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Discrimination at the Margins: The Intersectionality of Homelessness & Other Marginalized Groups

Kaya Lurie

Breanne Schuster

Sara Rankin

Seattle University School of Law

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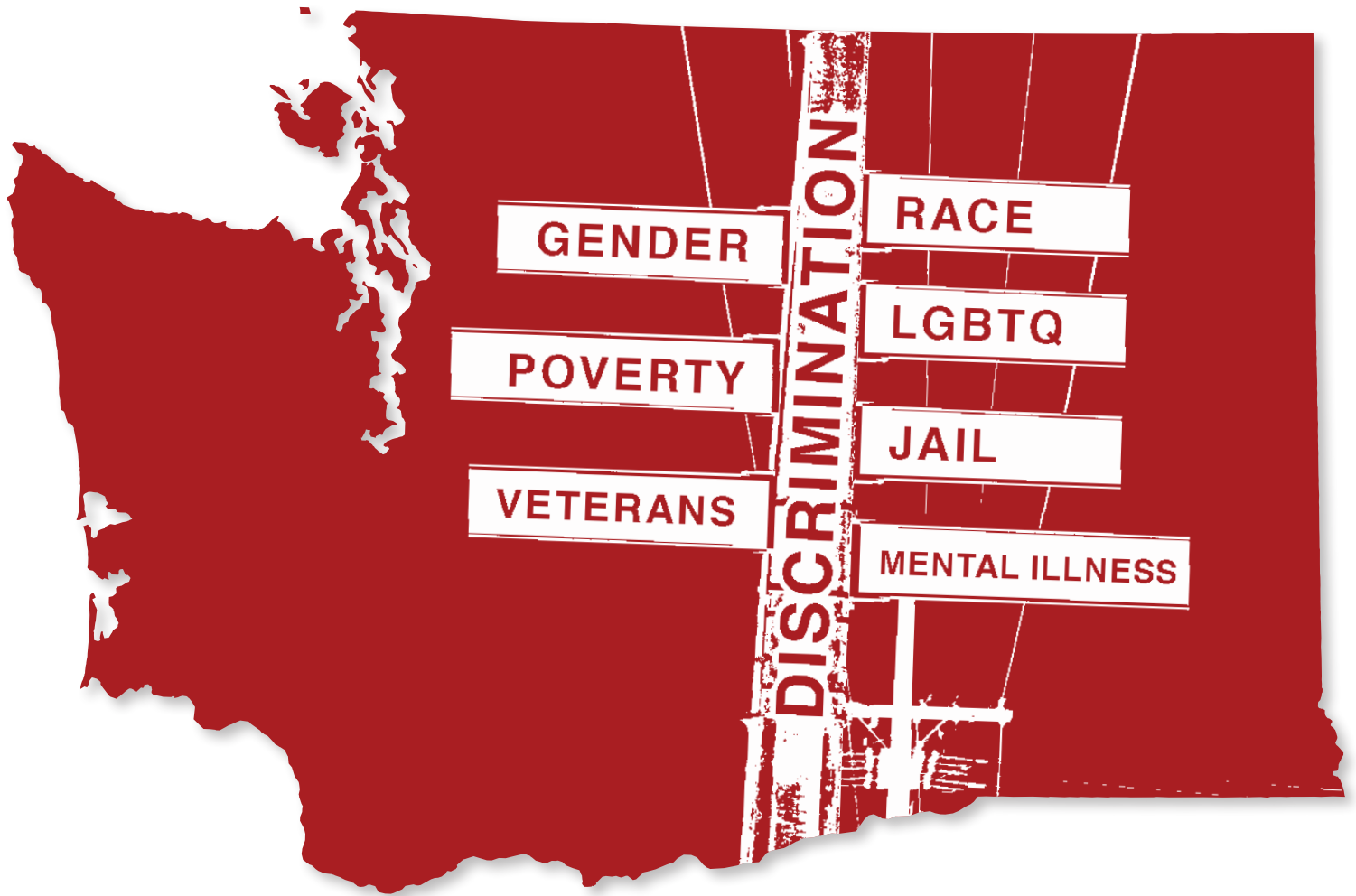
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DISCRIMINATION AT THE MARGINS:

The Intersectionality of Homelessness
& Other Marginalized Groups



SEATTLE
UNIVERSITY
SCHOOL OF LAW

HOMELESS RIGHTS
ADVOCACY PROJECT

Discrimination at the Margins:
*The Intersectionality of Homelessness
& Other Marginalized Groups*

AUTHORS

Kaya Lurie & Breanne Schuster

EDITOR

Sara K. Rankin

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The Homeless Rights Advocacy Practicum is a section of the Homeless Rights Advocacy Project (HRAP) at Seattle University School of Law's Korematsu Center. Kaya Lurie and Breanne Schuster, law students at Seattle University School of Law and members of the founding cohort of HRAP, authored this policy brief under the supervision of Professor Sara Rankin of Seattle University School of Law. The authors are deeply grateful to the following individuals for their time and contributions toward the preparation of this brief:

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EXECUTIVE SUMMARY

This brief addresses the intersectionality of homelessness and other marginalized groups. It examines six marginalized groups: racial minorities, women, individuals who identify as lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ), individuals with a mental disability, incarcerated individuals, and veterans. The brief presents national and Washington State statistics to show how these six marginalized groups are represented in the homeless population compared to the general population. Moreover, it presents some of the causes of homelessness for these marginalized groups.

This policy brief is particularly important to homeless rights advocacy because it humanizes the homeless population by outlining who is homeless and why. Categorizing a diverse group of people as “homeless” blanches this diversity by presenting these people as a homogenous group. Homogenizing the people who are homeless facilitates their dehumanization, erasing not only their diverse identities, but also obscuring the diverse causes of their homelessness. Homogenization also encourages erroneous negative stereotypes, assumptions, and prejudices. This brief unveils the diverse identities and causes of homelessness. This unveiling reveals that marginalized groups are disproportionately represented in the homeless population, and are therefore, disproportionately targeted by the ordinances that criminalize homelessness. Moreover, these criminalization laws are evidence of systemic and insidious discrimination of many marginalized groups. Because society has already rejected laws that discriminatorily target many of these same marginalized groups, the results of this study should compel society to re-examine the impact of laws that criminalize homelessness. Ultimately, this brief argues that laws that criminalize homelessness should be rejected because they are discriminatory. Key findings of the brief include:

Racial minorities, particularly African Americans and Hispanics, are discriminatorily impacted by homelessness:

- Nationally:
 - An estimated 3.5 million people experience homelessness in the United States annually.¹
 - 42% are African American (despite being only 12% of the population overall);
 - 20% are Hispanic (despite being only 12% of the population overall);
 - 4% are Native American (despite being only 1% of the population overall); and
 - 2% are Asian (despite being only 1% of the population overall)
- Washington Case Studies:
 - King County’s homeless population:²
 - 67% are people of color (compared to 35% of the general population)

¹ NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, RACIAL DISCRIMINATION IN HOUSING AND HOMELESSNESS IN THE UNITED STATES 1 (2014).

² *Homelessness Facts for King County*, COMMITTEE TO END HOMELESSNESS IN KING COUNTY, <http://www.cehkc.org/scope/cost.aspx> (last updated Oct. 2012). This information is from the results of the Seattle/King County Coalition on Homelessness’s 2012 one night county. *Id.* In Seattle, which is located in King County, 29% of homeless people are African American and 13% are Hispanic. CITY OF SEATTLE, SEATTLE HOMELESS NEEDS ASSESSMENT 2009 2 (Oct. 2009). This data is from the 2009 Seattle one night count. *Id.*

- Pierce County's homeless population:³
 - 35.4% are African American (compared to 6.8% of the general Pierce County population)
 - 10.30% are Hispanic (compared to 8.90% of the general Pierce County population)

Female single parents and female domestic violence victims are discriminatorily impacted by homelessness:

- Nationally:
 - The population of homeless single parents with children:⁴
 - 80% are female
 - 20% are male
 - Domestic violence is the third leading cause of homelessness for women and children.⁵
- Washington Case Studies:
 - In King County, of the population of homeless single parents with children:⁶
 - 98% are female single parents
 - 2% are male single parents
 - In Pierce County, of the population of homeless single parents with children:⁷
 - 97% are female single parents
 - 3% are male single parents
 - In Thurston County, domestic violence is the fourth leading cause of homelessness.⁸

LGBTQ individuals, particularly LGBTQ youth and young adults, are discriminatorily impacted by homelessness:

- Nationally:
 - 20–40% of the homeless youth population identify as LGBTQ, compared to only 5–10% of the overall youth population.⁹
- Washington's statistics from King County are consistent with national statistics, showing that approximately 20–40% of homeless youth identify as LGBTQ.¹⁰

³ PIERCE COUNTY COMMUNITY CONNECTIONS, PIERCE COUNTY HOMELESS SURVEY 2012 11 (Sept. 5, 2013) (noting that these results are from the 2010 "One Night Count" in King County).

⁴ MEGHAN HENRY ET AL., THE 2014 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS 10 (Oct. 2014).

⁵ SEATTLE CENTRAL LIBRARY, THROUGH THE LENS OF DOMESTIC VIOLENCE: A LOOK AT HOUSING AND HOMELESSNESS 4 (Sept. 17, 2010).

⁶ 2012 Results, SEATTLE/KING COUNTY COALITION ON HOMELESSNESS (2012), http://www.homelessinfo.org/what_we_do/one_night_count/2012_results.php.

⁷ PIERCE COUNTY COMMUNITY CONNECTIONS, *supra* note 3.

⁸ WASH. STATE DEP'T OF COMMERCE, 2013 THURSTON COUNTY HOMELESS POINT-IN-TIME CENSUS REPORT (Mar. 2013).

⁹ *Gay and Transgender Youth Homelessness by the Numbers*, CTR. FOR AMERICAN PROGRESS (June 21, 2010), <http://www.americanprogress.org/issues/lgbt/news/2010/06/21/7980/gay-and-transgender-youth-homelessness-by-the-numbers/>.

¹⁰ *Facts about Homeless Youth and Young Adults*, TEEN FEED, <http://www.teenfeed.org/about/facts-about-homeless-youth/>.

Individuals with a mental disability are discriminatorily impacted by homelessness:

- Nationally:
 - Approximately 30% of the homeless population has a mental disability.¹¹
 - In some cities, 70% of the homeless population has a mental illness.¹²
 - Over 80% of chronically homeless individuals has experienced alcohol and/or drug dependency compared to 8.2% of the general population.¹³
- Washington State:
 - At least 13% of the homeless population has a mental disability.¹⁴
 - In some counties, over 50% of the homeless population has a mental illness.¹⁵
 - In some counties, the percentage of homeless individuals with a severe mental illness has increased over 40% in the past year.¹⁶
 - 9% of the homeless population has issues with chronic substance abuse.¹⁷

Incarcerated individuals are discriminatorily impacted by homelessness:

- Nationally:
 - Jail inmates are 10% more likely than the general population to have experienced homelessness.¹⁸
 - The majority of homeless people have experienced incarceration.¹⁹
 - Individuals released from prison without housing are much more likely to recidivate than those who receive some form of housing.²⁰
- Washington State:
 - In Seattle, almost half of the homeless surveyed have been incarcerated.²¹

¹¹ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, CURRENT STATISTICS ON THE PREVALENCE AND CHARACTERISTICS OF PEOPLE EXPERIENCING HOMELESSNESS IN THE UNITED STATES 4 (2011), available at http://homeless.samhsa.gov/ResourceFiles/hrc_factsheet.pdf [hereinafter SAMHSA].

¹² Piper Hoffman, *More Mentally Ill Becoming Homeless Because States Won't Help*, TRUTHOUT (May 6, 2013), <http://www.truth-out.org/opinion/item/16193-more-mentally-ill-becoming-homeless-because-states-wont-help>.

¹³ SAMSHA, *supra* note 10, at 4; U.S. DEP'T OF HEALTH AND HUMAN SERVICES, ET AL., RESULTS FROM 2013 NATIONAL SURVEY ON DRUG USE AND HEALTH SUMMARY OF NATIONAL FINDINGS (2013), available at <http://www.samhsa.gov/data/sites/default/files/NSDUHresultsPDFWHTML2013/Web/NSDUHresults2013.pdf>.

¹⁴ WASH. STATE DEP'T OF COMMERCE, WASHINGTON STATE POINT IN TIME COUNT OF HOMELESS PERSONS (2014), <http://www.commerce.wa.gov/Documents/2014-PIT-Summary.pdf>.

¹⁵ CLARK COUNTY BOARD OF COMMISSIONERS, CLARK COUNTY 10-YEAR HOMELESS PLAN (2011), available at <http://www.clark.wa.gov/community-action/documents/DraftCC10yearPlan-4.1.11.pdf> [hereinafter CLARK CNTY.].

¹⁶ Jody Lawrence-Turner, *Homeless Numbers in Spokane Higher*, SPOKESMAN-REVIEW (June 6, 2014), <http://www.spokesman.com/stories/2014/jun/06/homeless-numbers-in-spokane-county-higher/>; Press Release from Brian Coddington, Communications Director at the City of Spokane, Homeless count yields mixed results (July 5, 2014), available at <https://beta.spokanecity.org/news/releases/2014/07/05/homeless-count-yields-mixed-results/>.

¹⁷ *Id.*

¹⁸ SAMHSA, *supra* note 10, at 17.

¹⁹ *Id.*

²⁰ Justice Ctr., *NRRC Facts & Trends*, COUNCIL OF STATE GOVERNMENTS, <http://csgjusticecenter.org/nrrc/facts-and-trends/> (last visited Oct. 11, 2014).

²¹ CITY OF SEATTLE OFFICE OF HOUSING, SEATTLE HOMELESS NEEDS ASSESSMENT 2, 3, 8–10 (2009), available at http://www.seattle.gov/housing/homeless/HNA_report_11-09.pdf.

Veterans are discriminatorily impacted by homelessness:

- Nationally:
 - 40% of homeless men are veterans.²²
 - Veterans are more likely to be people of color and have mental disabilities and/or criminal histories.²³
- Washington State statistics are consistent with the national findings, showing that the majority of homeless veterans in Seattle are people of color and disabled,²⁴ and veterans are more likely to be chronically homeless than non-veterans.²⁵

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 the criminal ordinances that ban life-sustaining activities for people experiencing homelessness.
- Policymakers should take steps to improve data collection concerning the demographics of homeless populations in their jurisdictions.
- Policymakers should be mindful of the discriminatory impact of homelessness on marginalized groups and modify laws that currently contribute to this marginalization.
- Policymakers should implement a Housing First program that affords permanent housing to all homeless individuals as an alternative to criminalization.

²² *Homeless Veterans*, NAT'L COAL. FOR THE HOMELESS (Sept. 2009), <http://nationalhomeless.org/factsheets/veterans.html>.

²³ *Id.*; SARAH KNOPF-AMELUNG, HEALTH AND HOMELESSNESS AMONG VETERANS: A NEEDS ASSESSMENT OF HCH GRANTEES, NATIONAL HEALTHCARE FOR THE HOMELESS COUNCIL (2012), available at <http://www.nhchc.org/wp-content/uploads/2012/11/Health-and-Homelessness-among-Veterans-Knopf-Amelung.pdf>.

²⁴ U.S. CONFERENCE OF MAYORS, HUNGER AND HOMELESSNESS SURVEY (2013), available at <http://www.usmayors.org/pressreleases/uploads/2013/1210-report-HH.pdf>; *Homelessness Facts for King County*, *supra* note 2.

²⁵ WHATCOM COAL. TO END HOMELESSNESS, A HOME FOR EVERYONE (2013), available at http://www.co.whatcom.wa.us/health/wchac/pdf/2013_homeless_person_count_report.pdf.

INTRODUCTION

We are living “in an era of rising homelessness and widespread discrimination against millions of homeless Americans,” particularly through the criminalization of homelessness.²⁶ While the number of Americans experiencing homelessness continues to grow, a majority of cities lack adequate shelter, hygiene facilities, food center, or low-cost storage options.²⁷ As a result, many homeless Americans are forced to engage in life-sustaining activities on the streets, such as sitting, sleeping, and eating.²⁸ In response to the significant number of homeless individuals on the streets, many cities have implemented ordinances that criminalize these life-sustaining activities under the purported purpose of improving the quality of life for citizens.²⁹ Cities employ numerous types of these ordinances that may appear to be facially neutral, but actually function to remove visibly poor people from public spaces.³⁰ Examples of such ordinances include restrictions on sleeping, erecting a shelter, and urinating and defecating outdoors.³¹ These criminal ordinances are bad policy because they serve no legitimate purpose and instead only exacerbate the cycle and problem of homelessness.³² This pervasive discrimination against the homeless population is even more concerning when looking at who is experiencing homelessness.

²⁶ NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, WRONGS TO RIGHTS: THE CASE FOR HOMELESS BILL OF RIGHTS LEGISLATION 8 (Apr. 15, 2014) (stating that the housing market collapse and a stagnant economy has contributed to an increase in homelessness in the United States to which cities have responded to by implementing ordinances that criminalize life-sustaining activities such as sitting, sleeping, and eating on the streets in an attempt to “remove visibly homeless people from sight”); Sara Rankin, *A Homeless Bill of Rights (Revolution)*, 45 SETON HALL L. REV. 383, 387 (2015) (stating that the number of people in the United States experiencing homelessness at any given time has been estimated as being anywhere from 650,000 to 3.5 million).

²⁷ NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 26.

²⁸ *Id.*

²⁹ *Id.*; see also *A Dream Denied: the Criminalization of Homelessness in U.S. Cities*, NAT’L COAL. FOR THE HOMELESS, <http://www.nationalhomeless.org/publications/crimreport/allcities.html> (last visited Apr. 13, 2015).

³⁰ NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 26; *A Dream Denied: the Criminalization of Homelessness in U.S. Cities*, *supra* note 29. While this is not a criminal ordinance, similarly, the Downtown Vancouver Business Improvement Association’s Ambassadors program was implemented in 2000, “with ‘ambassadors’ patrolling the streets to assist and greet potential customers, but also attempting to do crime prevention.” Kim Bolan, *Vancouver Ambassadors who Told Homeless to Move Along Discriminated, Judge Rules*, VANCOUVER SUN (Apr. 10, 2015), <http://www.vancouversun.com/technology/Vancouver+ambassadors+told+homeless+move+along+discriminated/10962308/story.html>. These “ambassadors” unfairly targeted homeless people by waking people sleeping on the street, patrolling alleyways to stop people from searching through garbage bins, and photographed some of the homeless. *Id.* Supreme Court Judge Neena Sharma ruled that this program “unfairly targeted the homeless, who are disproportionately aboriginal, mentally ill or suffering from addiction”—“some of the most marginalized, vulnerable and poor members of society.” *Id.*

³¹ *Id.*

³² NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, CRIMINALIZING CRISIS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 10 (2011) (stating that criminal ordinances have not been shown to improve public health or safety); 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); see generally Joshua Howard & David Tran, Seattle University Homeless Rights Advocacy Project, AT WHAT COST: THE MINIMUM COST OF CRIMINALIZING HOMELESSNESS IN SEATTLE & SPOKANE (Sara Rankin ed., 2015).

This policy brief humanizes people experiencing homelessness by outlining who is homeless and why. This intersectional analysis of homelessness and other marginalized groups aims to reveal the different types of discrimination and disadvantage that occur as a consequence of the combination of identities. Accordingly, this brief examines the impact of homelessness on six marginalized groups: racial minorities, women, LGBTQ individuals, individuals with mental disabilities, former inmates, and veterans.³³ For each marginalized group, this report outlines: (1) the national statistics demonstrating the discriminatory impact of homelessness on the marginalized group, (2) Washington State statistics illuminating the discriminatory impact in our local neighborhoods, and (3) why homelessness has a discriminatory impact on the marginalized group.³⁴ This unveiling reveals that marginalized groups disproportionately experience homelessness, including its many burdens—such as laws that criminalize the conduct of necessary, life-sustaining activity in public.

Because society has already rejected laws that discriminatorily target many of these same marginalized groups,³⁵ the results of this study should compel society to re-examine the impact of laws that criminalize homelessness and guarantee further marginalization. Ultimately, this brief argues that laws that criminalize homelessness should be rejected because they are discriminatory.

I. Discrimination Results in a Disproportionate Representation of Racial Minorities in Homeless Populations

Race is the most established demographic illustrating the discriminatory impact of homelessness on marginalized groups. This section uses national and Washington State statistics to illustrate how racial minorities are disproportionately represented in the homelessness population. This section also presents some of the causes of the discriminatory impact of homelessness on racial minorities.

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON RACIAL MINORITIES AT A GLANCE: NATIONAL STATISTICS

African Americans represent only 12% of the general population, but represent 42% of the homeless population. Hispanics represent only 12% of the general population, but represent 20% of the homeless population.

