the case file, performs a background check to verify the defendant's information, negotiates with the defense, conducts calendar preparation, attends the initial hearing, and attends a final review hearing to enter a disposition.<sup>69</sup> On the defense side, each case typically involves an intake hearing/arraignment, a client meeting, a pretrial hearing (which is usually continued at least once because the first meeting with the defendant is usually at court), negotiation with the prosecutor, and entering of a plea or trial.<sup>70</sup> Altogether, the time spent<sup>71</sup> on adjudicating cases that criminalize homelessness results in a great cost to taxpayers.

### 1. *Seattle's Minimum Adjudication Costs*

Seattle has six major ordinances related to the criminalization of homelessness that may result in criminal prosecution; however, Seattle only reported court data for one of the six (16%) identified ordinances.<sup>72</sup> The data is for Seattle's Pedestrian Interference ordinance. The following table uses hourly salary, time spent, and number of cases, to reflect the minimum estimated costs of adjudicating 16% of Seattle's ordinances over the past five years.

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<sup>67</sup> Please keep in mind that these are just some of the major players in the adjudication process. Therefore, costs associated with secondary players such as bailiffs, clerks, and other administrative staff are not considered. These secondary costs could eclipse the primary costs.

<sup>68</sup> Email from Karen Donohue, Judge, Seattle Municipal Court (Oct. 31, 2014, 16:09 PST).

<sup>69</sup> Telephone interview with Dan Okada, City Prosecutor, Seattle City Attorney's Office (Nov. 7, 2014).

<sup>70</sup> Martin Powell, *supra* note 52; Marcus Naylor, *Id.*

<sup>71</sup> Figures are empirical estimates gathered from interviews of Judge Karen Donohue, Judge Mary Logan, Prosecutor Dan Okada, and Public Defenders Martin Powell and Marcus Naylor.

<sup>72</sup> *See supra* Part II.A.2.

MINIMUM ESTIMATED ADJUDICATION COSTS: SEATTLE				
JUDICIAL COSTS				
Starting Salary	Hourly Rate	Average Amount of Time Spent Per Case	Number of Cases	Estimated Cost
\$141,436.95 <sup>73</sup>	\$73.67 <sup>74</sup>	.33 Hours <sup>75</sup>	93 <sup>76</sup>	\$2,283.77 <sup>77</sup>
PROSECUTION COSTS				
Starting Salary	Hourly Rate	Average Amount of Time Spent Per Case	Number of Cases	Estimated Cost
\$63,752 <sup>78</sup>	\$33.20 <sup>79</sup>	1.75 Hours <sup>80</sup>	93 <sup>81</sup>	\$5,403.30
DEFENSE COSTS				
Starting Salary	Hourly Rate	Average Amount of Time Spent Per Case	Number of Cases	Estimated Cost
\$62,544 <sup>82</sup>	\$32.58 <sup>83</sup>	5.5 Hours <sup>84</sup>	93 <sup>85</sup>	\$16,664.67
<b>TOTAL COSTS</b>			\$24,351.74	

<sup>73</sup> Judge Donohue, *supra* note 68. This figure was further broken down to an hourly rate of \$73.67.

<sup>74</sup> This figure was further broken down to a per 20 minute rate of \$24.56.

<sup>75</sup> Judge Donohue estimated that each case took about 5–20 minutes. This number is the high range of those two figures. *Id.* Due to the limited availability of information and the similarity in process, this figure is used as a proxy for both Seattle Municipal Court and its Community Court.

<sup>76</sup> This number is based on responses to public records requests by Seattle to Seattle University’s Homeless Rights Advocacy Project.

<sup>77</sup> The calculation of this cost figure does not include the amount of time spent for additional hearings when there is a violation of the agreed upon disposition.

<sup>78</sup> Email from Dan Okada, City Prosecutor, Seattle City Attorney’s Office (Oct. 29, 2014, 11:42 PST). This figure was further broken down to an hourly rate of \$33.20.

<sup>79</sup> This figure was converted to a 1.75 hour rate of \$58.10 for the calculation.

<sup>80</sup> Dan Okada, *supra* note 69; Judge Donohue, *supra* note 68; Email from Marcus Naylor, Public Defender, Northwest Defenders Association (Dec. 4, 2014, 11:32 PST).

<sup>81</sup> This number is based on responses to public records requests by Seattle to Seattle University’s Homeless Rights Advocacy Project.

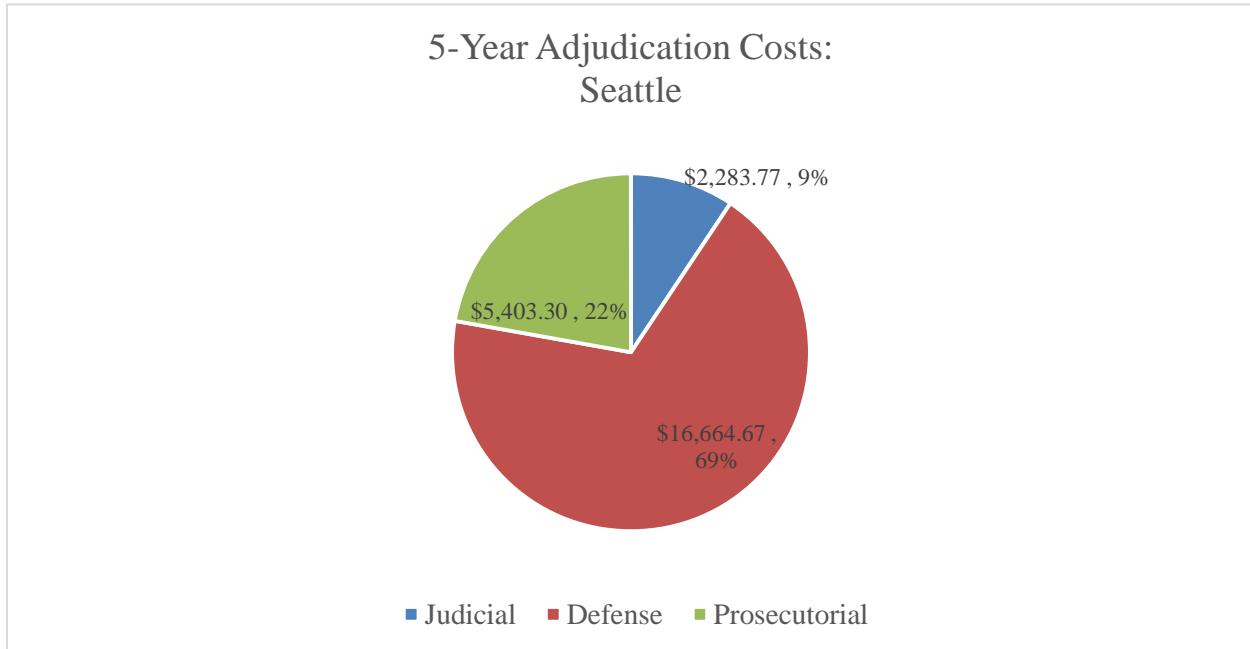
<sup>82</sup> This is an average of the yearly salaries for new attorneys at each of the four Seattle public defense firms: Associated Counsel for the Accused (\$76,416.00), Northwest Defenders Association (\$62,668.80), Public Defender Association (\$57,696.00), and Society of Counsel Representing Accused Persons (\$53,395.20). KING CNTY. PUBLIC RECORDS DEPARTMENT, DEPARTMENT OF PUBLIC DEFENSE PAYROLL 2013-8-15-14 (2013) (available from county).

<sup>83</sup> This is an average of the hourly rate for new attorneys at each of the four Seattle Public Defense firms: Associated Counsel for the Accused (\$39.80), Northwest Defenders Association (\$32.64), Public Defender Association (\$30.05), and Society of Counsel Representing Accused Persons (\$27.81). *Id.*

<sup>84</sup> This is an average of the two figures provided by King County public defenders Marcus Naylor (5 hours) and Martin Powell (6 hours). *See supra* note 52.

<sup>85</sup> This number is based on responses to public records requests by Seattle Municipal Court to Seattle University’s Homeless Rights Advocacy Project.

Altogether, the minimum estimated cost of adjudicating only 16% of Seattle’s criminalization ordinances was \$24,351.74.<sup>86</sup> As illustrated below, the majority of the projected costs are related to the defending these cases. Approximately 9% of the costs are judicial, 22% of costs are from prosecution and the remaining costs are defense costs.