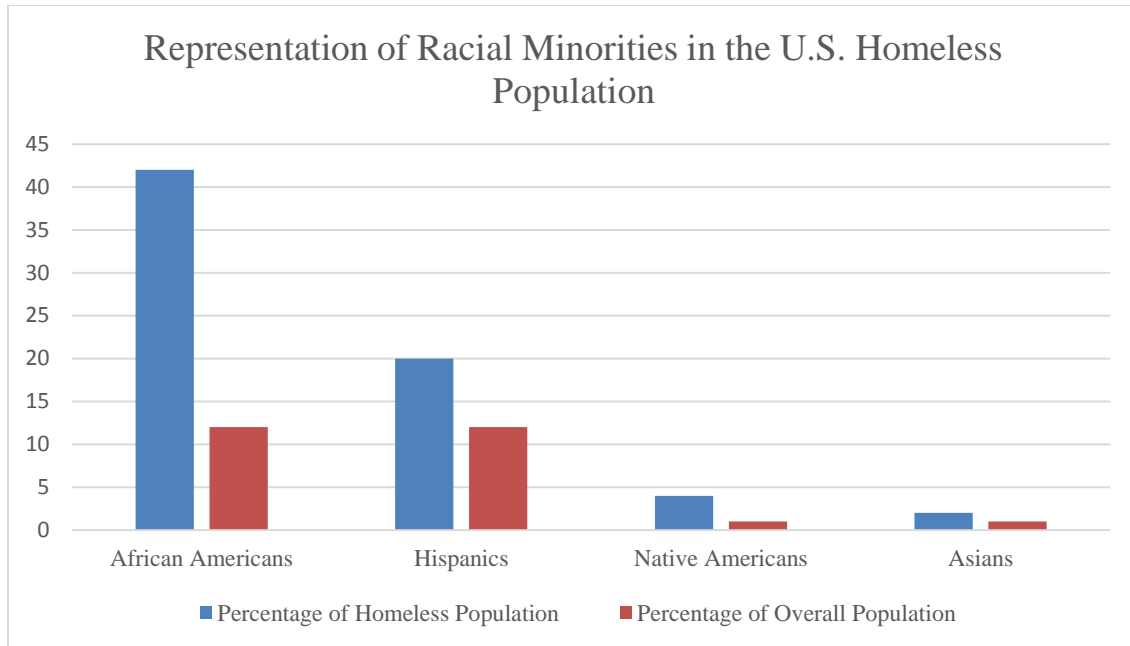
³³ Immigrants and refugees are largely ignored in national and state-wide homelessness data. Therefore, there is insufficient data available to draw meaningful trends about the impact of homelessness on immigrants and refugees. However, it is important to look at this sub-population of the homeless population because immigrants and refugees are particularly vulnerable to homelessness because of economic challenges, language barriers, and qualification barriers to receiving federal and state aid. TANYA BRODER AND JONATHAN BLAZER; OVERVIEW OF IMMIGRANT ELIGIBILITY FOR FEDERAL PROGRAMS 1–3 (National Immigration Law Center, Oct. 11).

³⁴ Collecting data on the intersectionality of homelessness and marginalized groups is subject to a number of limitations. There are no uniform data collection practices across the country or in Washington State regarding the representation of marginalized groups in the overall homeless population. Moreover, there are minimal studies researching the intersectionality of homelessness and certain marginalized groups, especially immigrants and refugees, at the nationwide and statewide level. To overcome these limitations, research for this brief includes the limited nationwide and statewide statistics, as well as Washington county and city case studies to collectively show the disparate impact of homelessness on marginalized groups.

³⁵ See Javier Ortiz & Matthew Dick, Seattle University Homeless Rights Advocacy Project, THE WRONG SIDE OF HISTORY: A COMPARISON OF MODERN & HISTORICAL CRIMINALIZATION LAWS (Sara Rankin ed., 2015).

A. National Statistics

Across America, racial minorities, particularly African Americans and Hispanics, are disproportionately represented in the homeless population. For example, African Americans represent only 12% of the United States’ population, but represent 42% of the homeless population; Hispanics represent only 12% of the overall population, but represent 20% of the homeless population; Native Americans represent only 1% of the overall population, but represent 4% of the homeless population; and Asians represent only 1% of the overall population, but represent 2% of the homeless population.³⁶



Case studies conducted across the country confirm that racial minorities are discriminatorily impacted by homelessness. For example, of the people experiencing chronic homelessness in New York City and Philadelphia, a shockingly high 92.9% are African American.³⁷ The trend is the same for people experiencing transitional and episodic homelessness in these cities: in New York City, 83.6% are African American, and in Philadelphia, 90.5% are African American.³⁸ Similarly, the foreclosure crisis has disproportionately affected racial minorities. For example, in Chicago, between 2009 and 2013, the foreclosure rates were highest in neighborhoods represented by predominantly African American and Hispanic households.³⁹

The national statistics and state case studies establish that racial minorities, especially African Americans and Hispanics, are disproportionately represented in the homeless population compared to the general population.

³⁶ NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, RACIAL DISCRIMINATION IN HOUSING AND HOMELESSNESS IN THE UNITED STATES 3 (June 3, 2014).

³⁷ SAMHSA, *supra* note 10.

³⁸ *Id.*

³⁹ *Id.*

B. Washington State and County Statistics

This section presents Washington State and county statistics that confirm the national trend of the discriminatory impact of homelessness on racial minorities. There are minimal studies revealing the impact of homelessness on racial minorities at the statewide level. Furthermore, statewide studies are typically limited to homeless racial minority youth and young adults. In Washington State, minority students are more likely than White, non-Hispanic students to be homeless, doubled-up, or residing in public/permanent housing assistance: while 43% of these students are White, 57% are racial minorities.⁴⁰ A deeper examination of this racial minority statistic reveals that 24% of students are African American, 23% are Hispanic, 7% are Asian, and 11% are American Indian.⁴¹

Case studies in select Washington counties yield similar results to the national data, showing that racial minorities are disproportionately represented in the homeless population. For example, in King County, while people of color represent 35% of the general population, 67% of people living in emergency shelters and transitional housing are people of color.⁴² This racial disparity is similar for homeless and unstably housed youth and young adults in King County: compared to the 35% of all King County residents who are people of color, 54% of homeless youth are youth of color.⁴³ Similarly, in Pierce County: African Americans represent only 6.8% of the overall population compared to 35.4% of the homeless population; Hispanics represent only 8.9% of the overall population compared to 10.32% of the homeless population; American Indian or Alaskan Native individuals represent only 1.1% of the overall population compared to 4.4% of the homeless population; and Native Hawaiians or Pacific Islanders represent only 1.2% of the overall population compared to 8.8% of the homeless population.⁴⁴

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON RACIAL MINORITIES AT A GLANCE: WASHINGTON STATE

King County: people of color represent 35% of the general population, but 68% of people living in emergency shelters and transitional housing are people of color
Pierce County: African Americans represent only 6.8% of the overall population compared to 35.4% of the homeless population

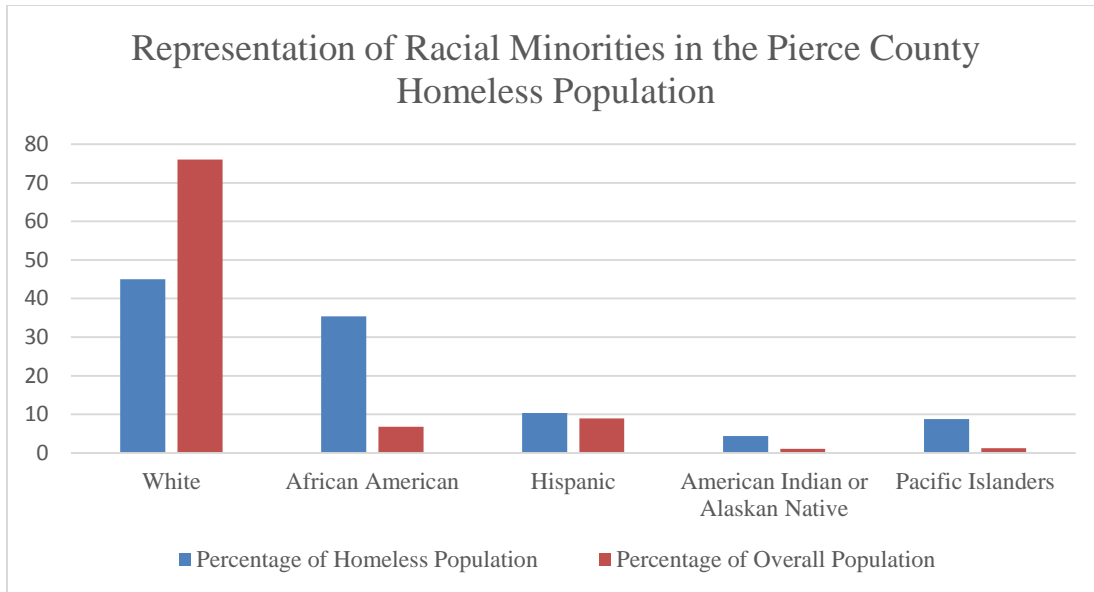
⁴⁰ MELISSA FORD SHAH, ET AL., HOMELESS AND UNSTABLY HOUSED K-12 STUDENTS IN WASHINGTON STATE 4 (Jan. 2015).

⁴¹ *Id.*

⁴² *Homelessness Facts for King County*, *supra* note 2 (noting that this information is from the results of the Seattle/King County Coalition on Homelessness's 2012 one night count). In Seattle, which is located in King County, 29% of homeless people are African American and 13% are Hispanic. CITY OF SEATTLE, *supra* note 2 (noting that this data is from the 2009 Seattle one night count).

⁴³ UNITED WAY OF KING COUNTY, ET AL., COUNT US IN 2015 REPORT 8 (Mar. 2015). The youth and young adult population includes all those people ages 12–25. *Id.*

⁴⁴ PIERCE COUNTY COMMUNITY CONNECTIONS, *supra* note 3. While these county case studies confirm the national statistics that racial minorities are disproportionately impacted by homelessness, Hispanics are less represented in the overall homeless population in Washington State when compared to national statistics.



Collectively, the Washington statewide statistics and county case studies support the national data showing that racial minorities are disproportionately represented in the homeless population.

C. Causes of Disproportionate Representation

This section surveys some of the causes of the disproportionate representation of racial minorities in the homeless population. Racial minorities are disadvantaged because of poverty, source of income discrimination, discriminatory federal housing programs and policies, and discriminatory lending practices; all of which are impacts of systemic racism.⁴⁵ As a result of such systemic racism, racial minorities are discriminatorily impacted by homelessness.

First, racial minorities are disproportionately at risk for homelessness because racial minorities are more likely to live below the poverty line than White individuals.⁴⁶ Poverty is “closely associated with racism . . . and contributes to the persistence of racist attitudes and practices which in turn generate more poverty.”⁴⁷ More than 46 million people live in poverty, representing 15% of the overall population.⁴⁸ Of the U.S. population living in poverty, 27.2% are

⁴⁵ MEGAN HARBERLE & JORGE SOTO, DISCRIMINATION AND SEGREGATION IN HOUSING: CONTINUING LACK OF PROGRESS IN UNITED STATES COMPLIANCE WITH THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION 10, 15 (July 2014); James J. Hartnett, *Affordable Housing, Exclusionary Zoning, and American Apartheid: Using Title VIII to Foster Statewide Racial Integration*, 68 N.Y.U. L. Rev. 89, 90 (1993).

⁴⁶ Melissa Boteach & Shawn Fremstad, *The Top 3 Things You Need to Know about the 2012 Poverty and Income Data*, CTR. FOR AMERICAN PROGRESS (Sept. 16, 2014), <http://www.americanprogress.org/issues/poverty/news/2014/09/16/97154/the-top-3-things-you-need-to-know-about-the-2013-poverty-and-income-data/>.

⁴⁷ SPECIAL RAPPORTEUR MUTUMA RUTEERE, CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE 4 (2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/431/33/PDF/N1343133.pdf?OpenElement> (quoting the Durban Declaration).

⁴⁸ HARBERLE & SOTO, *supra* note 45, at 15. Across America, 39% of full-time workers in 2013 earned less than \$15 per hour. Of this total, 48% were people of color. BEN HENRY & ALLYSON FREDERICKSEN, EQUITY IN THE

African American (despite representing 13.2% of the overall population), 23.5% are Hispanic (despite representing 17.1% of the total population), 10.5% are Asian (despite representing 5.1% of the overall population), and only 9.6% are White (despite representing 77.7% of the total population).⁴⁹

“My boyfriend and I are trying hard to provide for our daughter, but it feels like the system is against us. The best job my boyfriend has been able to find is working security in downtown Seattle. He has an hour commute both ways...but we just can’t afford to live any closer to downtown. Between \$4,800 for my community college tuition, \$2,500 for my legal fees for my permanent residency application, and my daughter’s diapers, I have no money to spend on anything other than the essentials. My wages do not leave me any room for emergencies or long-term planning. [B]eing a mother, student, and low-wage worker with bills hanging over my head leaves me exhausted and emotionally drained. [I]t really doesn’t feel like a life.”

-- BEN HENRY & ALLYSON FREDERICKSEN, EQUITY IN THE BALANCE: HOW A LIVING WAGE WOULD HELP WOMEN AND PEOPLE OF COLOR MAKE ENDS MEET 51 (Nov. 2014).

The wealth gap among the races has also continued to widen in recent years, with African American and Hispanic families suffering far more than their White peers from the recession and its slow recovery.⁵⁰ Between 2007 and 2010, African American families lost 31% of their wealth, and Hispanic families lost 44% of their wealth.⁵¹ It is also more difficult for people of color to climb out of poverty than their White peers. Disparities in access to education⁵² coupled with historical exclusion from GI loan programs⁵³ make it more difficult for people of color to obtain a living wage job.⁵⁴ People

BALANCE: HOW A LIVING WAGE WOULD HELP WOMEN AND PEOPLE OF COLOR MAKE ENDS MEET 1 (Nov. 2014). Additionally, 51% of African American workers and 58% of Hispanic workers earn less than \$15. *Id.*

⁴⁹ U.S. CENSUS BUREAU, TABLE 3: PEOPLE IN POVERTY BY SELECTED CHARACTERISTICS: 2012 AND 2013 (2013).

⁵⁰ Anne Lowrey, *Wealth Gap Among Races has Widened Since Recession*, N.Y. TIMES (Apr. 28, 2013), http://www.nytimes.com/2013/04/29/business/racial-wealth-gap-widened-during-recession.html?pagewanted=all&_r=1&.

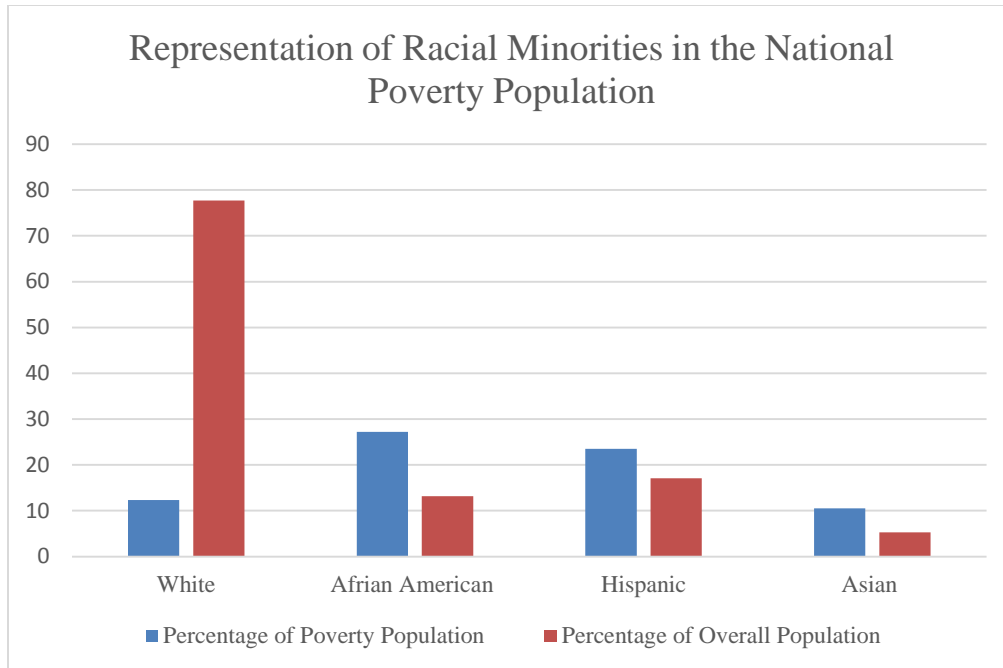
⁵¹ *Id.*

⁵² Letter from Catherine Llahmon, Assistant Secretary of the United States Department of Education, Office for Civil Rights (Oct. 1, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-resourcecomp-201410.pdf>.

⁵³ MICHAEL B. DE LEEUW, ET AL., RESIDENTIAL DISCRIMINATION AND HOUSING DISCRIMINATION IN THE UNITED STATES (2007), available at <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/cerd2008residentialsegregationandhousingdiscrimination.pdf>. The GI Bill is the product of two pieces of legislation: the Servicemen’s Readjustment Act of 1944 and the Montgomery GI Bill. *GI Bill*, LEGAL DICTIONARY, <http://legal-dictionary.thefreedictionary.com/GI+Bill>. The GI Bill is an umbrella term for any Department of Veterans Affairs education benefit that is provided to members of Active Duty, Selected Reserve and National Guard Armed Forces and their families. *Learn to Use Your GI Bill Benefits*, MILITARY.COM, <http://www.military.com/education/gi-bill/learn-to-use-your-gi-bill.html>. The GI Bill includes several programs. *Id.* Each Program is administered differently according to a person’s eligibility and duty status. *Id.*

⁵⁴ “A living wage is a wage that allows a worker to provide for the basic needs of herself and her family, without public assistance, with money left over for savings and some miscellaneous personal expenses.” ALLIANCE FOR A JUST SOCIETY, EQUITY IN THE BALANCE: HOW A LIVING WAGE WOULD HELP WOMEN AND PEOPLE OF COLOR MAKE ENDS MEET, JOB GAP ECONOMIC PROSPERITY SERIES 3 (2014), available at <https://jobgap2013.files.wordpress.com/2014/11/2014jobgapequity1.pdf>. This report used \$15 as the national minimum wage, but in cities like Seattle, a living wage may actually be higher.

of color are also paid less on average than their White counterparts.⁵⁵ Homelessness is largely a poverty issue.⁵⁶ Individuals struggling with poverty face challenges paying for housing and must make impossible decisions between housing and other necessities, such as food. Without equal employment and income opportunities, racial minorities are more vulnerable to homelessness.



Second, poverty challenges are compounded because racial minorities are “disproportionately victims of source of income discrimination” that occurs in the housing market.⁵⁷ When applying for housing, many people of color are met “by landlords who refuse to accept housing vouchers or other housing assistance and income subsidies . . . [and] engage in discrimination based on source of income on a daily basis.”⁵⁸ Across America, 62% of voucher holders are racial minorities.⁵⁹ Discrimination against voucher holders is often seen as “racial

⁵⁵ Ralph Da Costa Nunez, *Homelessness: It's About Race, Not Just Poverty*, CITYLIMITS.ORG (Mar. 5, 2012), <http://citylimits.org/2012/03/05/homelessness-its--about-race-not-just-poverty/>.

⁵⁶ *Id.*

⁵⁷ HARBERLE & SOTO, *supra* note 45, at 15. Source of income discrimination is “discrimination against renters based on verifiable and legitimate sources of income,” such as social security, child support, SSI and section 8 vouchers. *Source of Income Discrimination*, TENANTS UNION OF WASH. STATE, <http://www.tenantsunion.org/en/programs/source-of-income-discrimination>. Income discrimination is not protected at the federal level. THE EQUAL RIGHTS CTR., WILL YOU TAKE MY VOUCHER?: AN UPDATE ON HOUSING CHOICE VOUCHER DISCRIMINATION IN THE DISTRICT OF COLUMBIA 7 (2013). However, “discrimination against voucher holders is prohibited by civil rights laws in more than 13 states and in 30 local jurisdictions,” including D.C. *Id.* Therefore, discrimination against voucher holders violates source of income protections in these jurisdictions. *Id.* Furthermore, discrimination against voucher holders is often seen as racial discrimination “because of the disproportionate and adverse impact that discrimination against voucher holders has on African Americans. *Id.* Of the HUD Section 8 tenant-based voucher households, 46% are African American households and 15% are Hispanic households. HARBERLE & SOTO, *supra* note 45, at 15 (stating that this data was measured between November 1, 2012, and February 28, 2013).

⁵⁸ *Id.*

⁵⁹ THE EQUAL RIGHTS CTR., *supra* note 57.

discrimination because of the disproportionate and adverse impact that discrimination against voucher holders has on African Americans.”⁶⁰ For example, in New York City “over 3,000 rental advertisements indicating a limitation or discrimination based on source of income” can be found within just a matter of days.⁶¹ Similarly, in New Orleans, landlords deny apartments to voucher holders 82% of the time.⁶² Seventy-five percent of landlords in New Orleans refuse to accept housing vouchers while 7% of landlords place certain conditions upon voucher holders that make it “virtually impossible for a voucher holder to rent the apartment.”⁶³ This source of income discrimination disproportionately affects racial minorities in New Orleans because 99% of the Housing Choice Voucher holders are African American.⁶⁴ Similarly in Washington D.C., source of income discrimination disproportionately affects racial minorities.⁶⁵ While African Americans only represent 50.7% of the general population, more than 90% of voucher holders are racial minorities, with “the vast majority identifying as African American.”⁶⁶ “Finding safe, affordable housing in racially and economically integrated communities continues to be one of the biggest challenges for poor families of all protected classes.”⁶⁷ Source of income discrimination “can have a profoundly adverse effect on the housing choices that are available to [voucher holders], and can perpetuate patterns of racial, ethnic, and economic segregation.”⁶⁸ A lack of affordable housing is directly tied to an increase in homelessness overall;⁶⁹ however, racial minorities particularly suffer from declines in affordable housing due to source of income discrimination, which increases barriers to accessing housing. As a result, racial minorities are more vulnerable to homelessness.

⁶⁰ HARBERLE & SOTO, *supra* note 45, at 15.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* (noting that this study was conducted by the Greater New Orleans Fair Housing Action Center).

⁶⁴ *Id.* (noting that this study was conducted in New Orleans in 2009).

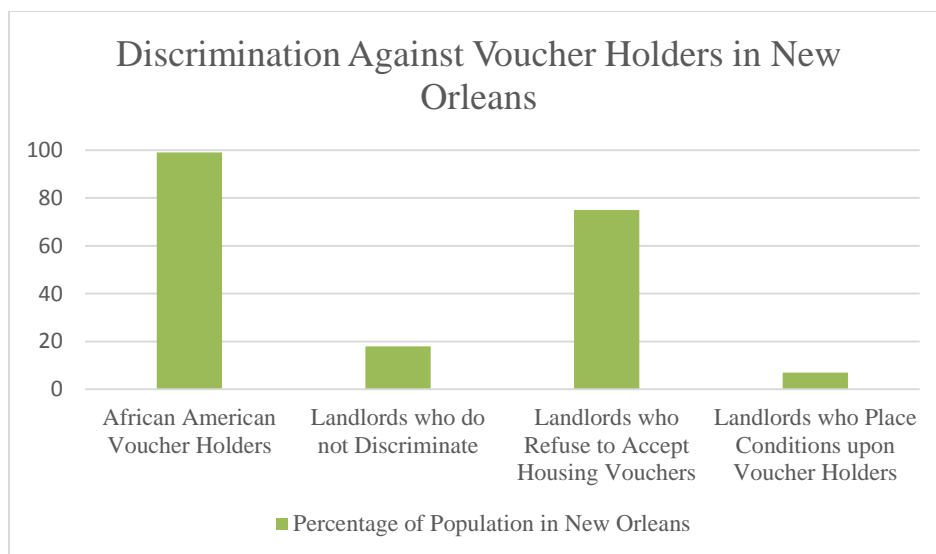
⁶⁵ THE EQUAL RIGHTS CTR., *supra* note 57. In 2005, 61% of landlords and property managers practiced some sort of source of income discrimination against voucher holders. *Id.* at 11. This number has significantly decreased to 28% in 2012. *Id.* However, the rate of outright refusals has increased from 15% in 2010, to 21% in 2012. *Id.*

⁶⁶ *Id.*

⁶⁷ HARBERLE & SOTO, *supra* note 45, at 15.

⁶⁸ THE EQUAL RIGHTS CTR., *supra* note 57.

⁶⁹ George R. Carter, *From Exclusion to Destitution: Race, Affordable Housing, and Homelessness*, 13 CITYSCAPE: A J. OF POL’Y DEV. & RES. 33 (2011), available at <http://www.thecyberhood.net/documents/papers/cityscape.pdf>.



Third, federal housing policies and practices disadvantage racial minorities by encouraging residential segregation, which increases the risk of homelessness for racial minorities.⁷⁰ Historically, U.S. government policies and practices “have helped to create highly segregated residential patterns across the United States.”⁷¹ Similar government programs and policies continue today that “perpetuate segregation and concentrate poverty” in communities of racial minorities.⁷² For example, “the federal government has implemented policy changes and budget cuts that have restricted affordable housing choice and mobility for participants in Section 8 Housing Choice Voucher Programs” since 2001.⁷³ Moreover, the Low Income Housing Tax Credit offers “an incentive to develop affordable housing primarily in poor and

⁷⁰ Hartnett, *supra* note 45.

⁷¹ DE LEEUW, ET AL., *supra* note 53. In 1934, the Federal Housing Administration’s (FHA) implemented “racially restrictive covenants in suburban developments as a condition for receiving [FHA] mortgage insurance.” Hartnett, *supra* note 45, at 100. As a result, “three out of every five homes purchased in the United States were financed by the FHA, yet less than [2%] of the FHA loans were made to non-white buyers.” *Id.* Similarly, the New Deal-era selective credit programs “were also explicitly discriminatory and denied benefits in accordance with race-based rules.” *Id.* A majority of public housing “built from the 1950s to the 1970s was comprised of large, densely populated ‘projects,’ often consisting of high-rise buildings located in poor, racially segregated communities.” *Id.* at 5. Moreover, housing authorities “often yielded to public and political pressure not to locate public housing or its tenants in white neighborhoods.” *Id.*

⁷² *Id.* HUD has conceded to building public housing in segregated neighborhoods, “and to being ‘part of the problem’ and ‘complicit in creating isolated, segregated, large-scale public housing.’” *Id.* at 6. HUD has “long employed a deliberate policy of locating public housing residents in neighborhoods where their presence would not disturb the prevailing racial pattern.” *Id.*

⁷³ *Id.* In 2001, of the HUD Section 8 Housing Choice Voucher Program participants, 41% were African American and 16% were Hispanic. *Id.* Recent policy changes preventing Section 8 from decreasing racial segregation include the elimination of funding for housing mobility programs” that offer “counseling to voucher recipients seeking to move into lower-poverty areas.” *Id.* Moreover, in 2003, HUD “limited the standards that permitted families to use Section 8 vouchers to move into lower-poverty areas with higher rents.” *Id.* Then, in 2004, HUD restricted the “mobility of Section 8 voucher recipients by permitting [public housing authorities] to restrict the portability of vouchers across jurisdictions if that portability would result in financial harm to the public housing authorities.” *Id.*

predominately minority neighborhoods.”⁷⁴ Such federal programs and policies play a large role in promoting residential segregation across the nation.⁷⁵ Residential segregation causes racial minorities, especially African Americans and Hispanics, to be “disproportionately concentrated in poor residential areas characterised [*sic*] by sub-standard housing conditions, limited employment opportunities, inadequate access to health care facilities, under-resourced schools and high exposure to crime and violence.”⁷⁶ Lower high school graduation rates and lower earnings are also consequences of segregation.⁷⁷ The combination of limited employment opportunities and earnings, inadequate health care, high exposure to crime and violence, and lower high school graduation rates can make poverty inescapable. As a result, residential segregation exacerbates homelessness and persistent poverty for racial minorities.⁷⁸

Last, discriminatory housing finance policies ensure the continuation of the marginalization of racial minorities.⁷⁹ Both the “[c]ontinued residential segregation and the history of excluding racial minorities from access to sustainable mortgage credit created model conditions for predatory lending to poor households in communities of color.”⁸⁰ For example, Fannie Mae and Freddie Mac, the secondary mortgage market entities known as the Government Sponsored Enterprises (GSEs), exclude racial minorities from access to sustainable mortgage credit.⁸¹ The GSEs are statutorily obligated to “serve underserved markets and play[] an important role in providing access to homeownership for borrowers of color.”⁸² However, the GSEs have not served borrowers of color because of certain structural barriers, “which have prevented equitable access to homeownership.”⁸³ The GSEs have “unnecessarily relied upon credit profile factors” similar to credit risk by employing policies that “divide loans into categories based on [factors such as] down payment (loan to value ratio), credit score, and product type.”⁸⁴ This type of policy has a discriminatory impact on borrowers of color because it imposes “additional fees for purchasing a mortgage from the originating lender that rely on the amount of down payment provided and credit score of the borrower.”⁸⁵ Moreover, African

⁷⁴ *Id.* The Low Income Housing Tax Credit gives federal tax credits to “investors who acquire, rehabilitate, or construct affordable rental property targeted to low-income tenants, providing an incentive to develop affordable housing in ‘qualified census tracts,’ which are often the poorest census tracts in a jurisdiction.” *Id.* at 8–9.

⁷⁵ Hartnett, *supra* note 45. (“[E]ighty-six percent of suburban whites live in communities that are less than one percent [African American]. Seventy-five percent of white Americans live in suburban or rural areas, while more than fifty percent of [African American] and Hispanic Americans live in urban areas.”).

⁷⁶ HARBERLE & SOTO, *supra* note 45, at 3.

⁷⁷ Carter, *supra* note 69.

⁷⁸ Hartnett, *supra* note 45, at 90. “Segregation in housing leads to segregated schools, higher housing costs, contributes to [African American] unemployment and generally acts as a barrier to the full participation of [African Americans] in American society.” *Id.* at 105 (quoting Stanley P. Stocker-Edwards, *Black Housing 1860-1980: The Development, Perpetuation, and Attempts to Eradicate the Dual Housing Market in America*, 5 HARV. BLACKLETTER J. 50 (1988)).

⁷⁹ HARBERLE & SOTO, *supra* note 45, at 10.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* The Fair Housing Act (FHA) protects individuals from housing discrimination on the basis of race. 42 U.S.C. §3604. Liability under the FHA includes both “perpetuation of segregation” and the effects of discrimination through disparate impact. *Id.* at 2. The FHA also mandates the federal government to “take affirmative steps to remedy private discrimination, to avoid governmental policies that perpetuate segregation, and to reverse historical

American borrowers are 25–35% “less likely to receive funding than a white borrower with similar credit.”⁸⁶ Even when people of color are given access to loans, they are more likely to receive higher cost loans, become victims to predatory lending, and lose their homes to foreclosure.⁸⁷ As a result, racial minorities are more likely to be rejected from receiving housing loans and less likely to maintain their housing. Since a lack of affordable housing is directly tied to an increase in homelessness overall,⁸⁸ racial minorities are discriminatorily impacted by homelessness.

Collectively, source of income discrimination, discriminatory federal housing practices and policies, and discriminatory lending practices play a large role in the discriminatory impact of homelessness on racial minorities. Therefore, any attempt to address homelessness must address the underlying systemic discrimination that causes the disproportionate impact of homelessness on racial minorities.

II. Discrimination Results in a Disproportionate Representation of Women in Homeless Populations

Existing data shows that women are discriminatorily impacted by homelessness in two ways. First, women are disproportionately represented in homeless families. Second, female domestic violence victims are discriminatorily impacted by homelessness.⁸⁹ This section addresses how women are disproportionately impacted by homelessness in these two ways nationally and in Washington State, and also outlines some of the causes of this impact.

patterns of segregation and discrimination.” *Id.* The evidence of racial segregation and discriminatory housing finance practices that disproportionately impact borrowers of color may violate the FHA and its mandates. *Id.*
⁸⁶ Stefanos Chen, *Lending Discrimination: Black Borrowers Face Higher Hurdles, Study Shows*, HUFFINGTON POST (Feb. 24, 2012), http://www.huffingtonpost.com/2012/02/24/lending-discrimination-black-borrowers-face-higher-hurdles-in-lending-study_n_1300509.html. African American and Hispanic borrowers are also offered high-interest, sub-prime mortgages more often than Whites, “even when they qualify for better terms.” *Id.* The Department of Justice has cited over 200,000 cases where African American and Hispanic borrowers “were charged higher fees and interest rates without regard for their credit profile.” *Id.* “In 2006, at the height of risky home-loan servicing, 52[%] of loans to African American families were subprime; for [Hispanic] families, more than 40[%] were subprime.” *Id.* Racial minorities also face discrimination when looking for housing. Shaila Dewan, *Discrimination in Housing against Nonwhites Persists Quietly, U.S. Study Finds*, N.Y. TIMES (June 11, 2013), http://www.nytimes.com/2013/06/12/business/economy/discrimination-in-housing-against-nonwhites-persists-quietly-us-study-finds.html?_r=0. “Though less likely to face overt obstacles, like being refused an appointment to see a home, minority customers were shown fewer available units than whites with similar qualifications.” *Id.* African American prospective renters are shown 11% fewer rentals than Whites. *Id.* Furthermore, African American prospective buyers are shown 17% fewer homes than Whites. *Id.* White individuals are also typically offered lower rents, “told that deposits and other move-in costs were negotiable, or were quoted a lower price.” *Id.* “Taking into account fees, deposits and rents, apartments [are] more likely to cost [W]hites significantly less in the first year of rental than [African Americans] might pay.” *Id.* “Even subtle discrimination like steering minorities to certain neighborhoods or failing to offer them the homes most likely to increase in value would result in substantially weaker accumulation of wealth.” *Id.*

⁸⁷ DE LEEUW, ET AL., *supra* note 53.

⁸⁸ Carter, *supra* note 69.

⁸⁹ *Who is Homeless?*, NAT’L COAL. FOR THE HOMELESS (July 2009), <http://www.nationalhomeless.org/factsheets/who.html>.

A. National Statistics

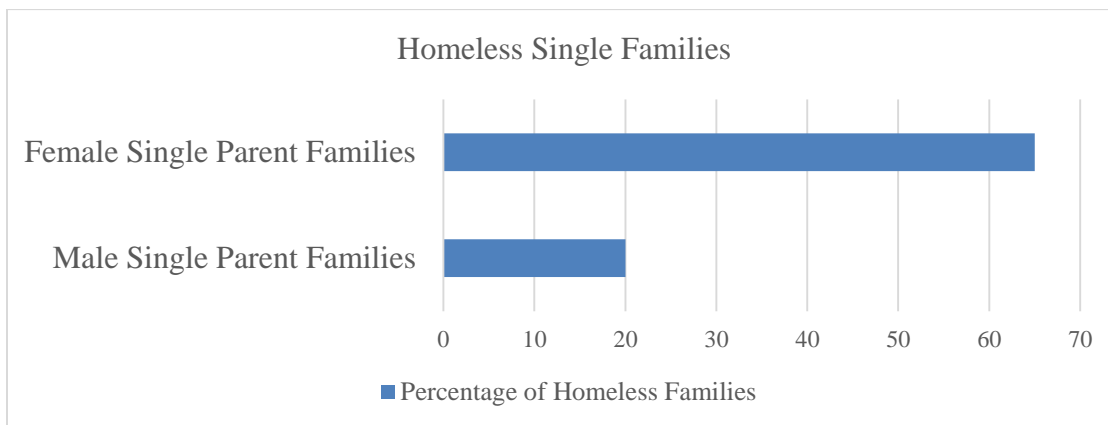
Across America, women are discriminatorily impacted by homelessness. First, this section discusses how women are disproportionately represented in homeless families. While “the number of studies conducted on homeless families is small, the considerable overlap in the findings suggests that there may be a sufficient knowledge base upon which to begin a typology.”⁹⁰ This typology encompasses the characteristics of women and homeless families, as well as the needs and causes of homelessness for families, which will be discussed below.⁹¹ Second, this section addresses how female domestic violence victims are disproportionately represented in the national homeless population.

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON WOMEN AT A GLANCE: NATIONAL STATISTICS

Single Female Parents: Of the sheltered adults in families with children, 20% are male, while 80% are female.

Female Domestic Violence Victims: Nationally, domestic violence is the third leading cause of homelessness.

First, female single parents are disproportionately represented in homeless families across the country.⁹² On a single night, 37% (216,261 people) of people experiencing homelessness are members of homeless families.⁹³ A majority (191,903) of people in homeless families are temporarily sheltered; 24,358 people in homeless families are unsheltered.⁹⁴ “The typical profile of a homeless family is one headed by a single woman in her late 20s with approximately two children, one or both under 6 years of age.”⁹⁵ Of the sheltered adults in families with children, 20% are male, while 80% are female.⁹⁶



⁹⁰ DEBRA J. ROG, ET AL., CHARACTERISTICS AND DYNAMICS OF HOMELESS FAMILIES WITH CHILDREN (Westat, Fall 2007).

⁹¹ See *infra* Part II, section C.

⁹² NATHAN DUNLAP, ET AL., POPULATIONS EXPERIENCING HOMELESSNESS: DIVERSE BARRIERS TO EMPLOYMENT AND HOW TO ADDRESS THEM (Transitional Jobs Network, Jan. 2012).

⁹³ HENRY, ET AL., *supra* note 4.

⁹⁴ *Id.*

⁹⁵ ROG, ET AL., *supra* note 90.

⁹⁶ NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, CRUEL, INHUMAN, AND DEGRADING: HOMELESSNESS IN THE UNITED STATES UNDER THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS 15 (Aug. 23, 2013), available at http://www.nlchp.org/Cruel_Inhuman_and_Degrading.

Second, female victims of domestic violence are disproportionately represented in the overall homeless population. Indeed, across America, domestic violence is the third leading cause of homelessness.⁹⁷ Survivors of domestic violence represent about 12% of the sheltered homeless population.⁹⁸ Furthermore, 22–57% of women have cited domestic violence as the immediate cause of their homelessness.⁹⁹ This trend is not new: in 1990, 50% of women and children were homeless because of domestic violence;¹⁰⁰ in 1998, 22% of homeless women “left their last place of residence because of domestic violence;”¹⁰¹ in 2003–04, 76% of women and 88% of children were living in shelters to escape domestic violence;¹⁰² and in 2005, a study of 24 cities found that domestic violence was the primary cause of homelessness in half of the cities.¹⁰³

In summary, the national statistics reveal that (1) female single parents are disproportionately represented in homeless families and (2) female domestic violence victims are disproportionately represented in the homeless population.

B. Washington State and County Statistics

Although Washington statewide statistics are largely unavailable, case studies from Washington counties yield similar results to the national data. First, this section addresses how women are disproportionately represented in Washington State homeless families. Second, this section explains how female victims of domestic violence are disproportionately represented in the statewide homeless population.

First, Washington county data confirms that homelessness has a discriminatory impact on female single parents. In King County, homeless female single parent families represent 98% of the total single parent homeless family population compared to the 2% represented by male single parent families.¹⁰⁴ Similarly in Pierce County, homeless female single parent families represent 97% of the total single parent homeless family population compared to the 3% represented by male single parent families.¹⁰⁵ Collectively, these Washington county case studies illuminate the disproportionate impact of homelessness on single female parent families.

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON WOMEN AT A GLANCE: WASHINGTON STATE

Single Female Parents: In King County, of the total single parent homeless family population, female single parents represent 98%.

Female Domestic Violence Victims: In East King County, domestic violence is the leading cause of homelessness for 24% of homeless families.

⁹⁷ SEATTLE CENTRAL LIBRARY, *supra* note 5.

⁹⁸ *Domestic Violence*, NAT’L ALLIANCE TO END HOMELESSNESS, http://www.endhomelessness.org/pages/domestic_violence (last visited Mar. 16, 2015).

⁹⁹ NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 96, at 16.

¹⁰⁰ NAT’L COAL. FOR THE HOMELESS, DOMESTIC VIOLENCE AND HOMELESS: NCH FACT SHEET #7 (Aug. 2007).

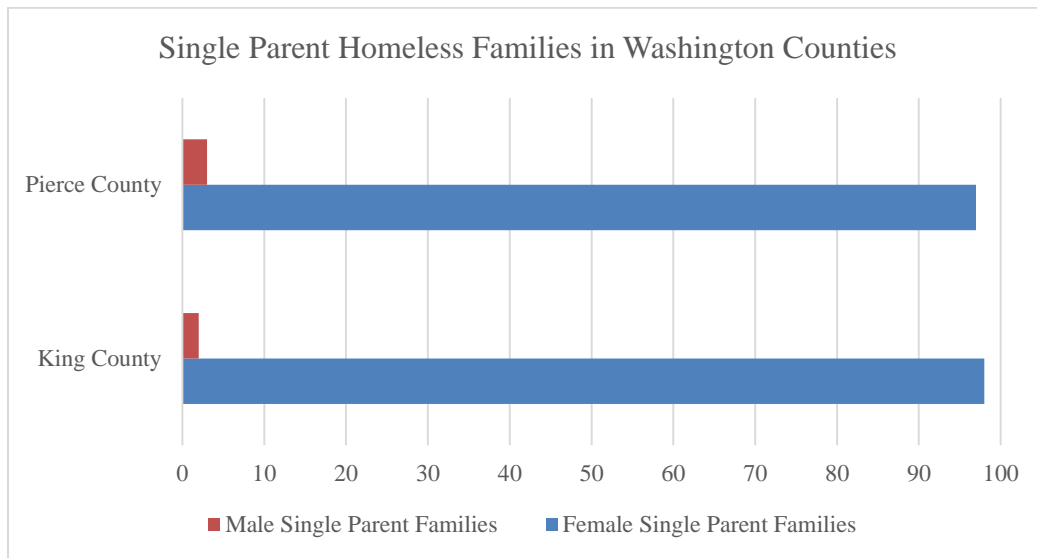
¹⁰¹ *Id.* (noting that this study included 777 homeless parent participants, a majority of whom were mothers, across ten cities).

¹⁰² CANADIAN COUNCIL ON SOCIAL DEVELOPMENT, DOMESTIC VIOLENCE IN SPONSOR RELATIONSHIPS AMONG IMMIGRANTS AND REFUGEE WOMEN AND ITS LINKS TO HOMELESSNESS: IMPLICATIONS FOR SERVICE DELIVERY 8.

¹⁰³ NAT’L COAL. FOR THE HOMELESS, *supra* note 100.

¹⁰⁴ *Results from the 2012 One Night Count*, SEATTLE/KING COUNTY COAL. ON HOMELESSNESS, http://www.homelessinfo.org/what_we_do/one_night_count/2012_results.php.

¹⁰⁵ PIERCE COUNTY COMMUNITY CONNECTIONS, *supra* note 3, at 10 (noting that 269 families are headed by a single parent, representing 27% of the homeless family population).



Second, homelessness has a discriminatory impact on female victims of domestic violence in Washington State. Mirroring the national data, domestic violence is a leading cause of homelessness for women and children statewide.¹⁰⁶ For example, in Thurston County, domestic violence is the fourth leading cause of homelessness.¹⁰⁷ Similarly in East King County, domestic violence is the leading cause of homelessness for 24% of homeless families.¹⁰⁸ Furthermore, in Snohomish County, victims of domestic violence represented the largest subpopulation of the overall homeless population.¹⁰⁹

Collectively, Washington statewide data and county case studies confirm the national trend that (1) female single parents are disproportionately represented in homeless families, and (2) female domestic violence victims are discriminatorily impacted by homelessness.

¹⁰⁶ WASH. STATE DEP’T OF COMMERCE, *supra* note 8 (finding that the “largest subpopulation of homeless persons in Washington State [are] victims of domestic violence”); WASH. STATE COAL. AGAINST DOMESTIC VIOLENCE, DOMESTIC VIOLENCE HOUSING FIRST 1 (“Domestic violence is a leading cause of homelessness for women and children, as many women who flee their abusers have no place to go, face discrimination, and often are temporarily unable to work.”).

¹⁰⁷ WASH. STATE DEP’T OF COMMERCE, *supra* note 8 (finding that the first three causes of homelessness are primarily economic reasons, family crisis/break-up, and mental illness).

¹⁰⁸ EASTSIDE HUMAN SERVICES FORUM, THE FACE OF HOMELESSNESS IN EAST KING COUNTY 7 (Summer 2007).

¹⁰⁹ SNOHOMISH COUNTY HUMAN SERVICES DEP’T, ET AL., 2012 POINT IN TIME COUNT OF HOMELESS PERSONS IN SNOHOMISH COUNTY 8 (2012) (finding that 363 homeless individuals are victims of domestic violence, accounting for an 11% increase from 2011).