The discrepancy in cost is largely a function of the amount of time each party spends on a case involving criminalization ordinances. The time reported by judges and prosecutors on matters involving criminalization ordinance paled in comparison to the time on these cases by defense counsel.<sup>87</sup> The reason for the discrepancy in time spent is unclear; however, one may speculate that the violation of these ordinances are “open and shut” cases for prosecutors and judges, while those responsible for defending these cases must spend extra time finding a way to protect the rights of individual violators.

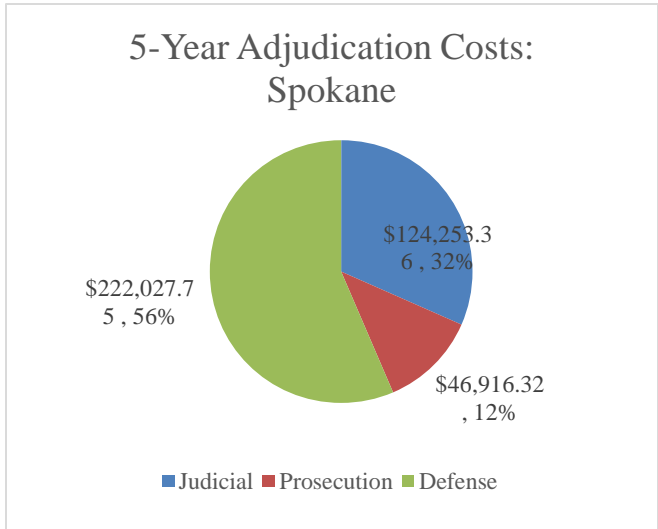
<sup>86</sup> Seattle’s adjudication data only encompasses one of the six identified ordinances. *See supra* Part II.A.2.

<sup>87</sup> Dan Okada, *supra* note 69; Email from Judge Donohue, Judge, *supra* note 68; Marcus Naylor, *supra* note 69.

2. *Spokane’s Minimum Adjudication Costs*

Spokane has eight major ordinances related to the criminalization of homelessness that may result in criminal prosecution; however, Spokane only reported court data on 6 of the 8 ordinances (75%).<sup>88</sup> Violations of these ordinances are primarily handled in the Spokane Municipal Court and its Community Court.

For judges, prosecutors, and defense attorneys in Spokane, the process of adjudication is similar to that of Seattle. Likewise, public records requests and interviews of judges and attorneys were also able to provide information on such ordinances. However, Seattle data was used as a proxy where Spokane-specific time commitment data was unavailable. The following table breaks down the hourly salaries, average time spent, number of citations issued, and minimum estimated cost of enforcing criminalization ordinances in Spokane.



<sup>88</sup> CITY OF SPOKANE, COPY OF SPOKANE MUNICIPAL COURT DATA (2013) (available from city).

MINIMUM ESTIMATED ADJUDICATION COSTS: SPOKANE				
JUDICIAL COSTS				
Starting Salary	Hourly Rate	Average Amount of Time Spent Per Case	Number of Cases	Estimated Cost
\$141,436.95 <sup>89</sup>	\$73.67 <sup>90</sup>	1.67 Hours <sup>91</sup>	1,012 <sup>92</sup>	\$124,253.36
PROSECUTION COSTS				
Starting Salary	Hourly Rate	Average Amount of Time Spent Per Case	Number of Cases	Estimated Cost
\$55,311.12 <sup>93</sup>	\$26.49 <sup>94</sup>	1.75 Hours <sup>95</sup>	1,012 <sup>96</sup>	\$46,916.32
DEFENSE COSTS				
Starting Salary	Hourly Rate	Average Amount of Time Spent Per Case	Number of Cases	Estimated Cost
\$83,290.32 <sup>97</sup>	\$39.89 <sup>98</sup>	5.5 Hours <sup>99</sup>	1,012 <sup>100</sup>	\$222,027.74
<b>TOTAL COSTS</b>				\$393,197.42

As illustrated by the table above, the majority of time and cost adjudicating criminalization ordinances is accrued in the defense. One discrepancy between Spokane and Seattle is the judicial time spent. Spokane judges reported over an hour spent for each criminalization case, while Seattle judges reported approximately 20 minutes spent for each case.

<sup>89</sup> Because the salary of municipal court judges is statutorily set, the same figure for Seattle is used. *See* Email from Mary Logan, Judge, Spokane Municipal Court (Nov. 19, 2014, 12:46 PST).

<sup>90</sup> The annual salary figure was broken down to this hourly rate and then converted to a 1.67 hour rate of \$122.78.

<sup>91</sup> This time figure does not fully account for the judicial contact required to present proof of community service or continued contact with service providers, which typically takes about 5–30 minutes each week until the defendant's disposition is completed. Because the minimum amount of time to complete a disposition is 4 weeks (may be up to 6 months), this figure only includes 20 minutes per week for 4 weeks. The total costs associated with this additional contact alone is reasonably believed to eclipse the judicial costs set forth in this report.

<sup>92</sup> This number is based on responses to public records requests by the City of Spokane to Seattle University's Homeless Rights Advocacy Project.

<sup>93</sup> CITY OF SPOKANE, CITY OF SPOKANE STAFF SALARY CHART (2013).

<sup>94</sup> *Id.* This figure was converted to a 1.75 hour rate of \$46.36.

<sup>95</sup> This figure was extrapolated from the Seattle data due to the limited amount of information available.

<sup>96</sup> Olson & MacDonald, *supra* note 2.

<sup>97</sup> CITY OF SPOKANE, *supra* note 93.

<sup>98</sup> *Id.*

<sup>99</sup> This figure was extrapolated from the Seattle data due to the limited amount of information available.

<sup>100</sup> Olson & MacDonald, *supra* note 2.

### C. INCARCERATION COSTS

Incarceration costs constitute the most significant portion of the costs associated with criminalization ordinances. However, quantification of incarceration costs is subject to three general limitations.

First, the section is limited due to the lack of transparency for civil-to-criminal violations.<sup>101</sup> Second, the data is simply based on the time sentenced in the adjudication process—not the time actually spent in incarceration.<sup>102</sup> Depending on the actual time spent incarcerated, these numbers may overestimate or underestimate actual costs. Third, it is difficult to segregate how many of the days sentenced are for the violation of the ordinance or for an additional associated crime. For example, under the Pedestrian Interference ordinance in Seattle, some people were sentenced to 364 days, while others were sentenced to as few as two days.<sup>103</sup>

#### COSTS AT A GLANCE: INCARCERATION

**Seattle:** Potentially spent over \$2 million incarcerating people for violating criminalization ordinances over the last 5 years.

**Spokane:** Potentially spent over \$190,000 incarcerating people for violating criminalization ordinances over the last 5 years.

Although some defendants who received longer prison sentences faced additional charges such as assault,<sup>104</sup> in such cases, it is unclear how many days of the overall sentence can be attributed to the violation of the criminalization ordinance. Significantly, Seattle's data revealed at least one instance where an individual was sentenced to 364 days<sup>105</sup> for the violation of the Pedestrian Interference ordinance alone.<sup>106</sup> Additionally, it is difficult to track how many days were actually served after individuals were sentenced.<sup>107</sup> Given these limitations in incarceration data, the following incarceration costs will be illustrated sliding scale.<sup>108</sup> Subject to these limitations, the following is an analysis of daily bed costs and medical costs during incarceration.

<sup>101</sup> See *supra* Part II.A.2.

<sup>102</sup> Although Spokane supplied HRAP with suspended time and time sentenced, Seattle did not. In order to keep data sets consistent, Spokane's and Seattle's incarceration costs both include suspended time. As more precise data becomes available, these numbers will be updated.

<sup>103</sup> Olson & MacDonald, *supra* note 2.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> It is currently unclear whether what, if any, incarceration was suspended for Seattle's incarceration data.

<sup>107</sup> Judges, particularly in Seattle, would sentence individuals to the statutory maximum and implement suspended sentences. Additionally, it is unclear how many individuals have their sentences reduced during incarceration.

<sup>108</sup> For the purposes of this report, the sliding scale will give costs for one-third, two-thirds, and all of the days sentenced.



### 1. Daily Bed Costs

Daily bed costs are incurred each night an individual stays in custody and may be the highest total cost associated with criminalization ordinances. The following analysis establishes estimates for the daily bed cost in Seattle and Spokane. Totals are established on a sliding scale and their respective trends are analyzed assuming individuals serve full sentences.