C. Causes of Disproportionate Representation

This section surveys some of the factors that influence the discriminatory impact of homelessness on women: discriminatory work policies, lower income and earning power, domestic violence, and discriminatory rules that govern public housing and discriminatory landlord practices.

First, work policies that disadvantage women play a role in causing the disproportionate impact of homelessness on women. “[B]asic labor standards and the workplace environment have not caught up to the reality of [women’s] central role in the labor market.”¹¹⁰ This lag is illustrated across the country because the United States “is the only developed country with no [required] paid family and medical leave and no paid sick days, which forces workers to make impossible choices between work and family responsibilities.”¹¹¹ If a mother needs to stay home to take care of family responsibilities and she does not receive paid family and medical leave and sick days, she is not getting paid.¹¹² “The lack of these family-friendly policies is an important factor of the persistent gender wage gap.”¹¹³

Second, women are disproportionately affected by inadequate income.¹¹⁴ For many women “providing for themselves and their families is an impossible task.”¹¹⁵ Women are at a disadvantage because they are “more likely to work in low-paying industries and be paid less within industries and occupations.”¹¹⁶ Women make on average 77 cents for every dollar a man makes.¹¹⁷ Moreover, 43% of women workers earn less than \$15 per hour compared to only one-third of men.¹¹⁸ Poverty challenges may increase for women with children: the percentage of women workers with children that earn less than \$15 per hour is higher than single female households.¹¹⁹ As a result, “women are more likely to be living below the poverty line than men across all racial and ethnic groups.”¹²⁰ The “disproportionate share of women... earning less than the living wage necessary to make ends meet” are forced to make difficult choices between housing, health care, food, paying bills, and saving for emergencies, which makes women particularly vulnerable to homelessness.¹²¹

¹¹⁰ Hartnett, *supra* note 45.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ See generally HENRY & FREDERICKSEN, *supra* note 48.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Emma Gray, *Women and Poverty in the United States: 18 Essential Facts and Statistics*, THE HUFFINGTON POST (Aug. 29, 2012), http://www.huffingtonpost.com/2012/08/29/women-and-poverty-united-states-facts-statistics_n_1838384.html.

¹¹⁸ HENRY & FREDERICKSEN, *supra* note 48.

¹¹⁹ For example, 44% of single women earned less than \$15 per hour in Colorado. *Id.* at 12. This number increased to 66% for single women with a school-age child. *Id.* This number increased again for single women with two school-age children to 82%. *Id.*

¹²⁰ Gray, *supra* note 117.

¹²¹ HENRY & FREDERICKSEN, *supra* note 48, at 1, 9.

Third, as the national and Washington State data reveals “[d]omestic violence is one of the leading causes of homelessness for women and children.”¹²² Domestic violence is a direct cause of homelessness because victims are forced to flee their homes. Furthermore, “victims of domestic violence often have fewer options to seek temporary shelter with friends and family” because they need to be discreet in where they seek shelter and because abusers systematically isolate victims from support networks and financial resources.¹²³ Safety is a major concern for domestic violence victims fleeing their homes. For example, of the women participating in the Washington State Domestic Violence Housing First Program (DVHF),

30% of survivors’ abusers were violently and constantly jealous of them; 26% of survivors’ abusers were spying on them and leaving survivors threatening notes or destroying property; 23% of survivors believed their abuser or former partner was capable of killing them; 18% of abusers had tried to strangle the survivor; and 16% had threatened to kill the survivor.¹²⁴

“There is not a lot you can do until you are stable, and you aren’t stable until you have a home”—Domestic Violence Survivor

“In an abusive relationship when you lose yourself and focus entirely on the other person, your self-image is really damaged. The [the Washington State Domestic Violence Housing First] program has helped me with that, because I can see that I’m capable of writing a check, I’m capable of taking care of some things. I get help, but I can pay my own rent. The program helps me feel self-sufficient.”—Domestic Violence Survivor

--LYUNGAI MBILINYI & ALISON KREITER,
THE WASHINGTON STATE DOMESTIC
VIOLENCE HOUSING FIRST PROGRAM
EVALUATION SUMMARY, COHORT 1 1, 31
(Sept. 2013)

As a result of the high level of danger and isolation, many domestic violence survivors lack steady income, employment history, credit history, and landlord references.¹²⁵ Moreover, domestic violence victims who are fleeing their abusers are often temporarily unable to work, which creates significant barriers to accessing affordable housing.¹²⁶ Communal living shelters also create major challenges for domestic violence survivors during the process of finding housing stability.¹²⁷ For example, “[c]ommunal living shelters have historically placed restrictions on male children’s ages,” even though such restrictions are not a part of the legal requirements for domestic violence shelters.¹²⁸ Accordingly, domestic violence survivors are still turned away at shelters because of teenage sons.¹²⁹ These challenges compound the obstacles that domestic violence victims face trying to

¹²² WASH. STATE DEP’T OF COMMERCE, *supra* note 8.

¹²³ *Id.* See also *Domestic Violence*, *supra* note 98.

¹²⁴ LYUNGAI MBILINYI, THE WASHINGTON STATE DOMESTIC VIOLENCE HOUSING FIRST PROGRAM COHORT 2 FINAL EVALUATION REPORT 27 (Feb. 2015).

¹²⁵ *Domestic Violence*, *supra* note 98. Victims of domestic violence “lose a total of 8.0 million days of paid work each year. *Statistics*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <http://www.ncadv.org/learn/statistics> (last visited Mar. 16, 2015). Furthermore, domestic violence costs exceeds \$8.3 billion per year. *Id.*

¹²⁶ WASH. STATE COAL. AGAINST DOMESTIC VIOLENCE, *supra* note 106.

¹²⁷ MBILINYI, *supra* note 124, at 35.

¹²⁸ *Id.*

¹²⁹ *Id.*

support themselves and their families in finding permanent housing.¹³⁰

Fourth, housing policies and discriminatory landlord practices exponentially increase the challenges that victims of domestic violence face.¹³¹ Housing policies create barriers for domestic violence survivors to access or retain permanent housing.¹³² “For example, income limits for subsidized housing mean[] that some survivors might not be able to earn what they need[] to cover their expenses.”¹³³ Furthermore, some survivors find a second job in order to cover their expenses, “only to have their income exceed the limit.”¹³⁴ Other survivors have “incomes slightly above what qualifies for subsidized housing...yet not high enough to afford housing without assistance.”¹³⁵

“We thought that property owners would just embrace [the Washington State Domestic Violence Housing First] project and they didn’t. We followed up with a property owner who owns about 500 units in our community, and I invited him to breakfast. He didn’t think that he should have to rent to, [as he put it,] battered women who would be destroying his property. There was still some misunderstanding about who battered women are and what that means to landlords.”—DVHF staff

--LYUNGAI MBILINYI & ALISON KREITER,
THE WASHINGTON STATE DOMESTIC
VIOLENCE HOUSING FIRST PROGRAM
EVALUATION SUMMARY, COHORT 1 27
(Sept. 2013)

Discriminatory landlord practices also create significant barriers for domestic violence survivors to access or retain housing.¹³⁶ Many landlords have adopted a “zero tolerance for crime” policy or a “one strike” policy that penalize victims of domestic violence.¹³⁷ These policies allow landlords to evict tenants regardless of whether the tenant is the victim or the perpetrator of the violence.¹³⁸ Therefore, women may be evicted for any violent activity regardless of the cause or the circumstances.¹³⁹ For example, in Michigan, women who have experienced recent or ongoing domestic violence are far more likely to face eviction than other women.¹⁴⁰ Some landlords specifically refuse to rent to a woman who has experienced domestic violence.¹⁴¹ For example, in New York City, 28% of housing providers either flatly refused to rent to a domestic violence victim or failed to follow up as promised when contacted by an investigator posing as a housing coordinator for a domestic violence survivor assistance program.¹⁴² The lack of legal protection against housing discrimination compounds

¹³⁰ *Id.*

¹³¹ THE NAT’L CTR. ON FAMILY HOMELESSNESS, THE CHARACTERISTICS AND NEEDS OF FAMILIES EXPERIENCING HOMELESSNESS 3.

¹³² MBILINYI, *supra* note 124, at 25.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ THE NAT’L CTR. ON FAMILY HOMELESSNESS, *supra* note 131.

¹³⁷ *Id.* (stating that the eviction of women in domestic violence situations might violate federal and state housing acts and only a few states provide mandatory protection for these women and children; Washington has adopted laws prohibiting housing discrimination against domestic violence victims).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

housing challenges for survivors of domestic violence.¹⁴³ Only thirteen states have implemented state laws that provide legal protection to domestic violence survivors from housing discrimination.¹⁴⁴ These policies employed by landlords and public housing and the lack of legal protection at the state level guarantee the continued disproportionate impact that homelessness has on female victims of domestic abuse.¹⁴⁵

In conclusion, work policies and inadequate income significantly disadvantage women and play a large role in the discriminatory impact of homelessness on women.¹⁴⁶ Moreover, domestic violence, housing policies, and discriminatory landlord practices disproportionately affect women and cause this group to be more vulnerable to homelessness.¹⁴⁷

III. Discrimination Results in a Disproportionate Representation of LGBTQ¹⁴⁸ Individuals in Homeless Populations

The existing data reveals that LGBTQ youth are also discriminatorily impacted by homelessness. This section addresses how LGBTQ youth are disproportionately impacted by homelessness nationally and in Washington State. This section also analyzes some of the reasons LGBTQ youth are disproportionately impacted by homelessness.

A. National Statistics

Across America, LGBTQ youth are discriminatorily impacted by homelessness.¹⁴⁹ LGBTQ individuals are disproportionately represented in the overall homeless population compared to the general population. There is no exact estimation of LGBTQ youth who are homeless, but commonly cited numbers range from 20–40% of the youth homeless population, while only 5–10% of the overall youth population in America identify as LGBTQ.¹⁵⁰ Furthermore, 43% of youth clients served by

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON LGBTQ INDIVIDUALS AT A GLANCE: NATIONAL STATISTICS

While only 5–10% of the overall youth population in America identify as LGBTQ, 43% of youth clients served by drop-in centers identify as LGBTQ, 30% of youth street outreach clients identify as LGBTQ, and 30% of youth clients using housing programs identify as LGBTQ.

¹⁴³ NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 84, at 16.

¹⁴⁴ *Id.*

¹⁴⁵ AMERICAN CIVIL LIBERTIES UNION, DOMESTIC VIOLENCE AND HOMELESSNESS (Feb. 6, 2008) [hereinafter ACLU]. The FHA prohibits discriminatory housing practices on the basis of sex. MERIS L. BERGQUIST, AFTER THE VIOLENCE: USING FAIR HOUSING LAWS TO KEEP WOMEN AND CHILDREN SAFE AT HOME 46 (Spring 2008) (stating that a female victim of domestic violence who has experienced discrimination because of the violence committed against her can find legal protection claiming sex discrimination under the FHA because the FHA prohibits discrimination through disparate treatment or disparate impact); *see generally* United States ex rel. Alvera v. C.B.M. Group, No. Cv. 01-857-PA (D. Or. 2001) (finding that the defendant practiced sex discrimination in violation of the FHA by employing a neutral eviction policy that authorized him to evict any tenant on the basis of domestic violence because a majority of domestic violence victims are women).

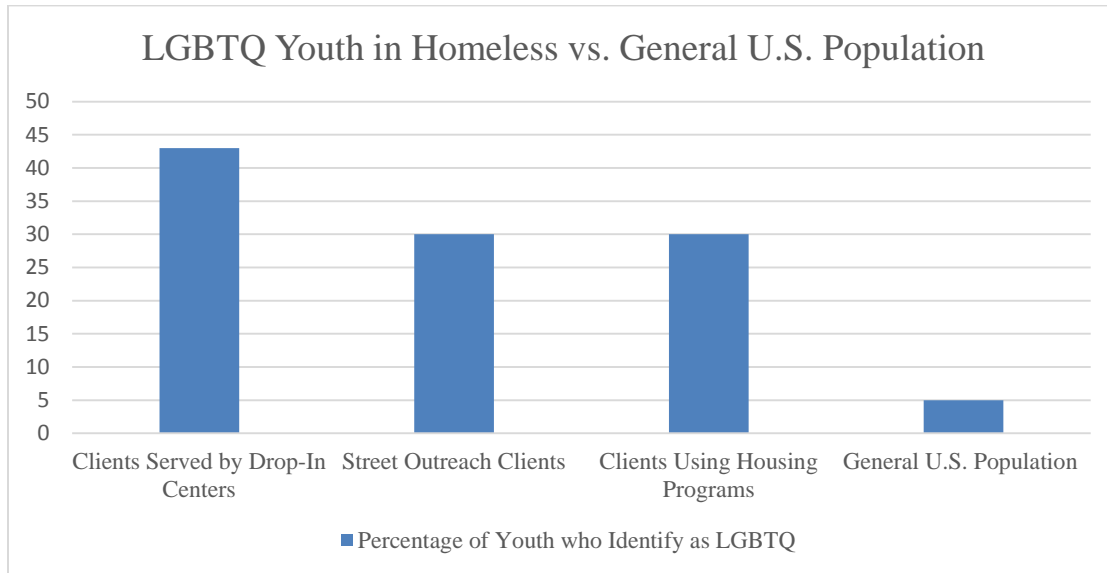
¹⁴⁶ *See generally* Hartnett, *supra* note 45; HENRY & FREDERICKSEN, *supra* note 48.

¹⁴⁷ ACLU, *supra* note 145.

¹⁴⁸ LGBTQ includes all those individuals who identify as lesbian, gay, bisexual, transgender, queer, or questioning.

¹⁴⁹ The U.S. census does not include LGBTQ data in its poverty reports, so the available national data is limited to work conducted by other research groups. Ineke Mushovic & Laura E. Durso, *The Unfair Price: Poverty in the LGBT Community*, TALKPOVERTY.ORG (Oct. 9, 2014), <http://talkpoverty.org/2014/10/09/poverty-in-the-lgbt-community/>.

drop-in centers identify as LGBTQ, 30% of youth street outreach clients identify as LGBTQ, and 30% of youth clients using housing programs identify as LGBTQ.¹⁵¹



B. Washington State and County Statistics

This section uses Washington State data to illustrate the discriminatory impact of homelessness on LGBTQ youth. Statewide data on the impact of homelessness on LGBTQ individuals is largely unavailable, so this section uses county and city case studies from Washington to illustrate the disproportionate impact of homelessness on LGBTQ individuals.¹⁵²

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON LGBTQ INDIVIDUALS AT A GLANCE: WASHINGTON STATE

In King County, 20–40% of homeless youth identify as LGBTQ.

King County and Seattle case studies confirm the national trend of the disproportionate representation of LGBTQ youth in the homeless population. In King County, 20–40% of homeless youth in

¹⁵⁰ SAMHSA, *supra* note 10 (stating that the National Alliance to End Homelessness analyzed 17 research studies in 2007, and estimated that 20% of youth who are homeless are LGBTQ individuals); *Gay and Transgender Youth Homelessness by the Numbers*, *supra* note 9 (stating that 20–40% of the youth homeless population are gay or transgender, while only 5–10% of the overall youth population are gay or transgender). A study conducted in New York revealed that the average age that lesbian and gay youth in New York become homeless is 14.4 while the average age that transgender youth become homeless is 13.5. *Id.*

¹⁵¹ Nat’l Coal. for the Homeless, *LGBT Homelessness*, NATIONALHOMELESS.ORG, <http://nationalhomeless.org/issues/lgbt/>.

¹⁵² Data regarding the intersectionality of homelessness and LGBTQ individuals is limited in part because of certain challenges with data collection. Interview with Megan Gibbard, Project Manager, Homeless Youth and Young Adult Initiative, King County (Mar. 17, 2015) (“[W]e are relatively new at asking about gender identity and sexual orientation. Gender identity and sexual orientation is sensitive data. The hesitancy is that just asking questions about gender identity and sexual orientation without proper training and cultural awareness will lead to low quality data. Better quality data does not mean just adding those fields [about gender identity and sexual orientation] to data bases.”).

King County identify as LGBTQ, which is much greater than the percentage of youth who identify as LGBTQ in the overall population.¹⁵³ On any given night, 824 youth and young adults ages 12–25 are homeless or unstably housed in King County.¹⁵⁴ Transgendered or queer individuals represent 1% of this total.¹⁵⁵ Of 303 youth and young adults’ identifiable surveys, 22% identify as LGBTQ.¹⁵⁶ In Seattle, 39% of the homeless population identified as gay and/or transgendered in 2001.¹⁵⁷ Another study in 2002 of youth between the ages of thirteen to twenty-one in Seattle estimated that gay youth represented 22% of the overall homeless population.¹⁵⁸ While the data on LGBTQ individuals in Washington State is very limited, these county and city case studies support the national data illustrating the disproportionate impact of homelessness on LGBTQ youth.

C. Causes of Disproportionate Representation

This section surveys some of the causes of the disproportionate representation of LGBTQ youth in the homeless population. The amalgam of factors that can cause this disproportionate

A major cause of homelessness for LGBTQ youth and adults that is under-cited is the experience of childhood abuse, domestic sexual abuse, and peer sexual abuse and violence. For example, I was working with an individual who was sexually abused by a family member. This family member went to jail for the abuse. Upon release, this family member started stalking her. She didn’t reveal this to anyone, including her case manager. “It’s embarrassing and scary.” She was supposed to meet with her case manager, but couldn’t leave her apartment because her family member was waiting outside of her building. As a result, she was seen as noncompliant. This illustrates how sexual violence causes homelessness and can prevent LGBTQ individuals from finding and maintaining stable housing.

-- Shannon Perez-Darby, Youth Program Manager, The Northwest Network (Mar. 4, 2015)

impact include unsafe family and social environments, educational and poverty challenges, and anti-LGBTQ laws.

First, many LGBTQ youth are vulnerable to homelessness as a result of unsafe family and social environments.¹⁵⁹ Many LGBTQ youth are subjected to family harassment because of their sexual orientation or gender identification.¹⁶⁰ For example, 54% of LGBTQ youth have experienced sexual, physical, or emotional abuse by family members. Furthermore, 46% of LGBTQ youth cite running away because of family rejection of sexual orientation or gender identity as the cause for their homelessness, and 43% cite being forced out by parents because of sexual orientation or gender identity as

¹⁵³ *Facts about Homeless Youth and Young Adults*, *supra* note 10; *Stats and Facts about Youth Homelessness*, UNITED WAY OF KING COUNTY, <http://www.uwkc.org/our-focus/homelessness/stats-on-youth-homelessness.html>.

¹⁵⁴ UNITED WAY OF KING COUNTY, ET AL., *supra* note 43, at 2.

¹⁵⁵ *Id.* at 8.

¹⁵⁶ *Id.* at 10. Of this total, 2% identify as questioning, 2% identify as queer, 13% identify as bisexual, and 5% identify as a lesbian or gay. *Id.*

¹⁵⁷ NICO SIFRA QUINTANA, ET AL., ON THE STREETS: THE FEDERAL RESPONSE TO GAY AND TRANSGENDER HOMELESS YOUTH 6 (Ctr. for American Progress, June 2010) (noting that the study was conducted of youth between the ages of 13 and 23).

¹⁵⁸ *Id.*

¹⁵⁹ J.B. Wogan, *Why the District of Columbia Wants to Count LGBT Homeless Youth*, GOVERNING MAGAZINE (Feb. 25, 2014), <http://www.governing.com/topics/health-human-services/gov-district-counts-homeless-lgbt-youth.html>.

¹⁶⁰ *Id.*

the cause of their homelessness.¹⁶¹ As America becomes increasingly supportive of equality and more accepting of LGBTQ individuals, LGBTQ youth may feel safer coming out to their families, which can “lead to a chain reaction of events that sends them cascading through social safety nets that are not equipped to support them.”¹⁶² Research shows that “[t]wenty years ago, most people started coming out in their 20s, well after most had left home and started working.”¹⁶³ Therefore, in this context, family rejection was less likely to financially affect the individual.¹⁶⁴ Currently, the typical age for LGBTQ youth to come out to their families is in the mid-teen years.¹⁶⁵ At this age, LGBTQ youth are still dependent on their families for financial support, and are therefore more vulnerable if they are rejected by their family.¹⁶⁶ Family rejection is also met with social harassment, which compounds the challenges for LGBTQ youth.¹⁶⁷ Research shows that “too many youth who come out are rejected by their families, harassed and victimized in schools, discriminated against in out-of-home care facilities, and brutalized in homeless shelters.”¹⁶⁸ Therefore, family rejection and social harassment play a significant role in the discriminatory impact of homelessness on LGBTQ youth: family rejection leaves LGBTQ youth without financial and emotional support; meanwhile, social rejection and harassment eliminate safety nets for LGBTQ youth to rely upon if they are rejected by their families.¹⁶⁹

Second, LGBTQ individuals are faced with numerous barriers, such as educational and poverty challenges, which create an “interlocking system” that keep many LGBTQ individuals in vulnerable, unequal situations.¹⁷⁰ First, LGBTQ youth face barriers to education.¹⁷¹ For example, transgender youth may be unable to apply for school or higher education because of a lack of identification or because their I.D. does not match their name or gender.¹⁷² Also, LGBTQ youth drop out of school because of harassment, violence, and discrimination.¹⁷³ A second barrier is poverty.¹⁷⁴ LGBTQ individuals struggle with low income or no income.¹⁷⁵ Twenty percent of LGBTQ individuals living alone receive annual incomes of less than \$12,000 compared to 17% of non-LGBTQ people living alone.¹⁷⁶ In fact, transgender individuals are almost four times more likely than the general population to have annual incomes of less than \$10,000.¹⁷⁷ LGBTQ

¹⁶¹ THE PALETTE FUND, ET AL., *SERVING OUR YOUTH: FINDINGS FROM A NATIONAL SURVEY OF SERVICES PROVIDERS WORKING WITH LESBIAN, GAY, BISEXUAL AND TRANSGENDER YOUTH WHO ARE HOMELESS OR AT RISK OF BECOMING HOMELESS 4* (2012), available at <http://fortytonone.org/wp-content/uploads/2012/06/LGBT-Homeless-Youth-Survey-Final-Report-7-11-12.pdf>.