#### a) Seattle's minimum daily bed costs

The methodology used was the product of the jurisdiction-specific daily bed rate<sup>109</sup> and number of days incarcerated.<sup>110</sup> The following table shows the days sentenced, daily bed rate, and total minimum estimated daily bed cost for reported violations of the Pedestrian Interference ordinance in Seattle.<sup>111</sup>

ESTIMATED MMINIMUM DAILY BED COSTS: SEATTLE					
	Days Sentenced	Daily Bed Rate	Total (Serving Full Sentences)	Total (Serving 2/3 of Days Sentenced)	Total (Serving 1/3 of Days Sentenced)
2009	2262	\$125.40 <sup>112</sup>	\$283,653.80	\$189,103.20	\$94,551.60
2010	4098	\$126.00 <sup>113</sup>	\$516,348.00	\$344,232.00	\$172,116.00
2011	2261	\$127.53 <sup>114</sup>	\$288,345.33	\$192,230.22	\$96,115.11
2012	770	\$128.63 <sup>115</sup>	\$99,045.10	\$66,030.07	\$33,015.03
2013	5826	\$131.53 <sup>116</sup>	\$766,293.78	\$510,862.52	\$255,431.26
<b>Total</b>	15,217	--	\$1,953,686.01	\$1,302,458.01	\$651,229.00

As illustrated in the table above, Seattle's daily bed costs totaled somewhere between \$650 thousand and \$2 million over the five year period, depending on the number of days

<sup>109</sup> Although Seattle's jurisdiction-specific data was available for most years, information for Spokane went unreported in all five years. Therefore, a proxy was used for the daily bed rate in Spokane. The proxy for each year was calculated by using the average of all reported counties in Washington for each respective year.

<sup>110</sup> WASHINGTON ASS'N OF SHERIFFS & POLICE CHIEFS, ANNUAL JAIL STATISTICS (2013), available at <http://www.waspc.org/crime-statistics-reports>.

<sup>111</sup> Table totals are based on inmates serving full sentences, two-thirds of days sentenced, and one-third of days sentenced.

<sup>112</sup> King County jail data not available. This number is based off the average of the reported average daily bed rate in 2009 compared to the average in 2013.

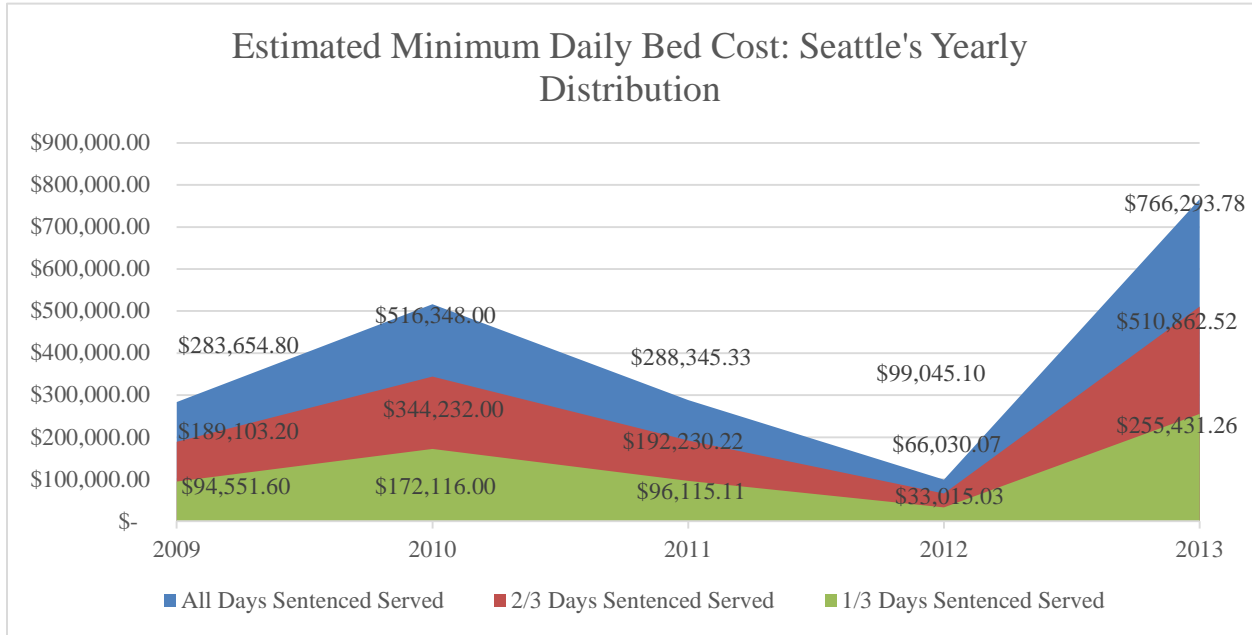
<sup>113</sup> WASHINGTON ASS'N OF SHERIFFS & POLICE CHIEFS, *supra* note 110 (citing a \$126.00 average daily bed rate for 2010 in King County).

<sup>114</sup> King County jail data not available. This number is based off of the average of the reported average daily bed rate in 2011 compared to the average in 2013.

<sup>115</sup> King County jail data not available. This number is based off of the average of the reported average daily bed rate in 2012 compared to the average in 2013.

<sup>116</sup> WASHINGTON ASS'N OF SHERIFFS & POLICE CHIEFS, *supra* note 110 (citing a \$131.53 average daily bed rate for 2013 in King County). In response a public records request, Seattle Municipal Court confirmed daily \$131.53 bed rate in contract with King County Jail.

served.<sup>117</sup> The following graph shows the five year daily bed cost distribution for Seattle’s Pedestrian Interference ordinance.



Unlike the costs associated with reported citation issuance,<sup>118</sup> which followed a decreasing five year trend, the totals for incarceration costs in Seattle have increased over the last five years, with a sharp increase in days sentenced in 2013.<sup>119</sup> This means that although Seattle issued fewer citations in 2013 than in previous years, the number of days sentenced and the associated daily bed costs exceeded the previous five years.”<sup>120</sup> Spokane, on the other hand, followed a different trend.

<sup>117</sup> As previously mentioned, there was wide variance in the sentencing range under Seattle’s Pedestrian Interference ordinance. One explanation for this wide variance in sentencing length is the fact that some cases had additional charges, while others did not. Given the difficulty in determining how many of the days sentenced can be attributed to the Pedestrian Interference ordinance, the above numbers are the best current estimate of the daily bed costs incurred as a result of the violation of Seattle’s Pedestrian Interference ordinance.

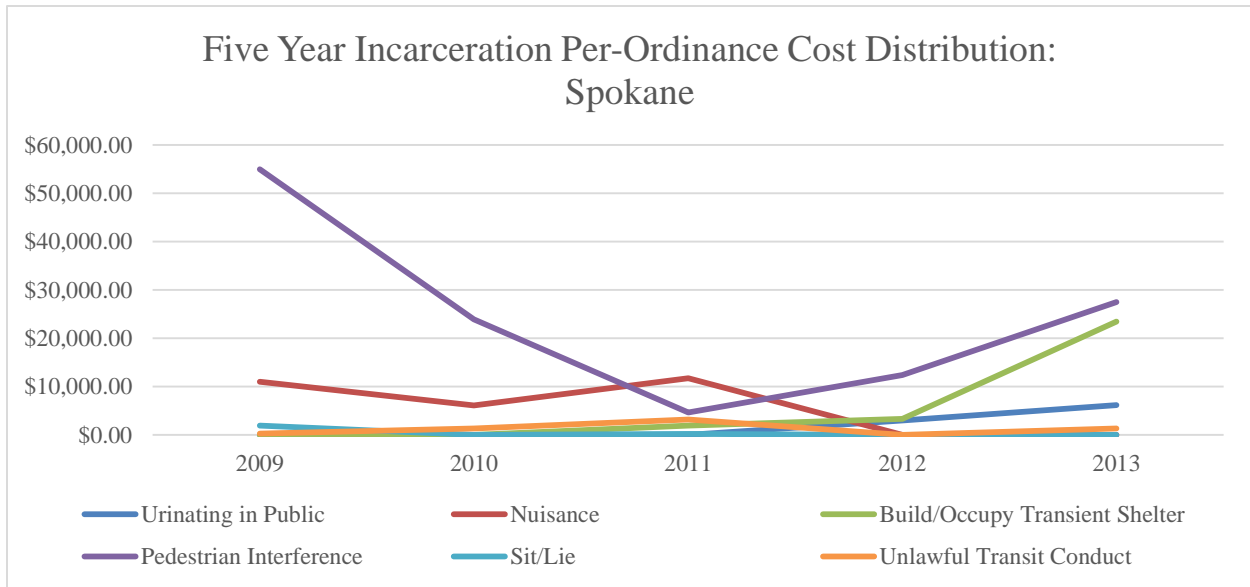
<sup>118</sup> See *supra* Part I.A.1.

<sup>119</sup> The cause of this spike in incarceration are unclear. However, as discussed earlier, the Seattle data is currently incomplete because Seattle Municipal Court does not track incarceration data on the other criminalization ordinances identified because they are not classified as a “criminal offense.” See *supra* Part II.A.2.

<sup>120</sup> See generally Olson & MacDonald, *supra* note 2.

b) Spokane’s Minimum Daily Bed Costs

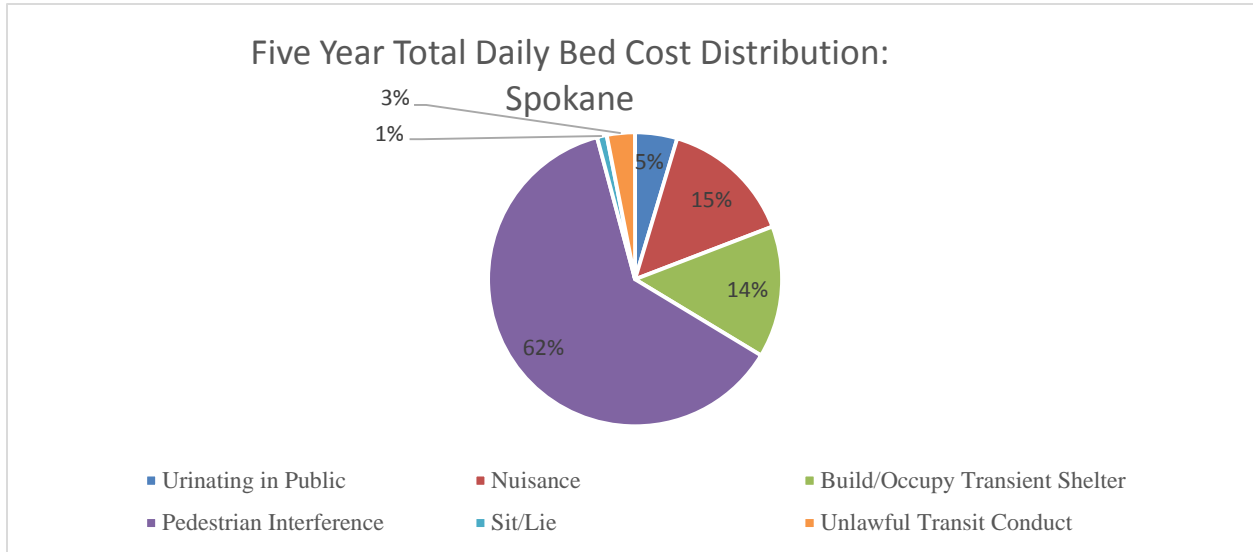
Spokane responded with sentencing statistics for six ordinances of the eight ordinances identified in the Homeless Rights Advocacy Project’s public records request.<sup>121</sup> This made a five year distribution for six of the eight identified ordinances possible. The following graph illustrates the distribution of daily bed costs for these six ordinances.<sup>122</sup>



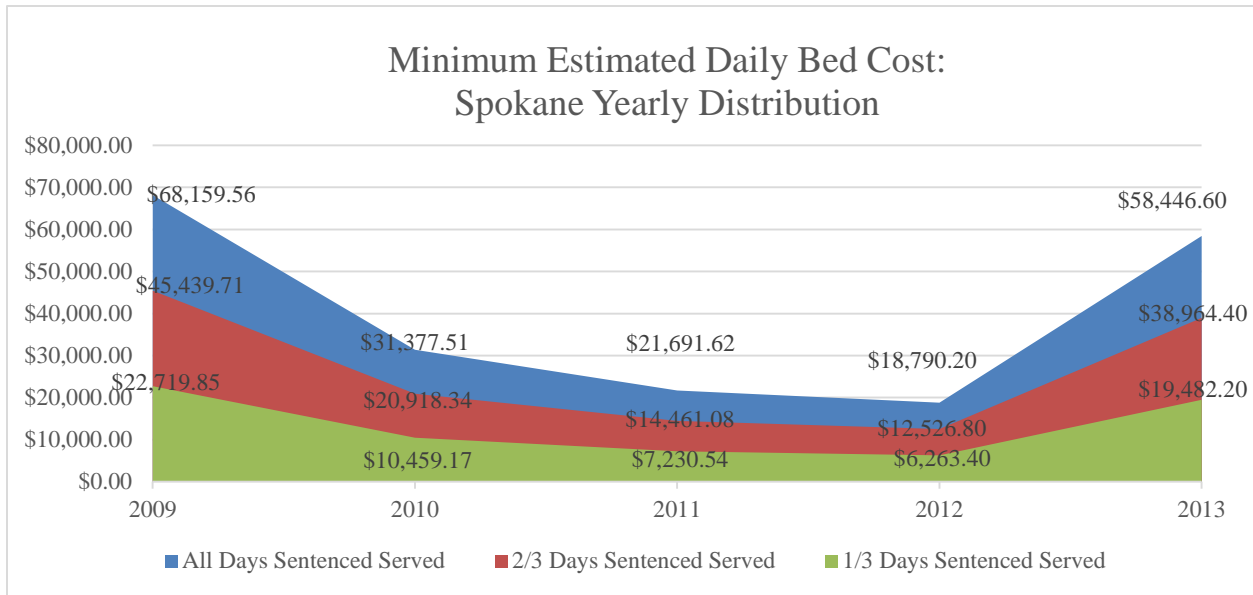
As the chart above illustrates, the incarceration costs under Spokane’s Pedestrian Interference ordinance followed a different trend than Seattle’s Pedestrian Interference ordinance. In contrast to Seattle’s Pedestrian Interference ordinance, which saw the highest number of days sentenced in 2013, Spokane saw the highest number of days sentenced in 2009. This was followed by a sharp decrease in sentences from 2010 to 2012. Spokane’s trend followed Seattle’s trend with a distinct spike in sentencing in 2013. The following graph illustrates the yearly distribution of incarceration cost totals between Spokane’s six ordinances that are considered criminal.

<sup>121</sup> See generally Olson & MacDonald, *supra* note 2.

<sup>122</sup> This graph was calculated assuming all days sentenced were served served.



As illustrated in the graph above, of six reported ordinances, Spokane’s Pedestrian Interference ordinance generated the highest daily bed cost, constituting 62% of the total cost between the six reported ordinances. Pedestrian Interference<sup>123</sup> consistently resulted in the highest sentences per year and, therefore, yielded the greatest daily bed cost. In contrast, Spokane’s Sit/Lie ordinance, which prohibits sitting or lying on the sidewalk, consistently resulted in the shortest sentences. It is interesting to note that an individual could be sentenced under either ordinance for the similar conduct—sitting or lying on the sidewalk. However, for reasons unclear, people are facing sentences more frequently under the Pedestrian Interference ordinance. The graph below illustrates the total daily bed costs for the six reported ordinances in Spokane.



<sup>123</sup> SMC 10.10.025.

As illustrated by the graph above, Spokane's highest rates of incarceration for six of the eight identified criminalization ordinances was highest in 2013 and 2009. If all of the days sentenced get served, Spokane will have accrued over \$68,000 in cost in 2009. The total estimated minimum daily bed cost for Spokane is \$198,465.49 for the five-year period. Adding these numbers to Seattle's five-year totals results in a potential \$2.1 million<sup>124</sup> in taxpayer money spent on daily bed costs for during the five years between the two cities. Although this cost is substantial, there are costs not accounted for in these estimates. For example, inmates frequently suffer from medical issues that must be addressed during incarceration, resulting in medical costs in addition to daily bed costs during incarceration.<sup>125</sup> The following section estimates the minimum medical costs during incarceration that can be directly associated with criminalization ordinances.

## 2. Medical Costs

Medical costs during incarceration are an additional cost incurred in enforcing criminalization ordinances. Unlike daily bed costs, which are determined by the daily bed rate set by the relevant institution, medical costs vary by individual. In a recent comprehensive study on prison health care spending, the Pew Charitable Trust found that annual health care costs per-inmate in prison approximated \$7,000 in 2011 in Washington state.<sup>126</sup> Using this number as a proxy, the annual \$7,000 breaks down to approximately \$19.18 per day in medical costs.

Although the \$7,000 per annum estimate is based on the general prison population, not the jail population, this proxy can be used as an estimate to calculate potential medical costs for defendants who received sentences for Seattle and Spokane. Estimates for the total medical costs in this section are calculated by multiplying per-day medical cost proxy by the number of days sentenced under criminalization ordinances.<sup>127</sup> Medical costs are calculated by the daily medical costs by the number of days sentenced in Seattle and Spokane. These conservative estimates show a combined projected total for medical costs of \$334,710 over a five-year period, \$123,731.51 of which was accrued in 2013.