¹⁶² QUINTANA, ET AL., *supra* note 157.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ SYLVIA RIVERA LAW PROJECT, *SYSTEMS OF INEQUALITY: POVERTY & HOMELESSNESS*, available at <http://srlp.org/wp-content/uploads/2012/08/disprop-poverty.pdf>.

¹⁷¹ *Id.* (stating that poverty challenges may be caused or exacerbated by barriers to education).

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ Mushovic & Durso, *supra* note 149.

¹⁷⁷ *Id.*

families face similar poverty challenges.¹⁷⁸ Single LGBTQ adults with children are three times as likely to have incomes near the poverty line as non-LGBTQ adults.¹⁷⁹ Married or partnered LGBTQ adults with children are two times as likely to have incomes near the poverty line as non-LGBTQ peers.¹⁸⁰ These challenges illustrate just some of the conditions of inequality that contribute to LGBTQ individuals' disproportionate representation in homeless populations.

Third, anti-LGBTQ laws play a large role in the disproportionate impact of homelessness on LGBTQ individuals.¹⁸¹ Anti-LGBTQ laws are those laws that do not provide LGBTQ individuals with legal protection and allow discrimination against this community to occur.¹⁸² "Nineteen states lack almost any form of legal protections" for LGBTQ individuals.¹⁸³ These laws have a real impact on economic insecurity of LGBTQ individuals.¹⁸⁴ There are at least two categories of legal failures that cause the disproportionate impact of homelessness on LGBTQ individuals: legal discrimination and hostile education environments.¹⁸⁵

A first category of failures of law that cause the disproportionate impact of homelessness on LGBTQ individuals is the lack of legal protection from discrimination. This means that LGBTQ individuals "can be fired, denied housing and credit, and refused medically necessary healthcare simply because they are LGBT[Q]," without any legal remedy.¹⁸⁶ Specifically, anti-LGBTQ laws allow for housing discrimination and discrimination on the part of federally funded programs.¹⁸⁷ First, in states lacking housing protections, LGBTQ individuals can be evicted without cause or warning.¹⁸⁸ LGBTQ individuals and families are often subject to "upfront hostility from landlords, real estate agents, and lenders when looking for housing."¹⁸⁹ Second,

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.* The majority of anti-LGBTQ laws that are negatively impacting the lives of LGBTQ individuals are state and local laws, rather than federal laws. *Id.* Therefore, "where one lives makes a huge difference in the extent to which LGBT[Q] people are impacted by the failures of law." *Id.* In 20 states and Washington D.C., LGBTQ individuals "have a large degree of legal equality." *Id.* Forty-six percent of the LGBTQ population lives in these high equality states. *Id.* However, there are 28 low equality states where 47% of the LGBTQ population lives. *Id.* There are also two medium equality states where 7% of the LGBTQ population lives. *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ CTR. FOR AMERICAN PROGRESS & MOVEMENT ADVANCEMENT PROJECT, PAYING AN UNFAIR PRICE: THE FINANCIAL PENALTY FOR BEING LGBT IN AMERICA (Sept. 2014).

¹⁸⁶ *LGBT Economic Security*, MOVEMENT ADVANCEMENT PROJECT, <http://www.lgbtmap.org/lgbt-economic-security>.

¹⁸⁷ QUINTANA, ET AL., *supra* note 157. HUD issued guidance in 2010 "prohibiting housing discrimination against transgender individuals under the federal Fair Housing Act, but the impact of this guidance has been limited by a lack of awareness and clarity in practice." NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 84, at 16.

¹⁸⁸ Mushovic & Durso, *supra* note 149 (stating that housing discrimination disproportionately affects LGBTQ individuals, especially those who are already poor, because when an LGBTQ individual is evicted without cause or warning, he or she is subject to financial penalties that he or she cannot afford such as a new security deposit or even a more expensive place "leased by a landlord who doesn't discriminate").

¹⁸⁹ HARBERLE & SOTO, *supra* note 45, at 14. A study of 6,450 transgender and gender non-conforming participants revealed that 19% had been denied a home or apartment; 19% had experienced homelessness; and 11% had been evicted. *Id.* HUD released a study in 2013 reporting that same-sex couples experience discrimination in the online rental housing market compared to heterosexual couples, and "same-sex couples received fewer responses to email inquiries than heterosexual couples." *Id.*

anti-LGBTQ laws permit discrimination against LGBTQ individuals on the part of federally funded programs.¹⁹⁰ Currently, no federal program meets the needs for LGBTQ homeless youth.¹⁹¹ Moreover, minimal state laws protect “these youth from being discriminated against while accessing federally funded homeless services.”¹⁹² One example is the child welfare system, which often fails to protect LGBTQ youth.¹⁹³ For example, in New York State, 78% of LGBTQ youth are either removed from their New York foster care placements or run away as a result of discrimination based on their sexual orientation or gender identity.¹⁹⁴ Moreover, 88% of professional staff in out-of-home placements in New York believe that LGBTQ individuals are not safe in group-home environments.¹⁹⁵

A second category of legal failures for LGBTQ individuals is the lack of laws that protect youth from hostile school environments.¹⁹⁶ The failure to adequately protect LGBTQ students causes many of these students and families to be challenged with “a hostile, unsafe, and unwelcoming environment in local schools.”¹⁹⁷ Over the past decade, national and local Washington research concerning LGTBQ youth educational experiences shows that LGBTQ youth “experience higher rates of harassment and violence from peers and educators than their heterosexual” peers.¹⁹⁸ As a result of the harassment, “LGBTQ youth [are] less likely to have aspirations for higher education and [have] lower grade point averages to get into college.”¹⁹⁹ Furthermore, many LGBTQ youth drop out of school because of harassment, violence, and discrimination in school.²⁰⁰ In addition to harassment, this second category of legal failures also allows for discrimination in “accessing financial aid and other support,” creating financial penalties that many LGBTQ students and families cannot afford.²⁰¹ Such barriers to education can and often do lead to low income or no income.²⁰² In turn, low income or no income leads to an increased risk of homelessness for LGBTQ individuals.²⁰³

Such legal failures cause many LGBTQ individuals to be trapped in “a devastating cycle of poverty” marked with unfair financial penalties.²⁰⁴ LGBTQ youth disproportionately struggle with inadequate incomes, which compounds the challenges that LGBTQ individuals face as a result of anti-LGBTQ laws.²⁰⁵ Such a lack of legal protection and pervasive hostility is evidence

¹⁹⁰ QUINTANA, ET AL., *supra* note 157.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Gay and Transgender Youth Homelessness by the Numbers*, *supra* note 9.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *LGBT Economic Security*, *supra* note 186.

¹⁹⁷ *Id.*

¹⁹⁸ SEATTLE COMMISSION FOR SEXUAL MINORITIES, LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUESTIONING (LGBTQ) YOUTH IN SEATTLE: REPORT AND POLICY RECOMMENDATIONS (Feb. 2006).

¹⁹⁹ *Id.*

²⁰⁰ SYLVIA RIVERA LAW PROJECT, *supra* note 170.

²⁰¹ *LGBT Economic Security*, *supra* note 186.

²⁰² SYLVIA RIVERA LAW PROJECT, *supra* note 170.

²⁰³ *Id.*

²⁰⁴ CTR. FOR AMERICAN PROGRESS & MOVEMENT ADVANCEMENT PROJECT, *supra* note 185.

²⁰⁵ Mushovic & Durso, *supra* note 149.

of systemic discrimination against LGBTQ individuals. Such discriminatory practices call for immediate solutions.²⁰⁶

IV. Discrimination Results in a Disproportionate Representation of Individuals with a Mental Disability²⁰⁷ in Homelessness Populations

Despite claims that the overall homeless population is decreasing, the homeless population with disabilities has increased steadily since the 1970s.²⁰⁸ Nearly all chronically homeless individuals have “some kind of disability, whether it is a drug addiction, a mental illness, or a physical handicap.”²⁰⁹ Yet, specific available data on homeless individuals with a disability is rather limited.²¹⁰ Very few localities gather data on disabilities other than mental illness or physical disabilities, ignoring the millions of individuals with developmental, vision, hearing, speech, language disabilities, or behavioral disorders.²¹¹ Therefore, this section compiles the available national and Washington State evidence to shed light on how individuals with a mental disability are impacted by homelessness. This section also surveys some of the causes of homelessness for this group.

²⁰⁶ QUINTANA, ET AL., *supra* note 157.

²⁰⁷ This brief uses the Washington State definition of disability. RCW 49.60.040 defines disability as “the presence of a sensory, mental, or physical impairment that: (i) is medically cognizable or diagnosable; or (ii) exists as a record or history; or (iii) is perceived to exist whether or not it exists in fact.” Furthermore, a “disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.” Per this definition, recovery from drug addiction or substance abuse is considered a disability in Washington State. *Disability Questions*, WASH. STATE HUMAN RIGHTS COMMISSION, <http://www.hum.wa.gov/FAQ/FAQDisibility2.html> (last visited Dec. 1, 2014). This brief separates substance abuse from other mental health issues, however, because that was how the majority of data was presented. It is important to be aware, however, that some jurisdictions do consider substance abuse to be a mental health condition or mental illness.

²⁰⁸ E. Fuller Torrey, *250,000 Mentally Ill are Homeless. The number is increasing.*, MENTAL ILLNESS POLICY ORG., <http://mentalillnesspolicy.org/consequences/homeless-mentally-ill.html> (last visited Oct. 11, 2014). *See also* Michelle Diamant, *More Than Two-Fifths of Homeless Have Disabilities*, DISABILITYSCOOP (July 16, 2009), <http://www.disabilityscoop.com/2009/07/16/homeless-report/4153/>.

²⁰⁹ Dennis Culhane, *Five myths about America’s homeless*, WASH. POST (July 11, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/09/AR2010070902357.html>.

²¹⁰ This limitation may be due to a number of factors. First, information on mental disabilities is often required from individuals in order to access services, including housing. Second, some suggest that because the “number of people living on the streets who suffer from paranoia, delusions and other mental disorders are very visible, they have come to stand for the entire homeless population.” *Id.* For many, mental illness has become synonymous with homelessness. Yet, the very nature of homelessness can make many individuals *appear* to have a mental illness. The very things we consider to be social norms (showering, using a restroom, sleeping inside, using one small bag to carry your possessions) are impossible for homeless individuals to cater to. Furthermore, the trauma that homeless individuals endure on a day-to-day basis may cause them to distrust authority, isolate themselves, disaffiliate with “normal” social structures, withdrawal socially, or become extremely shy, furthering potential perceptions of mental illness, as well as actually cause or exacerbate mental illness. *Characteristics of a Homeless Person in Metro Atlanta*, THE COAL. FOR THE HOMELESS MENTALLY ILL, <http://www.homelessmentallyill.org/homeb.html> (last visited Dec. 1, 2014).

²¹¹ MATTHEW BRAULT, AMERICANS WITH DISABILITIES: 2010, U.S. CENSUS BUREAU (2012), *available at* <http://www.census.gov/prod/2012pubs/p70-131.pdf>.

A. National Statistics

Mental disability is both a cause and consequence of poverty. People who live in shelters are more than twice as likely to have a mental disability as the general population,²¹² and those who have a mental disability are particularly vulnerable to homelessness. This section examines the relationship between three categories of mental disability and homelessness: mental illness, severe mental illness, and substance abuse.

First, individuals with a mental illness are more likely to become homeless than the general population. “[A]t some point in their lives, nearly all Americans will be affected by a mental health or substance abuse disorder in themselves or their families,”²¹³ and approximately 17% of adults experience mental illness over the course of a year.²¹⁴ By contrast, in the homeless population, 30–43% of individuals have a mental illness.²¹⁵ In some cities, individuals with mental illness may represent up to 70% of the homeless population.²¹⁶ Homeless individuals with a mental illness are particularly susceptible to long-term homelessness as well; studies indicate that over 60% of people who are chronically homeless have experienced a lifetime of mental illness.²¹⁷

Second, homeless individuals are also more likely to suffer from a severe mental illness than the general population. A severe mental illness is one that results in “serious functional impairment, which substantially interferes with or limits one or more daily activities” and includes illnesses such as schizophrenia, bipolar disorder, and major depression.²¹⁸ Less than 6% of Americans live with a severe mental illness,²¹⁹ yet 20–33% of homeless individuals have severe mental illness.²²⁰ Rates of severe mental illness are even higher in the chronically homeless population; some studies estimate that 40% of chronically homeless individuals have a severe mental illness.²²¹ Individuals with a severe mental illness are not only more likely to be victims

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON INDIVIDUALS WITH A MENTAL DISABILITY AT A GLANCE: NATIONAL STATISTICS

Mental Illness: 30–43% of homeless individuals have a mental illness.

Severe Mental Illness: 20–33% of homeless individuals have severe psychiatric disorders.

Substance Abuse and Dependency: Over 80% of chronically homeless individuals experience alcohol and/or drug dependency at some point during their lifetime.

²¹² *Health Care*, NAT’L ALLIANCE TO END HOMELESSNESS, http://www.endhomelessness.org/pages/mental_physical_health (last visited Dec. 1, 2014).

²¹³ Boris Lushniak, *Why You Should Care about Mental Health*, MENTALHEALTH.GOV (Oct. 9, 2014), <http://www.mentalhealth.gov/blog/2014/10/why-you-should-care-about-mental-health.html>.

²¹⁴ *Mental Illness Facts and Numbers*, NAT’L ALLIANCE OF MENTAL ILLNESS (Mar. 2013), http://www.nami.org/factsheets/mentalillness_factsheet.pdf.

²¹⁵ SAMHSA, *supra* note 10, at 17; Thomas Weiss, *People with Disabilities and Homelessness*, DISABLED WORLD (Mar. 29, 2010), <http://www.disabled-world.com/editorials/political/disability-homeless.php>.

²¹⁶ Hoffman, *supra* note 12.

²¹⁷ SAMHSA, *supra* note 10, at 4.

²¹⁸ *Serious Mental Illness (SMI) Among U.S. Adults*, NAT’L INST. OF MENTAL HEALTH, <http://www.nimh.nih.gov/health/statistics/prevalence/serious-mental-illness-smi-among-us-adults.shtml> (last visited Dec. 1, 2014).

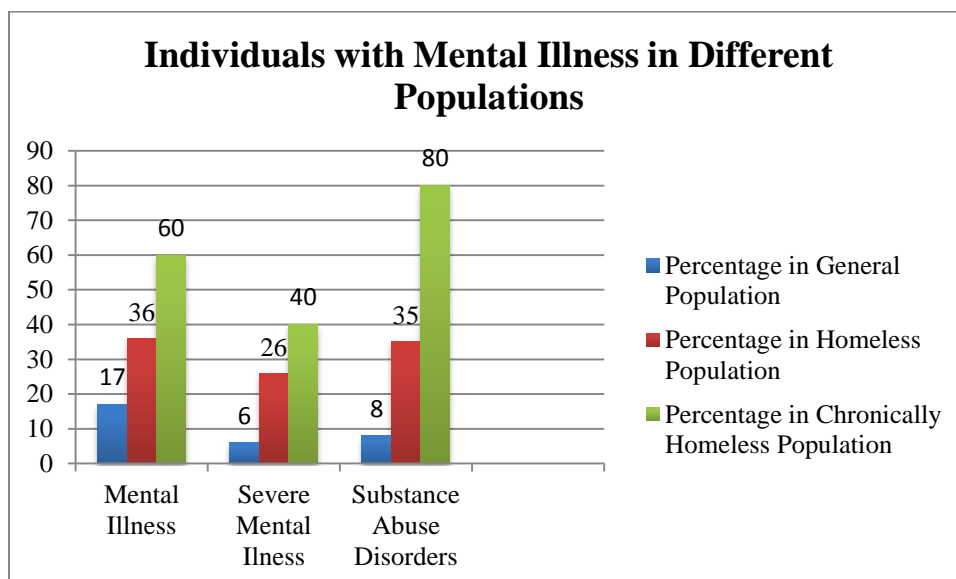
²¹⁹ *Mental Illness Facts and Numbers*, *supra* note 214.

²²⁰ Torrey, *supra* note 208; SAMHSA, *supra* note 10, at 2.

²²¹ Culhane, *supra* note 209.

of long term homelessness, but are also among the most vulnerable to “substance abuse, . . . stigmatization, exploitation and brutal victimization.”²²²

Third, substance abuse and dependence is also higher among homeless individuals than the general population. Approximately 8.2% of the general population is classified with substance abuse or dependence.²²³ By contrast, approximately 35% of all sheltered homeless adults struggle with chronic substance abuse issues.²²⁴ For homeless individuals who experience mental illness symptoms, the estimated rate of substance abuse is even higher—at 50%.²²⁵ Chronically homeless individuals are even more likely to suffer from substance abuse problems than those temporarily or episodically homeless. Over 80% of chronically homeless people experience alcohol and/or drug dependency at some point during their lifetime.²²⁶



Thus, the national statistics show that homelessness disproportionately impacts individuals with any of the three categories of mental disability examined in this section.

B. Washington State and County Statistics

Washington statistics echo these national findings. In Washington State, county case studies reveal that homeless individuals are more likely to have a mental disability than those in the general population.²²⁷ First, Washington has the highest rate of mental illness in the United

²²² HCH Clinicians’ Network, *Mental Illness, Chronic Homelessness: An American Disgrace*, 4 HEALING HANDS 1–4 (2002), available at <http://www.nhchc.org/wp-content/uploads/2012/03/Oct2000HealingHands.pdf>.

²²³ U.S. DEP’T OF HEALTH & HUMAN SERVICES, ET AL., *supra* note 13.

²²⁴ SAMHSA, *supra* note 10, at 2.

²²⁵ *Id.* at 4.

²²⁶ *Id.*

²²⁷ See, e.g., COUNTYWIDE PARTNERSHIP IN CONJUNCTION WITH THE TEN-YEAR PLAN TO END HOMELESSNESS, 2013 THURSTON COUNTY POINT-IN-TIME CENSUS REPORT: WHO’S HOMELESS AND WHY (2013), available at <http://www.co.thurston.wa.us/health/sscp/PDF/2013PITCensusReportforThurstonCounty.pdf> [hereinafter THURSTON CNTY.]; WHATCOM COAL. TO END HOMELESSNESS, *supra* note 25; HUMAN SERVICES, 2013 POINT IN

States at 20.8%.²²⁸ Of the state homeless population, however, 35% of the population is affected by a mental illness.²²⁹ Second, the state also has one of the highest rates of serious mental illness; 5.1% of the general population in the state has a severe mental illness.²³⁰ However, 13% of homeless adults has severe mental illness health issues.²³¹ Third, approximately 7.7% of the general population has had past alcohol dependence or abuse and approximately 2.7% has had illicit drug dependence or abuse.²³² Of the state homeless population, however, 9% of adults identify issues with chronic substance abuse.²³³

Certain counties in Washington State further confirm that individuals with a mental disability are disproportionately impacted by homelessness. County statistics indicate a higher rate of mental illness in the homeless population than the rate of mental illness in the Washington State general population.²³⁴

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON INDIVIDUALS WITH A MENTAL DISABILITY AT A GLANCE: WASHINGTON STATE

Mental Illness: 20.8% of the general population has a mental illness compared to 35% of the homeless population
Severe Mental Illness: 5.1% of the general population has a severe mental illness compared to 13% of the homeless population
Substance Abuse and Dependency: 7.7% of the general population has had alcohol dependence or abuse compared to 9% of the homeless population.

TIME COUNT OF HOMELESS PERSONS SUMMARY REPORT (2013), *available at*

http://www.co.snohomish.wa.us/documents/Departments/Human_Services/OHHCD/HMIS/2013PITSummary.pdf.

²²⁸ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, STATE ESTIMATE OF ADULT MENTAL ILLNESS FROM THE 2011 AND 2012 NATIONAL SURVEYS ON DRUG USE AND HEALTH (2014), *available at* [http://www.samhsa.gov/data/sites/default/files/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014.pdf](http://www.samhsa.gov/data/sites/default/files/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014.pdf) [hereinafter SAMHSA].

²²⁹ COMMON GROUND, WASHINGTON STATE RESOURCE GUIDE: HOUSING FOR HOMELESS PEOPLE WITH MENTAL ILLNESSES AND CO-OCCURRING DISORDERS 7–8 (Oct. 2008), *available at* http://www.dshs.wa.gov/pdf/dbhr/mh/resourceguide/homeless_resource_guide.pdf.

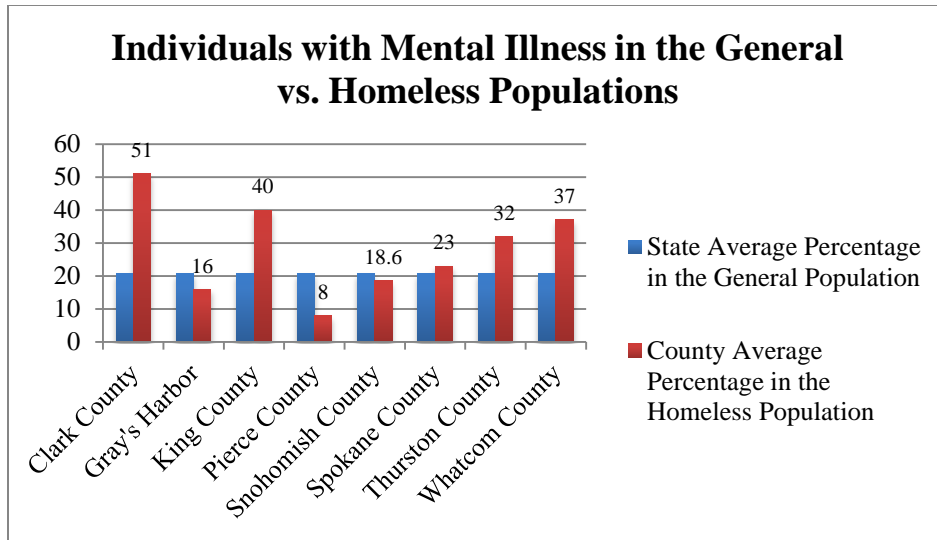
²³⁰ *Id.*

²³¹ WASH. STATE DEP'T OF COMMERCE, WASHINGTON STATE POINT IN TIME COUNT OF HOMELESS PERSONS (Jan. 2014), <http://www.commerce.wa.gov/Documents/2014-PIT-Summary.pdf>.

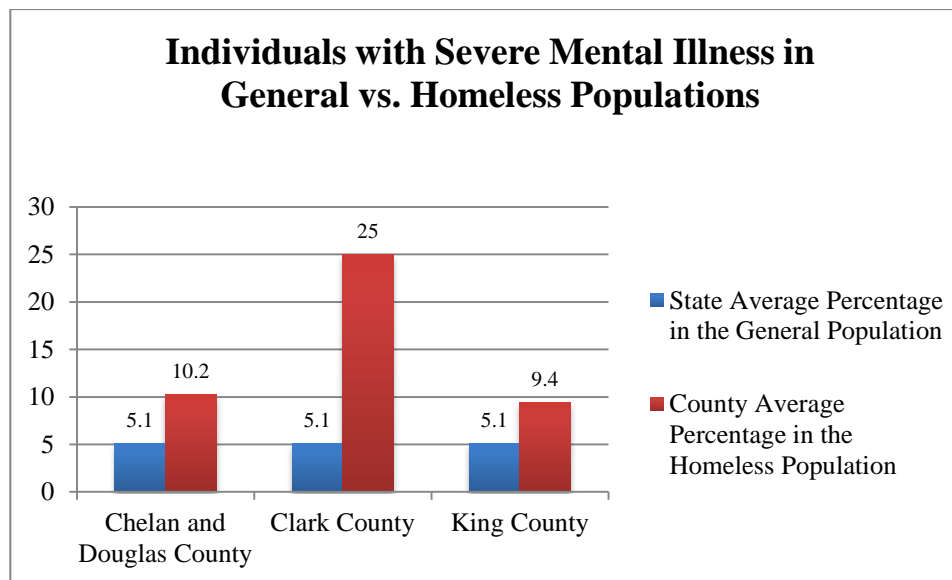
²³² SAMHSA, *supra* note 10, at 17.

²³³ WASH. STATE DEP'T OF COMMERCE, *supra* note 231.

²³⁴ CLARK CNTY., *supra* note 15; *Living with Mental Illness*, TRANSITIONAL RESOURCES, <https://transitionalresources.org/living-mental-illness/> (last visited Dec. 1, 2014); PIERCE COUNTY COMMUNITY CONNECTIONS, *supra* note 3; THURSTON CNTY., *supra* note 227; WHATCOM COAL. TO END HOMELESSNESS, *supra* note 25.



Second, county data also demonstrates that homeless individuals are more likely to have severe mental illness than the general population in Washington State.²³⁶



Third, county studies reveal that homeless individuals are also more likely to have a substance abuse disorder than the general population. Data regarding general substance—encompassing both alcohol and drugs—abuse or dependence was not available for Washington State. Therefore, data regarding only alcohol abuse or dependence for Washington State was used instead. Given this limitation, there is likely an even greater disproportionality between

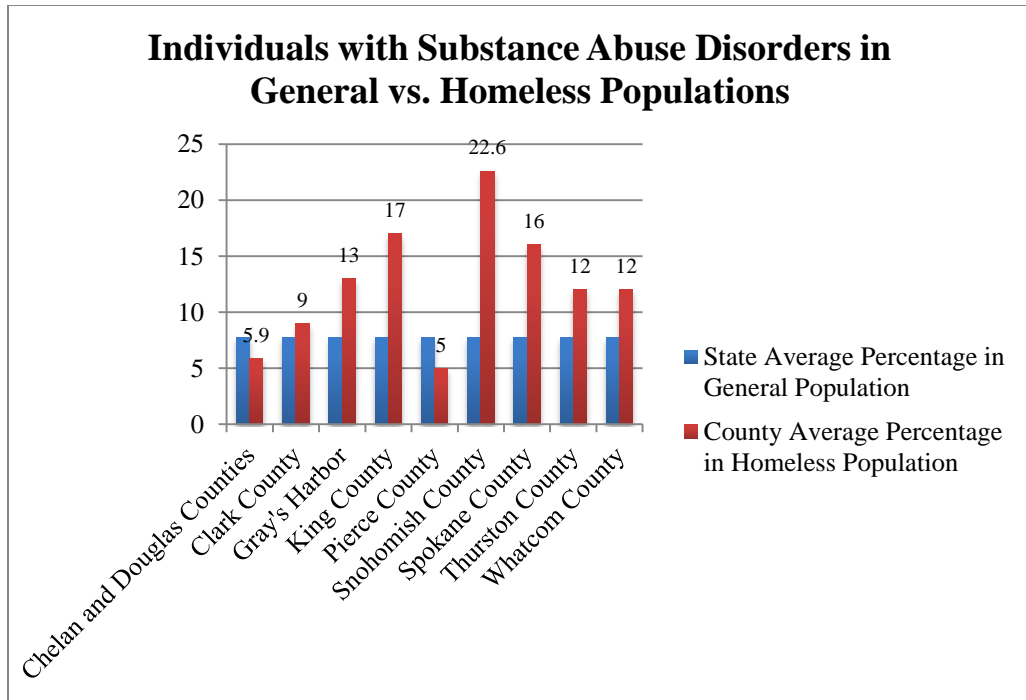
²³⁵ *Id.*

²³⁶ CLARK CNTY., *supra* note 15; KING COUNTY COMMUNITY SERVICES DIVISION-HOMELESS AND HOUSING PROGRAM, 2014 KING COUNTY ONE NIGHT COUNT DATA 1-4 (2014).

²³⁷ *Id.*

those in the homeless population with substance abuse or dependence and those in the general population.

For example, in Seattle, individuals with a mental illness face an even greater likelihood of homelessness. Among homeless adults in the city, 58% are severely mentally ill.²³⁸ Overall, people with hospitalizations or mental health treatment made greater use of meal programs, hygiene centers, shelters, and other services other than those who did not receive medical care.²³⁹ Additionally, chronically homeless individuals are 10% more likely to report having been hospitalized, and are 9% more likely to have received mental health treatment in the past year.²⁴⁰



In summary, Washington State statistics confirm the national trend that individuals with a mental disability are disproportionately impacted by homelessness. Furthermore, specific Washington county statistics and Seattle data also confirm the national trend: the homeless population is more likely to experience mental illness, severe mental illness, and substance abuse than the general population.

²³⁸ U.S. CONFERENCE OF MAYORS, *supra* note 24.

²³⁹ CITY OF SEATTLE OFFICE OF HOUSING, *supra* note 21.

²⁴⁰ *Id.*

²⁴¹ *Id.* Note that much of this data is merely a snapshot of homeless individuals at a given time and may not capture individuals cycling in and out of homelessness over the course of a year. Additionally, it is impossible to locate and survey all homeless individuals, and much existing data depends on individuals to self-report conditions.

C. Causes of Disproportionate Representation

Homeless adults frequently cite mental illness and/or substance abuse within the top three leading causes of their homelessness.²⁴² There are a number of reasons why individuals with a mental disability are discriminatorily impacted by homelessness. First, individuals with mental disabilities are more likely to be in poverty and face more barriers to escaping it. Second, the mentally disabled faced significant barriers to accessing adequate health care services. Third, communities often focus on treatment before housing individuals. Fourth, homelessness may cause or exacerbate mental illness and substance abuse.

First, homelessness is closely linked to poverty.²⁴³ Studies consistently show that there is a negative correlation between socioeconomic status and mental illness.²⁴⁴ The poverty rate for working age people with mental disabilities is almost 2.5 times higher than people without disabilities.²⁴⁵ Additionally, nearly two thirds of people experiencing long-term poverty have a disability.²⁴⁶ More people with mental disabilities are homeless than living in poverty,²⁴⁷ further reinforcing that mental “[d]isability is both a cause and consequence of poverty.”²⁴⁸

It is also more difficult for individuals with mental disabilities to escape poverty. Mental illness may reduce an individuals’ ability to access and maintain employment. In fact, “each year, five to six million people in the United States lose, fail to seek, or cannot find employment because of mental illness . . . [and] among employed individuals, mental illness decreased annual income by \$3,500 to \$6,000.”²⁴⁹ However, benefits created to address these special needs are inadequate. For example, caps on federal government benefits for individuals with disabilities (i.e. Supplemental Security Income (SSI)) have remained virtually the same since 1972.²⁵⁰ SSI currently averages 44% below the federal poverty level.²⁵¹

Second, individuals with mental disabilities also face a number of barriers to accessing health care because many services that individuals need do not exist or are inaccessible.

Over 40 years have passed since many psychiatric institutions in the United States were closed . . . with the advent of improved therapeutic alternatives for many individuals with severe mental illness. But the promise of creating adequate community-based, outpatient mental health services has not been kept—

²⁴² NAT’L COAL. FOR THE HOMELESS, MENTAL ILLNESS AND HOMELESSNESS (2009), *available at* http://www.nationalhomeless.org/factsheets/Mental_Illness.pdf; NAT’L COAL. FOR THE HOMELESS, SUBSTANCE ABUSE AND HOMELESSNESS (July 2009), *available at* <http://www.nationalhomeless.org/factsheets/addiction.html>.

²⁴³ WASH. DEP’T OF HEALTH, MENTAL HEALTH (2008), *available at* <http://www.doh.wa.gov/Portals/1/Documents/5500/GHS-MENT2007.pdf>.

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ Weiss, *supra* note 215.

²⁴⁸ Rebecca Vallas & Shawn Fremstad, *Disability is cause and consequence of poverty*, TALKPOVERTY.ORG, <http://talkpoverty.org/2014/09/19/disability-cause-consequence-poverty/> (last updated Sept. 19, 2014).

²⁴⁹ WASH. DEP’T OF HEALTH, *supra* note 243; D.E. Marcotte & V. Wilcox-Gok, *Estimating the Employment and Earnings Costs of Mental Illness*, SOCIAL SCIENCE & MEDICINE 53 21–27 (2001).

²⁵⁰ Vallas & Fremstad, *supra* note 248.

²⁵¹ Diamant, *supra* note 208.

particularly for many of the sickest and poorest of the mentally ill whose only refuge is the streets.²⁵²

At any given time, more individuals with severe psychiatric illnesses are living on the streets

“Greg Sherman had all the signs of a normal life: raised in a middle-class family, graduated from law school, married his college sweetheart, helped raise two kids, on track to make partner at his law firm. As the kids grew into teenagers, something in Sherman went awry. He became distant, staring at the wall for stretches at a time or glaring at his family in what his son Matt calls ‘focused anger.’ He began driving heavily, lost his job and got divorced. In 1999, Greg Sherman disappeared. One day, while a freshman at college in Southern California, Matt discovered his father among the homeless living at the beach in Santa Monica. Greg stuck around for a few weeks, then promptly disappeared. Desperate to learn the whereabouts of their father, Matt Sherman and his sister, Anne, reached out to the Social Security Administration. A few months later, they received a form reply letter, informing them their dad was dead. Greg Sherman had died of sepsis in 2006 while homeless in Washington. Matt Sherman says it pains him to have lost his father to a curable disease when so many programs exist to get the mentally ill off the street. The perception of people with mental disorders on the street needs to change, he says. ‘Don’t be so quick to objectify them,’ Matt Sherman says. ‘That could be a very dear family member you grew up with that just lost their way.’”

--Rick Jervis, *Mental Disorders Keep Thousands of Homeless on the Streets*, USA TODAY, <http://www.usatoday.com/story/news/nation/2014/08/27/mental-health-homeless-series/14255283/>

than are receiving care in hospitals.²⁵³ “The problem of providing adequate community care for our mentally ill citizens is nothing new.”²⁵⁴ This problem is apparent in the United States’ history of institutionalizing the mentally ill. With the deinstitutionalization movement,²⁵⁵ masses of people were released to communities and they were never given the services they were promised.²⁵⁶ Proposed treatment programs never happened, and patients were left without care.²⁵⁷ A lack of funding ensured that communities delayed or resisted building centers or providing treatment, and because of the stigma surrounding disability and mental illness, many communities did not want mentally ill people to live in their neighborhoods or work in their businesses.²⁵⁸ Patients left institutions without money, provisions for care, employment, or housing.²⁵⁹ While institutions were deplorable at

²⁵² HCH Clinicians’ Network, *supra* note 222, at 1–4.

²⁵³ Torrey, *supra* note 208.

²⁵⁴ Kevin Turnquist, *Where did the “Deinstitutionalization Movement” Take Us?*, <http://kevinturnquist.org/deinst.php> (last visited Nov. 1, 2014).

²⁵⁵ The deinstitutionalization movement began in the mid-1950s and was a push for the deinstitutionalization and outpatient treatment of individuals housed in psychiatric hospitals. The movement pushed for community based care, “dramatically changing the nature of modern psychiatric care.” During the movement, “the number of institutionalized mentally ill patients fell from its peak of 560,000 in the 1950s to 130,000 by 1980.” *Module 2: A Brief History of Mental Illness and the U.S. Mental Health Care System*, UNITE FOR SITE, <http://www.uniteforsight.org/mental-health/module2> (last visited Jan. 20, 2014).

²⁵⁶ ROBERT R. DESJARLAIS, *SHELTER BLUES: SANITY AND SELFHOOD AMONG THE HOMELESS 2* (University of Pennsylvania Press, 1997).

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.*

best, disabled individuals had no safe haven when the buildings were boarded up.²⁶⁰

The same trends of inadequate services and treatment continue today. Even in 2015, individuals with disabilities struggle to have their medical needs met. States cut \$5 billion from mental health services between 2009 and 2012 alone.²⁶¹ As a result, almost half of individuals with severe mental illness do not receive treatment.²⁶² Additionally, only 1% of individuals who need treatment for drug or alcohol abuse actually receive it.²⁶³ Mental illness can disrupt an individual's ability to carry out basic life functions and may also prevent an individual from creating and maintaining relationships, leaving them with no one to turn to for help.²⁶⁴ "Contrary to public belief, individuals with severe mental illnesses are willing to accept treatment and services."²⁶⁵ However, cuts to national and state health budgets make it impossible for them to do so.

Third, providing accessible treatment for mental illness and substance abuse alone is not enough to combat homelessness; individuals also need adequate housing. Some studies indicate that 70% of the homeless population has received mental health treatment at some point.²⁶⁶ But in light of national and Washington State statistics indicating that homelessness still has a disproportionate impact on individuals with a mental disability, it is apparent that receiving mental health treatment alone is not enough. Homeless individuals with a mental disability need treatment coupled with housing.²⁶⁷ Adequate housing is essential because health conditions that require ongoing treatment are difficult to manage under conditions of homelessness. Not only does housing provide the stability many individuals need to deal with their medical needs, but as a homeless individual in California noted, "On the streets, you don't have time to get treated. You are trying to survive."²⁶⁸ Furthermore, because of the increasing prevalence of ordinances that criminalize the presence of homeless individuals,²⁶⁹ these individuals may be reluctant to trust authority and follow through with treatment.

Yet, it is difficult for disabled individuals to access housing.²⁷⁰ In 2010, only 18% of clients discharged from chemical dependency treatment centers who indicated a need for housing assistance received it; half were homeless within one year of discharge.²⁷¹ For individuals who

²⁶⁰ *Id.*

²⁶¹ Rick Jervis, *Mental Disorders Keep Thousands of Homeless on Streets*, USA TODAY, <http://www.usatoday.com/longform/news/nation/2014/08/27/mental-health-homeless-series/14255283/> (last visited Nov. 21, 2014).

²⁶² *Id.*

²⁶³ *DrugFacts: Nationwide Trends*, NAT'L INST. ON DRUG ABUSE (Jan. 2014), <http://www.drugabuse.gov/publications/drugfacts/nationwide-trends>.

²⁶⁴ NAT'L COAL. FOR THE HOMELESS, *supra* note 242.

²⁶⁵ *Id.*

²⁶⁶ Torrey, *supra* note 208.

²⁶⁷ *Id.*

²⁶⁸ *See, e.g.,* Jervis, *supra* note 261.

²⁶⁹ *See generally* Justin Olson & Scott MacDonald, Seattle University Homeless Rights Advocacy Project, WASHINGTON'S WAR ON THE VISIBLY POOR: A SURVEY OF CRIMINALIZING ORDINANCES AND THEIR ENFORCEMENT (Sara Rankin ed., 2015).

²⁷⁰ MARY SCHWARTZ & MELISSA FORD SHAH, THE HOUSING STATUS OF INDIVIDUALS DISCHARGED FROM BEHAVIORAL HEALTH TREATMENT FACILITIES (2012), *available at* <http://www.dshs.wa.gov/pdf/ms/rda/research/11/170.pdf>.

²⁷¹ *Id.*

indicated a need for housing assistance upon discharge from a state mental health hospital, only 17% received help and approximately 30% found themselves homeless within a year.²⁷² Yet, instead of addressing homelessness, many current programs try to “fix the person first.” Many welfare programs require individuals to “cure themselves” before receiving housing aid. However, requiring individuals with disabilities to conform to societal definitions of “normal” does nothing to address the circumstances of their homelessness.

Fourth, homelessness itself perpetuates mental disabilities. Individuals who are homeless face daily instability, insecurity, fear, subjection to degradation, and constant and intense exposure to trauma. Thus, many homeless individuals may turn to drugs or alcohol as coping mechanisms.²⁷³ “Exposure to the elements or to communicable disease in shelters, victimization, nutritional deficiencies, co-morbidities, and limited access to health care increase the likelihood that minor disabilities in homeless individuals will become serious functional impairments.”²⁷⁴ As one report noted, “[h]omelessness is so debilitating that the health and functional problems of homeless adults ages 45–65 are said to ‘resemble those of geriatric persons in the general population.’”²⁷⁵

Society tends to view homelessness and mental disability with a permanent sense of being, which is a result of a lack of personal responsibility. However, it is clear that individuals with mental disabilities are discriminatorily impacted by homelessness because they are more at risk for poverty, they cannot access adequate services for their mental needs, treatment is often favored over providing housing, and the conditions of homelessness may exacerbate mental illness.

V. The Discriminatory Cycle of Homelessness and Incarceration Results in a Disproportionate Representation of Formerly Incarcerated Individuals in Homeless Populations

Like disability, homelessness and incarceration are mutual risk factors; one often leads to the other. This section reviews national and Washington State data showing the disproportionate impact of homelessness on individuals who have been incarcerated. This section also examines some of the causes of this impact.

A. National Statistics

The nature of homelessness and incarceration is often cyclical. Using national data, this section first demonstrates that inmates are more likely to have experienced homelessness than the general population. Second, it shows that homeless individuals are more likely to be incarcerated than the general population. Third, this section analyzes the intersection of homelessness and incarceration with mental disability. Similarly, this section also analyzes the intersection of homelessness, incarceration, and race.

²⁷² *Id.*

²⁷³ NAT’L COAL. FOR THE HOMELESS, *supra* note 242.

²⁷⁴ HCH Clinicians’ Network, *Dealing with Disability: Physical Impairments and Homelessness*, 6 HEALING HANDS 1–5 (2002), available at http://www.nhchc.org/wp-content/uploads/2012/02/hh.10_02.pdf.

²⁷⁵ *Id.*

First, incarcerated individuals are more likely to have experienced homelessness than the general population. Jail inmates are 7.5 to 11.3 times more likely than the general population to have been homeless at some point before incarceration,²⁷⁶ and the majority of those who have experienced homelessness were homeless immediately prior to incarceration.²⁷⁷ In prison, approximately 9% of individuals in state and federal prisons were homeless prior to incarceration. Moreover, one-third of offenders at the time of incarceration lack permanent housing.²⁷⁸ Indeed, “many jails often function as the largest homeless shelters in their respective communities.”²⁷⁹

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON INCARCERATED INDIVIDUALS AT A GLANCE: NATIONAL STATISTICS

Jail inmates are 7.5 to 11.3 times more likely than the general population to have been homeless at some point before incarceration. “[T]he odds of experiencing homelessness in a year are 1 in 200 for the general population. However, for people being released from prison, the odds of becoming homeless increase to 1 in 11.”

Second, individuals released from jail and prison are also more likely to become homeless than the general population. “[T]he odds of experiencing homelessness in a year are 1 in 200 for the general population. However, for people being released from prison, the odds of becoming homeless increase to 1 in 11.”²⁸⁰ In one survey of homeless individuals, 54% had experienced one or more types of incarceration.²⁸¹ Similarly, a study in California indicated that 30–50% of parolees are homeless at any given time.²⁸² Other studies found that two-thirds of released inmates lack stable housing within 6 months of their release.²⁸³

Third, a strong correlation exists between homelessness, incarceration, and mental disability. Homeless individuals with a mental illness are more likely to serve time than homeless individuals without a mental illness. “Nearly one million adults with a serious mental illness are booked into jails annually, and many of these individuals have histories of

²⁷⁶ BARBARA DIPIETRO, *MEDICAID EXPANSION & CRIMINAL JUSTICE-INVOLVED POPULATIONS: OPPORTUNITIES FOR THE HEALTH CARE FOR THE HOMELESS COMMUNITY* (2013), available at <http://www.nhchc.org/wp-content/uploads/2011/10/NHCHC-MedicaidExpansion-Justice-Final.pdf>.

²⁷⁷ SAMHSA, *supra* note 10, at 17.

²⁷⁸ Zachary Hamilton, et al., *Removing Release Impediments and Reducing Correctional Costs: Evaluation of Washington State’s Housing Voucher Program*, *JUSTICE QUARTERLY* 5–9 (2013), available at <http://www.doc.wa.gov/community/docs/JusticeQuarterlyHousingVoucherProgramEvaluation.pdf>.