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<sup>124</sup> Assuming all days sentenced are served. This total is reduced to \$1,434,768.33 if two-thirds of days sentenced are served and \$717,384.17 if one third of days sentenced are served.

<sup>125</sup> THE PEW CHARITABLE TRUSTS & MACARTHUR FOUND., STATE PRISON HEALTH CARE SPENDING (July 2014), available at <http://www.pewtrusts.org/~media/Assets/2014/07/StatePrisonHealthCareSpendingReport.pdf>.

<sup>126</sup> *Id.*

<sup>127</sup> Note, the number of days sentenced for Seattle comprise only 16% of the identified ordinances, while the number of days sentenced for Spokane comprise 75% of identified ordinances. See *supra* Part II.A.2.

ESTIMATED MEDICAL COSTS: SEATTLE AND SPOKANE				
Municipality	Days Sentenced: 5-year	Medical Costs: 5-year Total (Serving Full Sentences)	Medical Costs: 5-year Total (2/3 of Sentences Served)	Medical Costs: 5-year Total (1/3 of Sentence Served)
Spokane	3015 <sup>128</sup>	\$57,827.70	\$38,551.80	\$19,275.90
Seattle	15,217 <sup>129</sup>	\$291,832.06	\$194,574.71	\$97,278.35
<b>Total</b>	<b>17,451</b>	<b>\$349,659.76</b>	<b>\$233,126.51</b>	<b>\$116,554.25</b>

As illustrated above, minimum medical costs in Seattle and Spokane ranged from \$116,500 to \$350,000 for the five year period. However, this cost range likely underestimates the actual costs associated with medical care during incarceration for the homeless. The \$7,000 annual average used as a proxy in this calculation is based on the general prison population,<sup>130</sup> and does not take into account the particularly high proportion of the homeless population with severe mental health and substance abuse issues.<sup>131</sup> Given the fact that criminalization ordinances disparately impact homeless people, the cost may be more substantial. Subject to the same limitations and trends as daily bed rates,<sup>132</sup> a conservative estimate of Seattle and Spokane's combined total for medical and daily bed costs is approximately \$2,435,321.36.

### III. Alternatives: A Compilation of Cost-Saving Studies

Instead of criminalizing homelessness through the enforcement of various ordinances, policymakers should consider non-punitive alternatives that have been shown to be more effective, both in terms of costs and in terms of directly addressing the problem of homelessness. These alternatives seek to address the major problem that homeless people face: housing and shelter. This can be done a variety of ways, including taking preventative measures to help a person before they become homeless.

The most prominent of these alternatives is the Housing First Movement, which is based on the belief that first addressing and solving the primary problem of permanent housing will have a positive domino-effect, resolving many other problems that homelessness presents to

<sup>128</sup> See generally Olson & Macdonald, *supra* note 2.

<sup>129</sup> This number is only the violation of SMC 12A.12.015—In response to a Public Records Request made by the HRAP, Seattle Municipal Court stated it did not keep track of other identified ordinances, as they were “civil in nature” and “did not carry with them a criminal penalty.”

<sup>130</sup> THE PEW CHARITABLE TRUSTS & MACARTHUR FOUND., *supra* note 125, at 7 (citing 19% of costs attributable to care associated with mental health and substance abuse).

<sup>131</sup> See Lurie & Schuster, *supra* note 29 (discussing the significant overlap of homelessness and individuals with substance abuse and mental health issues).

<sup>132</sup> See *supra*, Part II.C.1.

homeless people and society generally.<sup>133</sup> With stable housing, homeless people no longer need to worry about finding a place to sleep each night; instead, they can focus on other issues such as finding employment, rehabilitating various health challenges, and otherwise being a more active and productive member of the community.<sup>134</sup> However, the reality is that stable and permanent housing cannot be immediately provided to all homeless people. Logistical issues, such as finding appropriate housing sites, and financial issues, such as finding willing funders, are major obstacles to overcome.<sup>135</sup> Therefore, while permanent housing should still be the standard, other transitional housing options can be considered as well, at least until permanent housing systems are set up.

#### A. Local Scene—Washington

In Washington, while many cities and municipalities continue to enforce various ordinances that disparately impact homeless people, there also has been a movement to address the problem of homelessness through other alternatives. Providing permanent housing<sup>136</sup> and temporary shelter<sup>137</sup> are two common methodologies. This section surveys a few of these efforts and provides insight into the different alternatives that have been pursued in Washington.

##### 1. *Permanent Housing*

In Seattle, the Housing First movement demonstrates potential savings from providing permanent housing. The local movement first started to materialize in 1997.<sup>138</sup> The city sought to end chronic homelessness by providing rapid access to low-cost apartments, with vital medical, mental health, and other support services.<sup>139</sup> Advocates believed that it was “more humane, a more successful and a more cost-effective method than paying for these same people to cycle in and out of the emergency room, the sobering center or jail.”<sup>140</sup> By 2010, the city had 280 Housing First units in operation.<sup>141</sup> One of these units is 1811 Eastlake,<sup>142</sup> which provided housing and treatment to homeless chronic alcoholics and, uniquely, did not require either sobriety or participation in any of the services offered.<sup>143</sup> This unit was the subject of a three-year study by the Downtown Emergency Service Center and the University of Washington’s

<sup>133</sup> See generally NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 25; see also NAT’L ALLIANCE TO END HOMELESSNESS, SUPPORTIVE HOUSING IS COST EFFECTIVE (2007), available at <http://www.endhomelessness.org/library/entry/supportive-housing-is-cost-effective>.

<sup>134</sup> *Id.*

<sup>135</sup> See, e.g., BUILDING CHANGES, THE SOUTH KING COUNTY HOUSING FIRST PILOT 10-11 (2010).

<sup>136</sup> DOWNTOWN EMERGENCY SERVICE CENTER, 1811 “Housing First” Project, OFFICE OF HOUSING, <http://www.seattle.gov/housing/homeless/1811.htm> (last visited Nov. 14, 2014).

<sup>137</sup> Ilona Berzups, *Tent City, a primer*, ILONA BERZUPS PHOTOGRAPHY (2011), <http://www.ilophotography.com/essay-tent-city-a-primer>.

<sup>138</sup> See *Housing First*, OFFICE OF HOUSING, <http://www.seattle.gov/housing/homeless/HousingFirst.htm> (last visited Nov. 14, 2014).

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Downtown Emergency Service Center*, *supra* note 136.

<sup>143</sup> Kristofor Husted, *A Permanent Home That Allows Drinking Helps Homeless Drink Less*, NPR (Jan. 23, 2012), <http://www.npr.org/blogs/health/2012/01/19/145477493/a-permanent-home-that-allows-drinking-helps-homeless-drink-less>.

Addictive Behavior Research Center. The study found that it cost \$1,120 to house an individual each month at 1811 Eastlake.<sup>144</sup> After its inaugural year, after housing 95 residents, the movement was shown to save taxpayers more than \$4 million dollars.<sup>145</sup> The study found the following:

In the year prior to the study, housed participants accrued a median \$4066 per month per individual of use costs. Thus, in the year prior to intervention, \$8,175, 922 in costs were accrued by the 95 people who received housing. Individual median costs per month drop notably after 6 months (\$1492) and again at 12 months (\$958), and total costs for the housed group for the year after enrollment in housing were \$4,094,291. Wait-list control participants accrued median costs of \$3318 per month per individual in the year prior to the study, dropping to \$1932 at 6 months. A similar pattern held up across most outcomes, with the exception of EMS services, which showed a slight increase at 6 months for HF participants before dropping at 12 months.<sup>146</sup>

In other words, median cost per person dropped by 64% in the first six months housed and dropped an additional 10% in the remaining six months.<sup>147</sup> Additionally, a similar savings of 40% was experienced for the control group.<sup>148</sup> These findings provide a glimpse of the potential benefits that can result from providing permanent housing. Although this is only one such study, it illustrates the cost savings resulting from investment in the Housing First method.