²⁷⁹ ROBERT G. MARBUT & DAN SIMOVICH, *AN ALTERNATIVE TO INCARCERATING THE HOMELESS* (2012), available at <http://www.g4s.us/~media/Files/USA/PDF-Articles/AJAJailsArticle-MarbutSimovichNovDec2012.ashx>. Almost half of homeless adults have spent 5 or more days in a city or county jail over their lifetime. COUNCIL OF STATE GOV’TS, *HOMELESSNESS AND PRISONER RE-ENTRY*, available at https://www.prisonlegalnews.org/media/publications/bureau_of_justice_assistance_homelessness_and_prisoner_reentry.pdf.

²⁸⁰ *THE DEMOGRAPHICS OF HOMELESSNESS 1*, available at http://b.3cdn.net/naeh/0e211cec03fe3b04b0_ghm6bojrv.pdf.

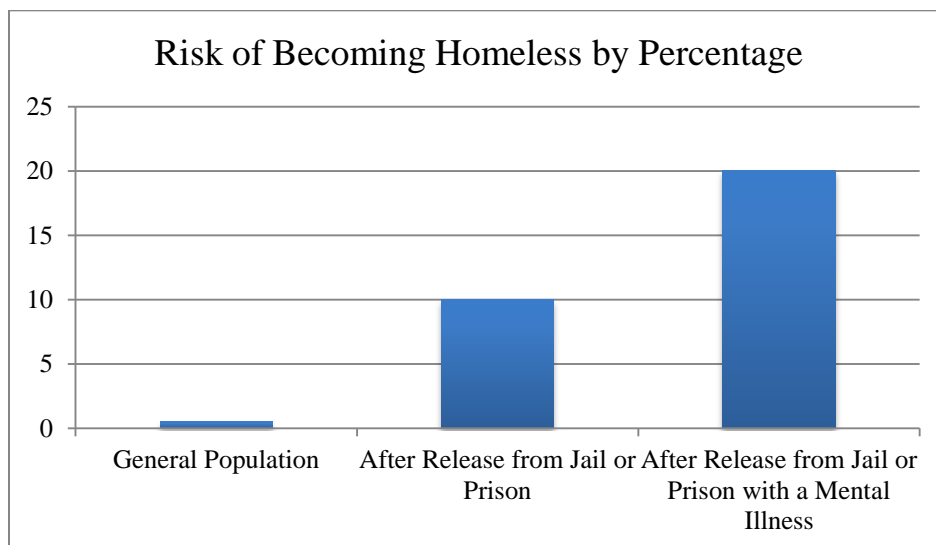
²⁸¹ SAMHSA, *supra* note 10, at 17.

²⁸² *Re-Entry*, NAT’L ALLIANCE TO END HOMELESSNESS, http://www.endhomelessness.org/pages/re_entry (last visited Oct. 12, 2014).

²⁸³ *HEALTH CARE FOR THE HOMELESS, STILL SERVING TIME: STRUGGLING WITH HOMELESSNESS, INCARCERATION & RE-ENTRY IN BALTIMORE* 16, 22–23 (Oct. 2011), available at <http://www.hchmd.org/pdfs/Re-entry%20Report%20-%202011.pdf>.

homelessness.²⁸⁴ State prisoners with a mental disability are also twice as likely as those without a mental disability to have experienced homelessness in the year before their arrest.²⁸⁵ Moreover, at least one study found that individuals who experienced homelessness in the year prior to incarceration had symptoms of mania, depression, psychosis, and substance abuse at rates 10–22% higher than inmates who had not experienced prior homelessness.²⁸⁶ Similarly, another study indicated that of individuals who were homeless immediately before incarceration, 75% showed symptoms indicating mental illness, including post-traumatic stress disorder from being attacked, abused, and shot at, and 79% had symptoms of drug or alcohol abuse or dependence.²⁸⁷ Additionally, homeless individuals with substance abuse or dependence are 10% more likely to be arrested over the course of the year than those without.²⁸⁸

Once released from incarceration, inmates with mental illness are also disproportionately at risk for homelessness. One study indicated that 20% of former jail inmates with mental illness were homeless, and that homelessness exacerbated their mental illnesses.²⁸⁹ Homelessness and mental illness are associated with significantly increased odds of misdemeanor arrests and longer periods of incarceration.²⁹⁰ Overall, individuals released from prison or jail, especially those with a mental illness, are at an increased risk for homelessness.²⁹¹



Similarly, incarceration and homelessness also correlate with race. “For quite some time African Americans have been incarcerated at 6–7 times the rate of whites, and [Hispanics] at

²⁸⁴ Sarah Knopf-Amelung, *Incarceration and Homelessness: A Revolving Door of Risk*, 2 IN FOCUS 2 (2013), available at http://www.nhchc.org/wp-content/uploads/2011/09/infocus_incarceration_nov2013.pdf.

²⁸⁵ DORIS J. JAMES & LAUREN E. GLAZE, MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT (2006), available at <http://www.bjs.gov/content/pub/pdf/mhppji.pdf>.

²⁸⁶ SAMHSA, *supra* note 10, at 17.

²⁸⁷ *Id.*

²⁸⁸ Kristin Paquette, *Incarcerated People and Homelessness*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, <http://homeless.samhsa.gov/resource/incarcerated-people-and-homelessness-48810.aspx> (last visited Dec. 1, 2014).

²⁸⁹ *Id.*

²⁹⁰ Knopf-Amelung, *supra* note 284, at 2.

²⁹¹ *Id.*

about 2.5 times the rate of non-Hispanic whites.²⁹² According to the Bureau of Justice, one in three African American men can expect to go to prison in their lifetime.²⁹³ There are numerous causes of these racial disparities, including explicit and implicit racial biases, resource allocation decisions, and criminal justice policies.²⁹⁴ Furthermore, there is an intersection between race and incarceration with mental disabilities. “[African Americans] with mental health conditions, particularly schizophrenia, bi-polar disorders and other psychoses are more likely to be incarcerated than people of other races.”²⁹⁵

In summary, the national statistics indicate that homelessness has a disproportionate impact on individuals who have been incarcerated. First, homeless individuals are more likely to be incarcerated than the general population. Second, individuals who have been incarcerated are more likely to become homeless than the general population. Moreover, a strong correlation exists between homelessness, incarceration, and mental disability. Homeless individuals with a mental illness are more likely to be incarcerated than homeless individuals without a mental illness. And, once released from incarceration, inmates with a mental illness are also disproportionately at risk for homelessness. Similarly, a strong correlation exists between homelessness, incarceration, and race.

B. Washington State and County Statistics

Washington State data confirms these national trends of the disproportionate impact of homelessness on incarcerated individuals. Statewide data is limited, but numerous organizations and government bodies acknowledge the relationship between incarceration and homelessness.²⁹⁶ For example, 48% of youth and young adults in King County Juvenile Detention cited a history of homelessness and housing instability.²⁹⁷ Of the incarcerated youth and young adults with a history of homelessness, 23% stated that they would be released to an unknown or unstable location.²⁹⁸ In Thurston County, over 100 people each year are released from jail to homelessness.²⁹⁹ Multiple individuals surveyed from Thurston County also noted that discharge from jail or prison

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48% of youth and young adults in King County Juvenile Detention cited a history of homelessness and housing instability.

²⁹² MARC MAUER & NAZGOL GHANDNOOSH, INCORPORATING RACIAL EQUITY INTO CRIMINAL JUSTICE REFORM, THE SENTENCING PROJECT 3 (Oct. 2014), *available at*

http://www.sentencingproject.org/doc/rd_Incorporating_Racial_Equity_into_Criminal_Justice_Reform.pdf.

²⁹³ Sophia Kerby, *1 in 3 Black Men Go To Prison? The 10 Most Disturbing Facts About Racial Inequality in the U.S. Criminal Justice System*, ALTERNET (Mar. 17, 2012),

http://www.alternet.org/story/154587/1_in_3_black_men_go_to_prison_the_10_most_disturbing_facts_about_racial_inequality_in_the_u.s._criminal_justice_system.

²⁹⁴ MAUER & GHANDNOOSH, *supra* note 292, at 4–9.

²⁹⁵ DIGNITY AND POWER NOW, DISPROPORTIONATE INCARCERATION OF AND VIOLENCE AGAINST BLACK PEOPLE WITH MENTAL HEALTH CONDITIONS IN THE WORLD’S LARGEST JAIL SYSTEM (2014), *available at*

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_NGO_USA_17740_E.pdf.

²⁹⁶ THURSTON CNTY., *supra* note 227; WHATCOM COAL. TO END HOMELESSNESS, *supra* note 25; CLARK CNTY., *supra* note 15; CITY OF SEATTLE OFFICE OF HOUSING, *supra* note 21.

²⁹⁷ UNITED WAY OF KING COUNTY, ET AL., *supra* note 43, at 14.

²⁹⁸ *Id.*

²⁹⁹ THURSTON CNTY., *supra* note 227.

was the leading cause of their homelessness.³⁰⁰ In Whatcom County, 9% of homeless respondents had been released from jail or prison, and half of that population lacked any form of shelter.³⁰¹ Additionally, approximately 4% of those surveyed said that discharge was the main reason why they were homeless.³⁰² In Seattle, a 2009 report indicated that 42% of homeless respondents had previously been incarcerated.³⁰³ These individuals were also more likely to have been homeless for more than a year.³⁰⁴

County level data also demonstrates connections between incarceration, homelessness, and mental illness. For example, in King County, an inmate with a mental illness stays in prison approximately 140 days longer than a general population inmate.³⁰⁵ In Seattle, 55% of homeless individuals who reported receiving mental health treatment in the past year had also been incarcerated.³⁰⁶ Similarly, approximately half of surveyed individuals who had been incarcerated also received mental health treatment in the last 6 months.³⁰⁷ Finally, one Washington study indicated that of clients using publically funded mental health services, those who were homeless had felony conviction rates at least twice as high as clients who were not homeless.³⁰⁸

Similarly, county level data demonstrates connections between incarceration, homelessness, and race.³⁰⁹ Every person served by the King County Department of Public Defense (DPD) “is indigent, and a disproportionate number are people of color.”³¹⁰ Similarly, the King County incarceration rates reveal that African Americans are incarcerated at “significantly higher rates than white adults relative to their percentage in the general population.”³¹¹ Also, African American youth are “five times more likely to be referred to the juvenile justice system than white youth.”³¹² This disproportionality “reflects the intersection of race/ethnicity, poverty, and justice system-involvement.”³¹³ Moreover, many DPD clients experience “the additional challenges that accompany poverty, e.g., lack of adequate housing, education, employment, and access to health care.”³¹⁴

Thus, Washington State, county, and city data support the national findings: homelessness has a disproportionate impact on individuals who have been incarcerated. Moreover, homeless individuals with a mental illness are more likely to be incarcerated than homeless individuals without a mental illness. Additionally, there is a disproportionate

³⁰⁰ *Id.*

³⁰¹ WHATCOM COAL. TO END HOMELESSNESS, *supra* note 25.

³⁰² *Id.*

³⁰³ CITY OF SEATTLE OFFICE OF HOUSING, *supra* note 21.

³⁰⁴ *Id.*

³⁰⁵ *Homelessness Facts for King County*, *supra* note 2.

³⁰⁶ *Id.*

³⁰⁷ *Id.*

³⁰⁸ WASH. INST. FOR PUBLIC POLICY, CRIMINAL JUSTICE INVOLVEMENT AMONG CLIENTS RECEIVING PUBLIC MENTAL HEALTH SERVICES (2005), available at <http://www.wsipp.wa.gov/ReportFile/914>.

³⁰⁹ KING COUNTY, THE STATE OF KING COUNTY PUBLIC DEFENSE 22–23 (2015).

³¹⁰ *Id.* at 23.

³¹¹ *Id.* at 22.

³¹² *Id.*

³¹³ *Id.* at 23.

³¹⁴ *Id.*

representation of racial minorities that experience incarceration, a majority of whom are indigent and face additional challenges of poverty, such as the lack of adequate housing.

C. Causes of Disproportionate Representation

There is a strong and cyclical relationship between homelessness and incarceration. Some studies indicate that “shelter use prior to prison entry is the single strongest predictor of post-release shelter use.”³¹⁵ Others have found that shelter and jail use follow “a more sequential pattern featuring multiple stays in each system and a more prolonged pattern of residential instability.”³¹⁶

“David Ramirez has not been convicted of a crime in 10 years, but the LFOs from his one felony case continue to haunt him. In 2003, David pled guilty to one count of residential burglary after he entered his ex-wife’s home without permission. The family’s budget is tight, and David often has to choose between meeting his family’s needs and paying his fines. ‘Sometimes, I have to choose between paying the electricity bill and paying LFOs, or between buying my kid a winter coat and paying LFOs. I’ve had judges tell me that they don’t care what my other obligations are, LFOs come first. First before food and shelter. It doesn’t matter what my family suffers, so long as the court gets paid.’”

-- AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON, MODERN-DAY DEBTORS’ PRISONS: THE WAYS COURT-IMPOSED DEBTS PUNISH PEOPLE FOR BEING POOR 13–14 (Feb. 2014)

Incarceration and homelessness are mutual risk factors for numerous reasons: (1) poverty is closely linked to incarceration; (2) inmates face a number of barriers to employment, education, and government benefits, which could help them escape poverty; (3) inmates receive inadequate discharge planning during their reintegration into the community; (4) former inmates are not able to access the services they need outside of prison; (5) inadequacies in housing access increase recidivism; and (6) laws that criminalize homelessness contribute to arrest and re-arrest.

First, poverty is closely correlated with incarceration rates. Poor individuals are more likely to be incarcerated than the wealthy,³¹⁷ indeed, an overwhelming majority of the nation’s inmate population comes from lower socioeconomic status communities.³¹⁸ Biases against the poor exist in every level of the criminal justice system.³¹⁹ People in poverty are more likely to be arrested, convicted, and receive greater sentences.³²⁰ One study noted

that 60% of inmates reported earning less than \$1,000 per month in the month prior to their incarceration.³²¹

³¹⁵ STEPHEN METRAUX, ET AL., INCARCERATION AND HOMELESSNESS, TOWARD UNDERSTANDING HOMELESSNESS: THE 2007 NATIONAL SYMPOSIUM ON HOMELESSNESS RESEARCH (2007), available at <http://aspe.hhs.gov/hsp/homelessness/symposium07/metraux/>.

³¹⁶ *Id.*

³¹⁷ See generally KATHRYN M. NECKERMAN, SOCIAL INEQUALITY (Russel Sage Foundation, June 2004).

³¹⁸ Approximately “80–90% of people charged with felonies are found to be indigent by the courts.” AMERICAN CIVIL LIBERTIES UNION OF WASH., MODERN-DAY DEBTORS’ PRISONS: THE WAYS COURT-IMPOSED DEBTS PUNISH PEOPLE FOR BEING POOR 3 (Feb. 2014). Furthermore, most incarcerated individuals do not have a high school diploma, have below-average literacy levels, and have limited job opportunities. *Id.*

³¹⁹ *Myth: The Criminal Justice System is not Biased Against the Poor*, LIBERALISM RESURGENT, <http://www.huppi.com/kangaroo/L-CJSpoor.htm> (last visited Dec. 1, 2014).

³²⁰ *Id.*

³²¹ MAUER & GHANDNOOSH, *supra* note 292, at 4.

Poverty is further exacerbated by the criminal justice system itself. For example, courts may charge individuals who go through the system crippling legal financial obligations (LFOs), even if the individual pleads or is found not guilty.³²² In Washington State, an average individual charged with a felony faces \$2,500 in LFOs, and after 4 years of average payments, the person would actually owe more than they did originally: \$3,000.³²³ Owing \$10,000 is not uncommon.³²⁴ These statistics exemplify our “modern-day ‘debtors’ prisons.”³²⁵ These debtors’ prisons are marked by indigent defendants who “are imprisoned for failing to pay legal debts they can never hope to manage.”³²⁶ Typically, “poor men and women end up jailed or threatened with jail though they have no lawyer representing them.”³²⁷ These sentences compound challenges for men and women “who already struggle with re-entering society after being released from prison or jail, and waste resources in an often fruitless effort to extract payments from defendants who may be homeless, unemployed, or simply too poor to pay.”³²⁸

Second, upon discharge, inmates face significant barriers to overcoming poverty. “[O]nce a person has been incarcerated, the experience limits their earning power and their ability to climb out of poverty even decades after their release.”³²⁹ In addition to LFOs, inmates may be required to pay for debts that were placed on hold during their incarceration, like child support, supervision fees, and restitution.³³⁰ However, it is much more difficult for prisoners to find employment after incarceration because of their criminal conviction and lack of education.³³¹ Even former inmates who are able to secure a job are likely to earn less than they could have prior to their incarceration; incarceration reduces a former male prisoner’s income earnings by 40%.³³² While employment reduces odds of homelessness by about 50%,³³³ former inmates lack the opportunities to do the very thing they need to do to prevent homelessness.

³²² Joseph Shapiro, *As Court Fees Rise, the Poor Are Paying the Price*, NPR (May 19, 2014), <http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>.

³²³ *Id.*

³²⁴ *Id.*

³²⁵ AMERICAN CIVIL LIBERTIES UNION, *IN FOR A PENNY: THE RISE OF AMERICA’S NEW DEBTORS’ PRISONS* 5 (Oct. 2010).

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.* Incarceration for non-payment causes people to lose their housing, jobs, and other opportunities to productively re-enter society. AMERICAN CIVIL LIBERTIES UNION OF WASH., *supra* note 318. Furthermore, in Washington State, “judges ordered incarceration for non-payment when debtors were homeless, unemployed, or had mental health or addiction issues preventing them from gaining employment.” *Id.*

³²⁹ Sasha Abramsky, *Toxic Persons*, SLATE, http://www.slate.com/articles/news_and_politics/jurisprudence/2010/10/toxic_persons.html (last visited Dec. 1, 2014).

³³⁰ METRAUX, ET AL., *supra* note 315.

³³¹ Approximately 44% of jail inmates lacked a high school degree in 2002. MAUER & GHANDNOOSH, *supra* note 292; Western and R. Pettit, *Incarceration and Radical Inequality in Men’s Employment*, 54 *INDUSTRY AND LABOR REVIEW* 3–16 (2000).

³³² John Tierney, *Prison and the Poverty Trap*, N.Y. TIMES (Feb. 18, 2013), http://www.nytimes.com/2013/02/19/science/long-prison-terms-eyed-as-contributing-to-poverty.html?pagewanted=all&_r=0.

³³³ Greg A. Greenberg & Robert A. Rosenheck, *Jail Incarceration, Homelessness, and Mental Health: A National Study*, 59 *PSYCHIATRY SERVICES* 170, 175 (2008), available at <http://pathprogram.samhsa.gov/ResourceFiles/Greenberg.pdf>.

Third, many inmates face inadequate discharge plans. Despite the good intentions of counselors, many prisons are located in rural areas, far from the inmate's home and place of release (which are typically urban areas).³³⁴ Thus, those working in prisons are often unfamiliar with the housing and employment market the individual inmate faces upon his or her release.³³⁵ There is also an apparent lack of coordinated care.³³⁶ Inmates are not assigned caseworkers, and there is little collaboration among organizations to ensure the inmate has his or her medical, mental health, housing, employment, and educational needs met.³³⁷

Fourth, formerly incarcerated individuals also face numerous barriers to accessing other forms of assistance. Prisoners are typically not eligible for federal assistance while incarcerated or immediately upon release.³³⁸ Furthermore, applications for benefits can take months or years before the individual receives assistance such as SSI, and individuals are almost always denied assistance with their first application.³³⁹ Inmates are also barred from certain federal assistance housing programs, and some states also bar individuals with felony drug convictions from receiving cash benefits or food stamps.³⁴⁰ Individuals with certain convictions are also ineligible for financial assistance to attend higher educational institutions.³⁴¹

Inmates with mental illnesses are also frequently unable to obtain necessary mental health care. Ninety percent of incarcerated individuals did not have health insurance in 2013.³⁴² Instead of treating individuals with mental health issues, one million adults are booked into jails annually, further exacerbating conditions such as addiction and mental illness.³⁴³ In discussing deinstitutionalization, a jail official in Ohio noted, "We just switched places. Instead of being in hospitals, the people are in jail."³⁴⁴ King County admits that the second largest mental institution in Washington State is the King County jail.³⁴⁵ However, jails are completely inadequate institutions to address the needs of the mentally disabled: among other issues, jails are understaffed and under-resourced.³⁴⁶ Incarceration interrupts care, medication regimens, and treatment plans,³⁴⁷ and only approximately half of inmates who need mental health care during incarceration receive it.³⁴⁸

³³⁴ METRAUX, ET AL., *supra* note 315.

³³⁵ *Id.*

³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ SOCIAL SECURITY ADMINISTRATION, WHAT PRISONERS NEED TO KNOW (May 2010), *available at* <http://www.ssa.gov/pubs/EN-05-10133.pdf>.

³³⁹ Beth Laurence, *Does Social Security Disability Deny Everyone the First Time They Apply?*, <http://www.disabilitysecrets.com/does-social-security-deny-you-the-first-time-you-apply-for-disability.html> (last visited Dec. 1, 2014).

³⁴⁰ PATRICIA ALLARD, LIFE SENTENCES: DENYING WELFARE BENEFITS TO WOMEN CONVICTED OF DRUG OFFENSES, THE SENTENCING PROJECT (Feb. 2002), *available at* [http://reentryaftercare.org/pdf/women_lifesentences\[1\].pdf](http://reentryaftercare.org/pdf/women_lifesentences[1].pdf).

³⁴¹ *Id.*

³⁴² DIPIETRO, *supra* note 276.

³⁴³ Knopf-Amelung, *supra* note 284, at 2.

³⁴⁴ E. Fuller Torrey, OUT OF THE SHADOWS: CONFRONTING AMERICA'S MENTAL ILLNESS CRISIS (John Wiley & Sons, 1997), *available at* <http://www.pbs.org/wgbh/pages/frontline/shows/asylums/special/excerpt.html>.

³⁴⁵ *Homelessness Facts for King County*, *supra* note 2.

³⁴⁶ MARBUT & SIMOVICH, *supra* note 279.

³⁴⁷ DIPIETRO, *supra* note 276.

³⁴⁸ HEALTH CARE FOR THE HOMELESS, *supra* note 283.