Beyond cost savings, the Housing First method has also provided many other benefits in South King County. In its pilot season, 2007–2008, the King County Housing Authority, in conjunction with several other partners,<sup>149</sup> launched its own Housing First Project in South King County. The project provided permanent supportive housing for 25 chronically homeless single adults<sup>150</sup> in South King County and was later expanded to 50 people.<sup>151</sup> To provide housing, the King County Housing authority developed a “sponsor-based” Section 8 approach designed to limit rent contributions to no more than 30 percent of an individual’s monthly income.<sup>152</sup>

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<sup>144</sup> Mary E. Larimer et al., *Health Care and Public Service Use and Costs Before and After Provision of Housing for Chronically Homeless Persons With Severe Alcohol Problems*, 301 JAMA 13 (2009), available at <http://jama.jamanetwork.com/article.aspx?articleid=183666>.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> These partners included the King County Department of Community and Health Services, the United Way of King County, Sound Mental Health, and Health Care for the Homeless – Seattle & King County. BUILDING CHANGES, *supra* note 135.

<sup>150</sup> The initial 25 people were mostly Caucasian males; their average age was 44 years old; their average length of homelessness prior to participating in the project was more than three years; most had no source of income (only two had employment income); all 25 had a diagnosed mental illness and two-thirds also had a substance use problem; all 25 entered the program as chronically homeless (21 of 25 being homeless for more than one consecutive year prior to entry); and six were veterans of U.S. armed services. *Id.* at 15.

<sup>151</sup> *Id.* at 5.

<sup>152</sup> *Id.*



Under this approach, the project sponsor (typically a nonprofit human services or housing provider) receives funding directly from the housing authority, and uses the funding to lease units from private landlords. The project sponsor then recruits tenants to participate in the program and establishes subleases with each tenant. The project sponsor is therefore able to guarantee vacancy payments to the landlord and assuage potential landlord concerns over anticipated higher turnover rates for high-risk tenants and tenant damages. The sponsor also serves as a single point of contact for landlords who lease multiple units through the program.<sup>153</sup>

Applying this approach, the King County Housing Authority was able to provide rent subsidies<sup>154</sup> to 25 chronically homeless people, which ultimately improved their situations.<sup>155</sup> Housing was provided to all of the participants and almost all of them (21) remained in housing for at least six months to a year.<sup>156</sup> Furthermore, the program assisted participants with their mental health and substance use issues. The program connected more than 90 percent of participants to primary-care and chemical-dependency specialists, and seven of the 16 participants who did not have Medicaid upon enrollment obtained it in the first year.<sup>157</sup> The program also connected participants to sources of income: 12 of the 18 participants initially with no income gained an income source, which more than doubled participants' average income.<sup>158</sup> As a result of this project as a whole, participants reduced their reliance on many expensive public systems: (1) Harborview and Valley Medical Center inpatient and emergency room contacts were reduced by 41 percent; and (2) jail bookings were reduced by 76 percent.<sup>159</sup> Although the cost savings were not calculated, the reduction in emergency room contacts and jail bookings illustrate two important benefits offered by the Housing First method.

## 2. Temporary Shelter

With a homeless population of at least 6,000 people,<sup>160</sup> Seattle has also shown a willingness to pursue other alternatives and provide homeless people with temporary shelter. One example of this effort is the establishment of tent cities, like Nickelsville, which are encampments of tents and small cabin structures set up at various host sites across the city.<sup>161</sup>

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<sup>153</sup> *Id.* at 5-6.

<sup>154</sup> The most common form of permanent supportive housing use was a single-site 40-unit, or larger, apartment building. *Id.* at 8.

<sup>155</sup> The average cost of rent (including utilities) for all apartments in the project was \$713 per month and the average monthly contribution was \$74 per person. *Id.* at 14.

<sup>156</sup> *Id.* at 16.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> SEATTLE/KING CNTY. COAL. ON HOMELESSNESS, 2014 ONE NIGHT STREET COUNT (2014), available at <http://homelessinfo.org/>.

<sup>161</sup> John Iwasaki, *Homeless start settling in fuchsia 'Nickelsville'*, SEATTLE POST INTELLIGENCER (Sept. 22, 2008) <http://www.seattlepi.com/local/article/Homeless-start-settling-in-fuchsia-Nickelsville-1285979.php>; Aaron Burkhalter, *Back together*, REAL CHANGE (Aug. 27, 2014) <http://realchangenews.org/index.php/site/archives/9308>.

While such encampments have been controversial within the city and have stimulated both support and opposition, the encampments provide shelter to numerous people and families.<sup>162</sup>

In terms of costs, these sites require permitting through the city, which may cost anywhere from \$200 to \$3,500, depending on the site.<sup>163</sup> Furthermore, the estimated cost to run an encampment is approximately \$4,500–\$5,500 per month (about \$45–55 per resident), which covers the many operation and site needs, such as portable restrooms and other sanitation needs, a dumpster, waste removal, and daily bus tickets, among other things.<sup>164</sup> However, one such encampment also reported that the cost of sheltering 100 people incurred a total cost of \$3,000 month.<sup>165</sup> These camps provide a glimpse into the relatively limited cost of temporary shelter. Even with the current efforts to provide affordable housing, average rent prices in Washington are so high that a families' inability to affordably pay rent is the rule, not the exception.<sup>166</sup> This issue makes one thing clear: temporary shelter is an important non-punitive alternative to criminalization.

## B. National Scene

Nationally, some promising efforts aim to end chronic homelessness and help get people back on their feet.<sup>167</sup> Different jurisdictions approach this goal in different ways; however, one aspect remains constant—the focus is to provide housing. Whether it is permanent housing or temporary housing, the main objective of these efforts is to provide shelter. Although providing permanent housing has been shown to result in extensive benefits, temporary housing and shelter is often an interim solution to help homeless people off the streets.<sup>168</sup> While permanent housing systems are being established, both options can be considered to help relieve the foremost problem that homeless people face and need: a safe place to stay.

<sup>162</sup> *Families of Nickelsville Jackson Street*, LOW INCOME HOUSING INST. (2013), <https://www.youtube.com/watch?v=GLaswXLSaas>; Vanessa Ho, *Sign of grim times: Kids in Nickelsville*, SEATTLE POST INTELLIGENCER (Nov. 6, 2011) <http://www.seattlepi.com/local/article/Sign-of-grim-times-Kids-in-Nickelsville-2255880.php>.

<sup>163</sup> In reference to a move in March of 2009 from the University Congregational United Church of Christ to Bryn Mawr United Methodist Church, the UW Daily reported that “[t]he new permit was much easier and cheaper to attain, taking less than 30 days to issue, lasting three months and costing \$200. Charges for the permit at UCUC, which were covered by the church, cost \$3,550.” Doris Wu, *Nickelsville leaves U-District after four-and-a-half month stay*, THE DAILY (Mar. 5, 2009) <http://dailyuw.com/archive/2009/03/05/imported/nickelsville-leaves-u-district-after-four-and-half-month-stay#.VGbPYvnF-BI>. For other reference to permitting, please see *Homeless advocates speak up against City's draft Encampment Ordinance*, BALLARD NEWS-TRIBUNE (Aug. 27, 2011) <http://www.ballardnewstribune.com/2011/09/27/news/homeless-advocates-speak-against-citys-draft-enca> (stating that permitting for a move to El Centro de la Raza could cost up to \$2,500).

<sup>164</sup> Iona Berzups, *supra* note 134.

<sup>165</sup> CITIZEN REVIEW PANEL RECOMMENDATIONS ON ENCAMPMENTS AND SEATTLE'S UNSHELTERED HOMELESS POPULATION, (October 18, 2010), *available at* [http://www.seattle.gov/council/licata/homelessness/attachments/group1\\_recommendations.pdf](http://www.seattle.gov/council/licata/homelessness/attachments/group1_recommendations.pdf).

<sup>166</sup> *See, e.g.*, STATE OF WASHINGTON HOUSING NEEDS ASSESSMENT, MULLIN LONERGAN ASSOCIATES 8 (JANUARY 2015), *available at* <http://www.commerce.wa.gov/Documents/Wa%20Housing%20Needs%20Assessment.pdf> (finding three bedroom rental units affordable only to those who make above 73% of the state's median family income).

<sup>167</sup> *See, e.g.*, Tony Pugh, *Obama vows to end homelessness in 10 years*, MCCLATCHY NEWSPAPERS (Jun. 22, 2010), <http://www.mcclatchydc.com/2010/06/22/96322/obama-administration-vows-to-end.html>.

<sup>168</sup> *See Homelessness Assistance*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/homeless](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/homeless).

Significantly, in comparison to criminalization, the provision of permanent housing or temporary shelter has been shown help address the underlying problem of homelessness and create significant cost savings. The next section surveys some benefits of both permanent housing and temporary shelter demonstrated in various studies throughout the nation.

### 1. *Permanent Housing*

Permanent housing is an alternative to criminalization that takes homeless people off the streets and puts them into a home full-time. Each alternative varies in the amount of independence given to homeless people, what is expected of them, and the scope of services provided in addition to housing. While each individual approach varied in these respects, they all had two at least two core things in common: the provision of permanent housing and the results of dramatic cost savings.

#### a) Economic Impact in Florida

Efforts to create permanent affordable housing in Florida shows substantial cost savings. A recent Central Florida study illustrates the substantial cost savings of housing 107 chronically homeless people. The study estimates the annual cost of for incarceration, emergency room and inpatient hospitalization to be \$31,065 per individual.<sup>169</sup> Alternatively, providing permanent supportive housing for these people was estimated to be \$10,051.<sup>170</sup> The study assumes a 10% recidivism rate and projects taxpayers would save an estimated \$2 million annually.<sup>171</sup> Applying this number to just half of the current chronic homeless population in Central Florida, the study estimates an annual savings of \$14 million.<sup>172</sup>

In addition to cost savings, the creation of affordable housing shows positive economic impact through the creation of jobs. Creative Housing Solutions recommends a resource development approach that combines the use of new and existing resources to rehabilitate multifamily rental housing.<sup>173</sup> This approach dedicates 31% of affordable housing units as permanent supportive housing for the most chronically homeless.<sup>174</sup> When combined with existing resources, the plan does more than just provide a solution to chronic family homelessness: it estimates a minimum direct economic impact of over \$450 million over five years.<sup>175</sup>

#### b) Cost Savings in Utah

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<sup>169</sup> GREGORY A. SHINN ET AL., THE LONG TERM COST OF HOMELESSNESS IN CENTRAL FLORIDA AT 8 (2014), available at <http://rethinkhomelessness.org/wp-content/uploads/2014/11/Eco-Impact-Report-LOW-RES.pdf>.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.* (citing a ten year savings of \$20,236,482 based on a 10% recidivism rate).

<sup>172</sup> *Id.* (citing a ten year savings of \$149,220,414 when savings are applied to 50% of the current chronic homeless population of Central Florida).

<sup>173</sup> *Id.* at 11.

<sup>174</sup> *Id.*

<sup>175</sup> *Id.* (estimating a minimum economic impact of \$466,230,960 for the proposed five year affordable housing program)

Utah is creating affordable housing as a part of a national effort that has saved taxpayers one billion dollars. As a part of the national 100,000 Homes Campaign, Salt Lake City has housed 615 people since 2012.<sup>176</sup> Utah is a participant in this national effort, which provides housing to homeless people (particularly veterans) and has saved an estimated \$1.3 billion in taxpayer dollars nationwide doing so.<sup>177</sup> In its 2013 Comprehensive Report on Homelessness, the Utah Housing and Community Development Division reports that providing an apartment and a social worker to a homeless individual costs only \$11,000, compared to \$16,000 annual cost per individual: a \$5,000 savings per year per individual.<sup>178</sup>

Additionally, concentrated housing efforts in Utah that streamline the process of receiving aid are resulting in significant reductions in chronic homelessness. Chronic homelessness in Utah has been reduced by 74% since Utah's State Homeless Coordinating Committee adopted its 10 Year Plan to End Chronic Homelessness in 2005.<sup>179</sup> The plan utilizes a Housing First model that, among other things, sets aside hundreds of permanent supportive housing units, primarily in the Salt Lake City area.<sup>180</sup> The model also creates a streamlined process for assessing a homeless person's need and eligibility for existing housing opportunities in a timely manner, reducing the amount of time an individual must wait for the services he or she needs.<sup>181</sup> These efforts have been so effective that Utah has solved chronic homelessness and saved millions in doing so.<sup>182</sup>

### c) Reduction in Recidivism in New York & New Mexico

Studies in New York and New Mexico highlight further cost savings linked to a reduction in recidivism through Housing First initiatives. A Housing First initiative in New Mexico illustrates a cost savings of \$615, 920.49 in emergency health care and criminal justice expenses.<sup>183</sup> A similar study in New York illustrates a 64% decrease in homelessness-related jail costs through a Housing First initiative.<sup>184</sup> Similar to the results locally, the facility found that housing ex-offenders reduced recidivism rates to as low as 1 percent.<sup>185</sup>

Preventative measures in New York have helped keep families in their home before the extensive costs associated with homelessness are incurred. In 2012, BronxWorks, a New York organization that feeds, shelters, and teaches people, provided financial assistance to 3,200

<sup>176</sup> *Salt Lake City Helps Push National 100,000 Homes Campaign Over the Finish Line*, THE ROAD HOME (June 12, 2014), <http://www.theroadhome.org/blog/?p=327>.

<sup>177</sup> *Id.*

<sup>178</sup> UTAH HOUSING AND CMTY. DEV. DIV., COMPREHENSIVE REPORT ON HOMELESSNESS (2013), *available at* <http://jobs.utah.gov/housing/documents/homelessness2013.pdf>.

<sup>179</sup> NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 25, at 10.

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> Terrance McCoy, *The surprisingly simple way Utah solved chronic homelessness and saved millions*, WASHINGTON POST (Apr. 17, 2015), *available at* <http://www.washingtonpost.com/news/inspired-life/wp/2015/04/17/the-surprisingly-simple-way-utah-solved-chronic-homelessness-and-saved-millions/>.

<sup>183</sup> *Id.* at 30.

<sup>184</sup> *Id.*

<sup>185</sup> Christopher Moraff, *Out of Prison But No Place to Go* (Aug. 6, 2014) *available at* <http://www.thecrimereport.org/news/inside-criminal-justice/2014-08-out-of-prison-but-no-place-to-go>.

families avoid eviction and retain their homes,<sup>186</sup> a preventative measure that likely prevented future costs associated with homelessness.

Although permanent housing is the most intuitive and ideal alternative to criminalization, permanent housing is expensive and is not always readily available due to limited resources. Therefore, many jurisdictions use temporary housing as an alternative to house more with the limited resources available. The following section presents some of these temporary housing alternatives.

## 2. Temporary Shelter

Finances, logistics, and the necessary time for implementation may make it difficult to transition immediately from criminalizing homelessness to providing permanent housing.<sup>187</sup> Providing homeless people with temporary housing is an interim measure many jurisdictions pursue when permanent housing is not available.<sup>188</sup> Temporary housing comes in many forms, but a common type is emergency or transitional shelter.<sup>189</sup> Although not as beneficial as permanent housing, emergency shelters are still able to offer a place to stay, rest, and recuperate. Additionally, compared to the costs of incarceration, on a per day basis, emergency shelters are still more cost-efficient: on average, cities spend approximately \$28 per day to provide a single homeless individual with temporary shelter — versus more than \$130 per day to jail that same individual.<sup>190</sup> More cities and municipalities can recognize these savings.

### a) Florida

In the city of Gainesville and in Alachua County, temporary shelter has been treated as a springboard to permanent housing. Such shelter is primarily provided by two organizations, St. Francis House and The Salvation Army.<sup>191</sup> Between the two, there are 53 emergency shelter beds for individuals and 70 for families.<sup>192</sup> While the cost to provide one year of temporary shelter and supportive services to a homeless person in emergency shelter is \$8,700,<sup>193</sup> these temporary shelters are intended to be the first step to providing homeless people with transitional and then permanent housing.<sup>194</sup> Such emergency shelters provide an interim solution to homelessness and a platform to permanent housing.

<sup>186</sup> BRONX WORKS, 2012 ANNUAL REPORT (2012), *available at* [http://www.bronxworks.org/sites/default/files/wysiwyg/docs/bronxworks\\_annual\\_report\\_2012.pdf](http://www.bronxworks.org/sites/default/files/wysiwyg/docs/bronxworks_annual_report_2012.pdf).

<sup>187</sup> *See, e.g.*, BUILDING CHANGES, *supra* note 135.

<sup>188</sup> CITY OF CHARLOTTE & MECKLENBURG CNTY., MORE THAN SHELTER! 16 (2006).

<sup>189</sup> *See, e.g.*, *Homeless Programs*, HAWAII DEPARTMENT OF HUMAN SERVICES, <http://humanservices.hawaii.gov/bessd/hp/homeless-programs/>.

<sup>190</sup> NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 25, at 30 (citing U.S. Interagency Council on Homelessness, Opening doors: Federal Strategic Plan to Prevent and End Homelessness 18 (2010), *available at* [http://usich.gov/PDF/OpeningDoors\\_2010\\_FSPPpreventEndHomeless.pdf](http://usich.gov/PDF/OpeningDoors_2010_FSPPpreventEndHomeless.pdf)).

<sup>191</sup> JOHN DECARMINE & SALLY LAWRENCE, PROJECT GRACE: THE GAINESVILLE/ALACHUA COUNTY 10 YEAR PLAN TO END HOMELESSNESS 15 (2005).

<sup>192</sup> *Id.* at 11.

<sup>193</sup> *Id.* at 10.

<sup>194</sup> *Id.* at 14 (2005).

b) Hawaii

Although Hawaii has been vocal about its efforts to criminalize homelessness,<sup>195</sup> it has also invested in temporary shelter has helped guide homeless individuals and families towards self-sufficiency. The state homeless shelter program is supported by 22 agencies, 13 emergency shelters, and 32 transitional shelters.<sup>196</sup> One of these emergency shelters is the Pai'olu Kaiaulu Shelter, in Waianae, Hawaii, which was opened by Governor Linda Lingle and is operated by the United States Veterans Initiative.<sup>197</sup> The Pai'olu Kaiaulu Shelter is Hawaii's first around-the-clock emergency shelter and has a 300 person capacity at any one time.<sup>198</sup> While the shelter cost \$6.5 million to build, it served 662 people in its inaugural year—and out of the 371 people that came and went, 72 percent moved into permanent and transitional housing, treatment facility, or other organized setting.<sup>199</sup> The facility was built in less than five months and is a flexible structure made of a tensioned fabric membrane.<sup>200</sup> With such flexibility, the structure is currently divided into a 19,000-square-foot family shelter and a 10,500-square-foot individual and couples shelter.<sup>201</sup> There, homeless individuals and families have a place to stay and participate in shelter programs that help with job training, parenting, drug treatment, exercise, health, finances, and domestic violence.<sup>202</sup> While not a permanent solution, the Pai'olu Kaiaulu Shelter provides temporary shelter for some of Hawaii's homeless people, especially families, and a path towards self-sufficiency.<sup>203</sup>

c) North Carolina

In the city of Charlotte and Mecklenburg County, North Carolina, the wide-range of temporary shelter options support the cost savings from choosing housing over criminalization. A variety of temporary shelter options exist in the county. “[T]he cost of housing a person in a shelter in Charlotte ranged from \$16.50 to \$38<sup>204</sup> per night.”<sup>205</sup>

The cost of providing temporary shelter in Charlotte pales in comparison to the cost of criminalization—which essentially provides temporary shelter through incarceration. In contrast

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<sup>195</sup> THE NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY & THE NATIONAL COALITION FOR THE HOMELESS, HOMES NOT HANDCUFFS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES (JULY 2009), available at [http://www.nationalhomeless.org/publications/crimreport/CrimzReport\\_2009.pdf](http://www.nationalhomeless.org/publications/crimreport/CrimzReport_2009.pdf) (ranking Honolulu, Hawai'i eighth nationwide, among 273 cities, for unfriendly policies against homeless people).

<sup>196</sup> *Homeless Programs*, *supra* note 189.

<sup>197</sup> *The Leeward Coast Homeless Shelter*, SPRUNG, <http://www.sprung.com/case-study/leeward-coast-homeless-shelter> (last visited Nov. 3, 2014).

<sup>198</sup> Will Hoover, *Pai'olu Kaiaulu residents celebrate*, HONOLULU ADVERTISER (Mar. 9, 2008), <http://the.honoluluadvertiser.com/article/2008/Mar/09/ln/hawaii803090348.html>.

<sup>199</sup> *Id.*

<sup>200</sup> *The Leeward Coast Homeless Shelter*, *supra* note 197.

<sup>201</sup> Hoover, *supra* note 198.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> These numbers come from the city of Charlotte and Mecklenburg County's various temporary shelter options, including the Uptown Shelter, which costs \$16.50 per night; the Salvation Army, which costs \$20 per night; and Charlotte Emergency Housing, which costs \$38 per night for a family. CITY OF CHARLOTTE & MECKLENBURG COUNTY, *supra* note 188, at 15.

<sup>205</sup> NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 10, at 9.

to temporary shelter, the cost of “housing” a person in jail was approximately \$107 per night,<sup>206</sup> nearly triple the cost of housing a family in Charlotte Emergency Housing. This cost differential between temporary shelter and incarceration illustrates opportunities for savings and further supports the city and county’s goal to “get homeless families and individuals into appropriate and safe permanent housing as soon as possible.”<sup>207</sup>

d) Washington, D.C.

In Washington D.C., the provision of temporary shelter instead of criminalizing homelessness saved the city more than \$10,000 per person per year. For the city, housing a homeless individual in jail typically costs around \$12,269 per year.<sup>208</sup> By contrast, the average cost to house a single person in a shelter was \$1,308 per year, an average difference of \$10,961 per person per year.<sup>209</sup> However, these numbers actually underestimate the full cost of criminalization.<sup>210</sup> Such evidence further supports the economic advantage of pursuing non-punitive alternatives to criminalizing homelessness.

## CONCLUSION & RECOMMENDATIONS

In order to properly address the underlying causes of homelessness, cities and municipalities across the country will have to incur and endure costs. However, these costs pale in comparison to the cost of criminalizing homelessness, an approach that does nothing to address the underlying problem of homelessness itself. Through the enactment and enforcement of ordinances that discriminatorily target, are selectively enforced against, or disparately impact homeless people, many cities and municipalities are already incurring millions of dollars in costs each year.

In the past five years, Seattle and Spokane have spent a minimum estimated total of \$3,703,134.54 enforcing a just a fraction of criminalization ordinances. This conservative figure is a combination of the costs of enforcement, adjudication, and incarceration — and only tracks approximately 16% of Seattle’s criminalization laws and 75% of Spokane’s. The total cost for criminalizing homelessness in both of these cities is much higher.

The redirection of such costs to non-punitive alternatives appears to be more effective, both in terms of cost and in terms of addressing the underlying problems of homelessness. If Seattle and Spokane redirected the over \$3.7 million spent on just a fraction of their

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<sup>206</sup> *Id.*

<sup>207</sup> CITY OF CHARLOTTE & MECKLENBURG COUNTY, *supra* note 188, at 6.

<sup>208</sup> SAM HALL, MARTHA BURT, CATERINA ROMAN, & JOCELYN FONTAINE, REDUCING THE REVOLVING DOOR OF INCARCERATION AND HOMELESSNESS IN THE DISTRICT OF COLUMBIA: COST OF SERVICES 2 (The Urban Institute, 2009).

<sup>209</sup> *Id.* (calculating the pro rata cost of 30,340 people that stayed only in jail, averaging 108 days per 42 months, and 26,709 people that only stayed in shelters, averaging 86 days per 24 months).

<sup>210</sup> These numbers were based on actual usage rates of each service. This did not include overlap for people who stayed in shelters and in jail.

criminalization efforts to invest in an affordable housing program, like the 1811 Eastlake study, taxpayers could save more than eleven million dollars over five years.<sup>211</sup>

As illustrated in this report, studies overwhelmingly suggest that housing people is more cost effective than criminalizing them for conducting necessary, life-sustaining activities in public. Existing studies also show that the pursuit of criminalization laws does nothing to improve public safety or the economic bottom line of local businesses.<sup>212</sup> Policymakers should consider the significant costs that are directly attributable to criminalization ordinances and also the potential savings from investing in non-punitive alternatives, such as affordable housing. In light of these cost savings, policymakers should repeal criminalization ordinances and redirect funds toward affordable housing. Until these laws are repealed, interested parties mindful of the costs associated with these ordinances and adopt internal policies to mitigate these costs. Whether it be the citation, arrest, adjudication, or incarceration, under these ordinances, interested parties discretion have the opportunity to adopt internal policies to mitigate the loss of taxpayer dollars to these ordinances. Ultimately, even if cities are not persuaded that every human being deserves the safety and dignity of housing, policymakers cannot afford to ignore the economic cost of criminalizing men, women, and children who suffer from homelessness.

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<sup>211</sup> The 1811 Eastlake study estimates \$1,120 per month person. Assuming this monthly cost, the \$3,703,134.54 spent on criminalization ordinances could house approximately 275 people over the 5 year period—55 people per year. Additionally, the 1811 Eastlake study estimates a savings of more than \$4 million for the 95 people housed. This breaks down to \$42,105.26 annually per person. Applying the \$42,105.26 annual savings to 275 people that could be housed with the funds spent on criminalization ordinances would amount to \$11,578,946.50 over the five year period—\$2,315,789.30 per year.

<sup>212</sup> See BERKELEY LAW POLICY ADVOCACY CLINIC, *supra* note 12.



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