Fifth, released inmates are also frequently unable to find affordable housing, which further exacerbates homelessness and recidivism rates. The majority of released prisoners indicated they were unable to find stable housing within six months of release.³⁴⁹ Formerly incarcerated individuals rarely have the funds required to get an apartment, and frequently have lower credit scores which may make them ineligible for many rentals.³⁵⁰ Yet public housing nationwide has also been largely off-limits to many people with criminal records; in some cities formally incarcerated individuals may be barred for years.³⁵¹ Furthermore, former inmates are not a protected class; landlords can legally discriminate against individuals with a criminal conviction.³⁵² Even if individuals were homeless prior to incarceration, recent incarceration generally prevents them from meeting the definition of homelessness required for certain housing assistance programs.³⁵³ Community barriers further limit options for formerly incarcerated individuals. Many neighborhoods are often resistant to housing that targets people with criminal records, and former sex offenders are barred from living in certain areas.³⁵⁴

However, “[h]ousing is probably the most important thing that people leaving prison need.”³⁵⁵ Studies indicate that those who leave prison and become homeless are substantially more likely to return to prison than individuals who have stable housing.³⁵⁶ A study in New York determined that individuals who were released to homeless shelters were 7 times more likely to abscond during their first month upon release than those who had some form of housing.³⁵⁷ Furthermore, 74% of those surveyed who experienced homelessness before incarceration reported that stable housing would have prevented their incarceration.³⁵⁸ Housing was also reported to reduce jail stays in multiple counties in Washington State. For example, in Clark County, supportive housing reduced the number of days homeless people were incarcerated in jail by 38% and in state correctional facilities by 85%.³⁵⁹ Similarly, in King County, future jail stays decreased by 66% when inmates had housing.³⁶⁰

Finally, laws that criminalize homelessness contribute to arrest and re-arrest and make it more difficult to escape homelessness.³⁶¹ “Thousands of formerly incarcerated individuals are

³⁴⁹ *Id.* at 4, 18–20.

³⁵⁰ Christopher Moraff, “*Housing First*” Helps Keep Ex-Inmates off the Streets (and Out of Prison), NEXT CITY (July 23, 2014), <http://nextcity.org/daily/entry/housing-first-former-prisoners-homelessness>.

³⁵¹ Mireya Navarro, *Ban on Former Inmates in Public Housing Is Eased*, N.Y. TIMES (Nov. 14, 2013), <http://www.nytimes.com/2013/11/15/nyregion/ban-on-former-inmates-in-public-housing-is-eased.html>.

³⁵² *Id.*

³⁵³ METRAUX, ET AL., *supra* note 315.

³⁵⁴ *Id.*

³⁵⁵ Brian Freskos, *Former inmates find housing hurdle difficult to overcome*, STARNEWS (Aug. 19, 2011), <http://www.starnewsonline.com/article/20110819/ARTICLES/110819612?p=3&tc=pg>.

³⁵⁶ *Id.*

³⁵⁷ Justice Ctr., *supra* note 20.

³⁵⁸ Nat’l Alliance to End Homelessness, *supra* note 265.

³⁵⁹ CLARK CNTY., *supra* note 15.

³⁶⁰ CITY OF SEATTLE OFFICE OF HOUSING, *supra* note 21.

³⁶¹ HEALTH CARE FOR THE HOMELESS, *supra* note 283, at 3. AMERICAN CIVIL LIBERTIES UNION OF WASH., *supra* note 318, at 5 (stating that LFOs and the accompanying excessive interest rate “create[] insurmountable debt for already impoverished people, prolonging their involvement with the criminal justice system and imposing severe barriers to re-entry into their communities”). Furthermore, housing reduces recidivism. Seema L Clifasefi, et al., *Exposure to Project-Based Housing First is Associated with Reduced Jail Time and Bookings*, INTERNATIONAL JOURNAL OF DRUG POLICY 24, 294 (2013) (concluding that the more time people spent in the Housing First program,

homeless and end up recidivating because of quality of life offenses, such as going to the bathroom in public, because they don't have a place to stay."³⁶² Furthermore, laws that criminalize homelessness tend only to exacerbate mental and physical health problems and create or increase criminal records that make it even harder to escape homelessness.³⁶³ With nearly 6 million individuals released from prison and jails annually,³⁶⁴ officials must address the intersections of homelessness and incarceration. The criminalization of homelessness perpetuates poverty and marginalization; it ensures that an entire group of individuals stay marginalized because they *were* marginalized.³⁶⁵

VI. The Failure to Address the Challenges Associated with Military Service Results in a Disproportionate Representation of Veterans in Homeless Populations

Although the number of homeless veterans nationwide has decreased in the past few years, veterans are still disproportionately represented in homeless populations. This section presents national and Washington State statistics showing that veterans are disproportionately impacted by homelessness. This section also surveys some of the causes of this disproportionate impact.

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON VETERANS AT A GLANCE: WASHINGTON STATE

Across America, 40% of all homeless men are veterans.

A. National Statistics

This section presents national statistics that indicate that veterans, particularly veterans of color, veterans with mental illnesses, and/or veterans with incarceration histories are more vulnerable to experiencing homelessness. Veterans represent approximately 6% of the general population,³⁶⁶ but 10% of the homeless population.³⁶⁷ Moreover, 40% of all homeless men are veterans.³⁶⁸

Homeless veterans of color are at a higher risk of homelessness than White veterans. Racial minorities, especially African Americans, are disproportionately represented in homeless veteran populations: 35.1% of homeless veterans are African American while only 10.4% of all

the fewer jail bookings and days they experienced); *LEAD: Innovative Program is Making a Difference*, FOR THE DEFENSE: NEWS FROM THE DEP'T OF PUBLIC DEFENSE (Apr. 2015) (finding that "people with drug addictions who are diverted away from jail and into treatment, job training, housing and other services are less likely to become repeat offenders").

³⁶² Freskos, *supra* note 355.

³⁶³ *Building a Movement to end Homelessness*, NAT'L COAL. FOR THE HOMELESS, <http://nationalhomeless.org/issues/civil-rights/>.

³⁶⁴ NINO RODRIGUEZ & BRENNER BROWN, PREVENTING HOMELESSNESS AMONG PEOPLE LEAVING PRISON, VERA INSTITUTE OF JUSTICE (2003), available at http://www.prisonpolicy.org/scans/vera/209_407.pdf.

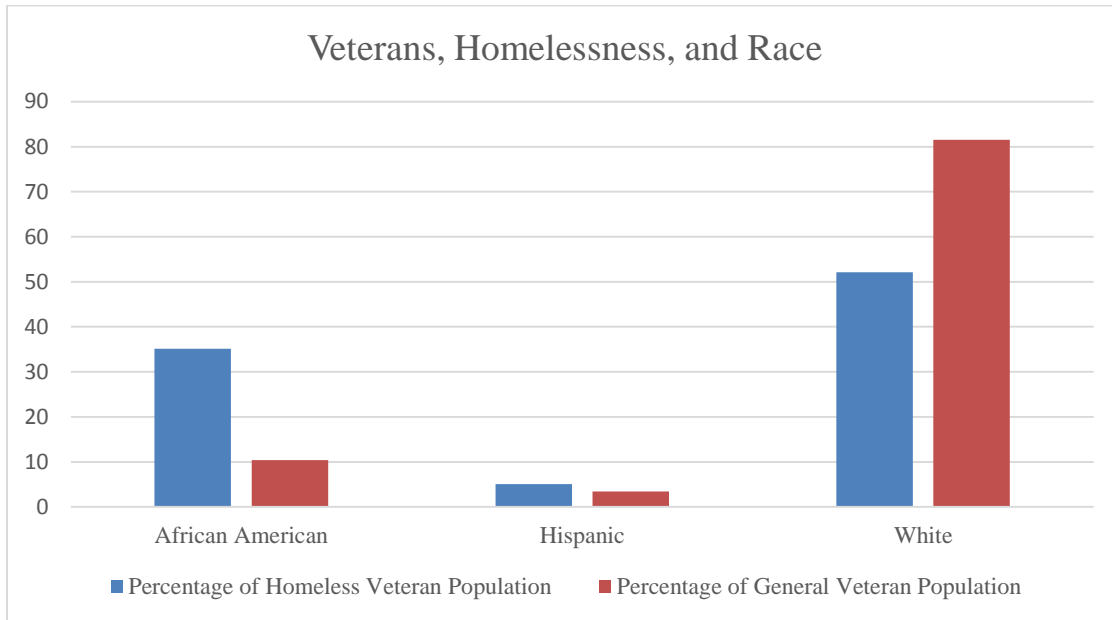
³⁶⁵ See generally NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES.

³⁶⁶ U.S. Census Bureau, *State and County QuickFacts*, Washington, U.S. DEP'T OF COMMERCE (July 8 2014), <http://quickfacts.census.gov/qfd/states/53000.html>; *American Veterans by Numbers*, INFOPLEASE, <http://www.infoplease.com/spot/veteranscensus1.html> (last visited Dec. 1, 2014).

³⁶⁷ SAMHSA, *supra* note 10, at 14.

³⁶⁸ NAT'L COAL. FOR THE HOMELESS, *supra* note 242.

veterans are African American, and 5.1% of homeless veterans are Hispanic while only 3.4% of all veterans are Hispanic.³⁶⁹



Homeless veterans are also more likely to have mental disabilities and criminal records than non-homeless veterans. Approximately 45% of homeless veterans experience mental illness, 70% experience alcohol or drug abuse problems, and many experience both.³⁷⁰ Homeless veterans are also at a greater risk of remaining homeless than non-veterans; veterans are twice as likely as other Americans to become chronically homeless.³⁷¹

Veterans are also overrepresented in incarcerated populations.³⁷² One study concluded that 66% of homeless veterans had incarceration histories.³⁷³ Additionally, homeless veterans experience more arrests and a higher likelihood of incarceration for non-violent offenses than veterans with stable housing.³⁷⁴ Furthermore, among homeless incarcerated veterans surveyed, all reported significant mental health issues and substance abuse.³⁷⁵

Such national statistics indicate that veterans, particularly veterans of color, veterans with mental illnesses, and/or veterans with incarceration histories, are disproportionately impacted by homelessness.

³⁶⁹ PowerPoint Presentation from the National Coalition for Homeless Veterans for the 17th Annual NCHV Conference and Membership Meeting in Washington D.C. (May 28–30, 2014).

³⁷⁰ *Id.* In 2013, more than half of the veterans receiving Supportive Services for Veteran Families (SSVF) had a disabling condition and 44% had a substance use disorder. Naehblog, *Here are the 3 Components Every Rapid Re-Housing Program Should Have*, NAT'L ALLIANCE TO END HOMELESSNESS (Mar. 30, 2015), http://www.endhomelessness.org/blog/entry/core-components-to-ending-veteran-homelessness#.VS6ac_1QPZ1.

³⁷¹ *Statistics*, VETERANS INC., <http://www.veteransinc.org/about-us/statistics/> (last visited Dec. 1, 2014).

³⁷² Knopf-Amelung, *supra* note 284, at 2.

³⁷³ *Id.*

³⁷⁴ *Id.*

³⁷⁵ *Id.*

B. Washington State and County Statistics

Data from Washington State largely supports the national data. For example, veterans represent approximately 12% of Washington's general population compared to 13.5% of Washington's homeless population.³⁷⁶

Specific Washington counties and Seattle also indicate that veterans represent a significant portion of local homeless populations. For example, 13% of homeless individuals in Clark County are veterans.³⁷⁷ In King County, veterans make up almost 12% of the homeless population.³⁷⁸ In Seattle, 15% of the homeless are veterans.³⁷⁹ In Benton and Franklin counties, 7% of individuals who had spent the prior night in an emergency shelter were veterans.³⁸⁰ In Grays Harbor, 6.6% of the homeless population are veterans,³⁸¹ and 7.4% of Spokane's homeless population are veterans.³⁸² Similar to national data, homeless veterans in Washington counties are also more likely to be chronically homeless. For example, in Snohomish County, the majority of veterans have been homeless for 3 years or more.³⁸³ Furthermore, unlike national trends, the rate of homelessness for veterans in Washington State is not decreasing.³⁸⁴

THE DISCRIMINATORY IMPACT OF HOMELESSNESS ON VETERANS AT A GLANCE: WASHINGTON STATE

Veterans represent a significant portion of local homeless populations. For example, in Seattle, veterans represent approximately 15% of the homeless population.

The Washington data also shows a strong correlation between veterans, homelessness, and mental disability. For example, in Whatcom County 65% of homeless veterans have a mental illness.³⁸⁵ Similarly, in King County, approximately 30% of Vietnam veterans have experienced PTSD or mental health issues and 9–24% of Gulf War veterans have experienced PTSD or mental health issues.³⁸⁶

³⁷⁶ DEP'T OF COMMERCE, HOMELESSNESS IN WASHINGTON STATE 27 (Dec. 2013); *see also* Washington, U.S. CENSUS BUREAU (Mar. 31, 2015), <http://quickfacts.census.gov/qfd/states/53000.html>; *see also* Veteran Population, U.S. DEP'T OF VETERANS AFFAIRS, http://www.va.gov/vetdata/Veteran_Population.asp (last visited Dec. 1, 2014). This is a smaller differential than shown in the national data.

³⁷⁷ CLARK CNTY., *supra* note 15.

³⁷⁸ KING COUNTY COMMUNITY SERVICES DIVISION-HOMELESS AND HOUSING PROGRAM, *supra* note 236.

³⁷⁹ U.S. CONFERENCE OF MAYORS, *supra* note 24; *Homelessness Facts for King County*, *supra* note 2.

³⁸⁰ REBECCA SUTHERLAND, DEMOGRAPHIC & SOCIO-ECONOMIC REPORT 2012 (2012), *available at* <http://www.bfhd.wa.gov/assessment/2012%20demographics%20report%20FINAL.pdf>.

³⁸¹ GRAYS HARBOR CNTY., 10-YEAR PLAN TO END HOMELESSNESS (2010), *available at* http://www.co.grays-harbor.wa.us/info/pub_svcs/Housing/2010_10YrPlantoEndHomelessness.pdf.

³⁸² Lawrence-Turner, *supra* note 16; Press Release from Brian Coddington, *supra* note 16.

³⁸³ HUMAN SERVICES, *supra* note 227.

³⁸⁴ NAT'L ALLIANCE TO END HOMELESSNESS, THE STATE OF HOMELESSNESS IN AMERICA 2013 13 (2013), *available at* http://b.3cdn.net/naeh/bb34a7e4cd84ee985c_3vm6r7cjh.pdf.

³⁸⁵ WHATCOM COAL. TO END HOMELESSNESS, *supra* note 25.

³⁸⁶ JON HOSKINS, STATUS OF VETERANS AND VETERANS SERVICES IN KING COUNTY 19 (Feb. 2013).

C. Causes of Disproportionate Representation

This section surveys several factors that contribute to veteran homelessness. These factors include higher rates of unemployment, higher rates of experiencing disabilities, and limited access to medical services.

“When I was making the transition between military and civilian life, I was not offered a lot of information on how to access the benefits I was entitled to as a veteran. When you’re in the military you are taken care of 24/7 – everything is provided for you – housing, food, clothes, a dependable job and a paycheck, but once you’re discharged you are sent back and on your own. For some veterans, navigating a bureaucracy that is understaffed and back logged can be very daunting to take on, especially if the veteran has physical or psychological disabilities associated with their service. [Also,] [m]any women do not self-identify as being a veteran. That could be because they didn’t serve in combat and are not familiar with the definition of what a veteran is. Some women may be trying to disassociate themselves with the military if they’ve experienced a trauma event, like military sexual trauma where they don’t feel comfortable accessing services through the VA, which is still a very male dominant environment.”—Rebecca Murch, a U.S. Navy veteran who served in the Persian Gulf.

--Della Kostelnik Juarez, *At-risk, Homeless Veterans Supported with ‘Hand Up’ Approach*, KOMO NEWS (Sept. 10, 2013), <http://www.komonews.com/news/local/Seattle-stand-down-supports-at-risk-homeless-veterans-with-hand-up-approach-223208981.html>

First, veterans are at a greater risk of unemployment than the general population. While the national unemployment rate has dropped to less than 8%, unemployment rates for post 9/11 veterans is 10%.³⁸⁷ Indeed, the unemployment rate is nearly 25% for veterans between 18 and 24 years old, which is near the rate of unemployment during the Great Depression.³⁸⁸ Nationally, veterans of color have higher rates of unemployment than White veterans.³⁸⁹ African American veterans have a 43% higher rate of unemployment than White veterans and Hispanic veterans have a 25% higher rate of unemployment than White veterans.³⁹⁰ Similarly, women veterans of all races have a 16% higher rate of unemployment than White veterans.³⁹¹ Moreover, the unemployment rate for women veterans of all races is increasing.³⁹²

Unemployment rates for veterans are high for a number of reasons. Many veterans, especially younger veterans, receive a limited education and state that their military skills do not transfer to civilian life.³⁹³ More than 75% of veterans report “an inability to effectively translate

³⁸⁷ *Durbin: Congress Should Honor Veterans by Passing Bipartisan Legislation to Create Jobs for Veterans And Improve Mental Health Services*, U.S. SENATE, <http://www.durbin.senate.gov/public/index.cfm/pressreleases?ID=10e0cdae-56e3-4bc9-8567-ee099df34c29> (last visited Dec. 1, 2014).

³⁸⁸ *Id.*

³⁸⁹ JON HOSKINS, *supra* note 386, at 13.

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² *Id.* (In 2011, women veterans experienced unemployment at a rate of 9.7%. In 2012, women veterans’ unemployment grew to 13.2%, which is a 36% increase in just one year.)

³⁹³ *Statistics, supra* note 371.

their military skills to civilian terms.”³⁹⁴ Additionally, 61% of employers said they did not fully understand the qualifications of ex-service members.³⁹⁵ Veterans also face significant barriers to employment because they are more likely to have combat-related physical and mental disabilities.³⁹⁶

Second, there is a significant correlation between military service, mental illness, and homelessness. In fact, the “[p]resence of mental disorders is the strongest predictor of becoming homeless after discharge from active duty.”³⁹⁷ Twenty-five to thirty percent of veterans returning from Iraq or Afghanistan reported symptoms of a mental health condition,³⁹⁸ 20% reported PTSD or major depression, and 10–20% suffered a traumatic brain injury.³⁹⁹ These statistics regarding mental health conditions, PTSD or major depression, and traumatic brain injuries are only increasing for veterans.⁴⁰⁰ Veterans are also more likely to abuse drugs and/or alcohol; approximately 30% of returning soldiers report drug or alcohol dependency.⁴⁰¹ These stressors further complicate “[t]he demanding environments of military life and experiences of combat,” and can have life threatening impacts even after a soldier returns from employment.⁴⁰² A study analyzing veteran suicide rates between 2005 and 2010 found that a service member committed suicide every 36 hours.⁴⁰³

Third, many veterans do not or cannot access the care they need.⁴⁰⁴ Only about half of veterans who need mental health care seek it, and only approximately half of that population receives adequate care.⁴⁰⁵ The majority of veterans report that it is “difficult” to access medical care through the Veteran’s Administration (VA),⁴⁰⁶ and many have died waiting to receive care.⁴⁰⁷ For those that do receive care, treatment is often inadequate. For example, the Institute of Medicine reported that the Department of Defense (DOD) used tools and treatments for PTSD, depression, and substance abuse disorders that had “no clear scientific evidence base.”⁴⁰⁸

³⁹⁴ *Honoring Our Veterans in 2011*, CTR. FOR AMERICAN PROGRESS, <https://www.americanprogress.org/issues/military/news/2011/11/10/10609/honoring-our-veterans-in-2011/> (last visited Nov. 1, 2014).

³⁹⁵ *Id.*

³⁹⁶ *Statistics*, *supra* note 371.

³⁹⁷ Shad Meshad, *Why Are So Many Veterans Homeless*, BRAINMILITARY, <http://www.brainlinemilitary.org/content/2013/08/why-are-so-many-veterans-homeless.html> (last visited Nov. 1, 2014).

³⁹⁸ *Major Depressive Episode and Treatment for Depression among Veterans Aged 21 to 39*, NAT’L SURVEY ON DRUG USE AND HEALTH (NSDUH) (Nov. 6, 2008), <http://oas.samhsa.gov/2k8/veteransDepressed/veteransDepressed.htm>.

³⁹⁹ *Honoring Our Veterans in 2011*, *supra* note 394.

⁴⁰⁰ *20% of returning war veterans report major depression*, NEWS MEDICAL (June 4, 2010), <http://www.news-medical.net/news/20100604/2025-of-returning-war-veterans-report-PTSD-or-major-depression.aspx>.

⁴⁰¹ *Id.*

⁴⁰² *Veterans and Military Families*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, (Sept. 29, 2014), <http://www.samhsa.gov/veterans-military-families>.

⁴⁰³ *Id.*

⁴⁰⁴ *Id.*

⁴⁰⁵ *Id.*

⁴⁰⁶ Jeffrey M. Jones, *Majority of U.S. Veterans Say Access to VA Care Difficult*, GALLUP, <http://www.gallup.com/poll/172055/majority-veterans-say-access-care-difficult.aspx> (last visited Nov. 1, 2014).

⁴⁰⁷ *Id.*

⁴⁰⁸ *US Military Veterans Face Inadequate Care After Returning from War – Report*, THE GUARDIAN, <http://www.theguardian.com/world/2013/mar/26/us-veterans-inadequate-care-war> (last visited Nov. 1, 2014).

Furthermore, the DOD and the VA have not linked databases, preventing collaboration and coordinated care.⁴⁰⁹

“Although several federal agencies are actively trying to address the support needs of current and former service members . . . the response has been slow and has not matched the magnitude of this population’s requirements as many cope with a complex set of health, economic, and other challenges.”⁴¹⁰ To adequately address homelessness, issues regarding unemployment, mental disabilities, and inadequate health care for veterans must also be addressed.

VII. Recommendations

Marginalized groups are disproportionately represented in the homeless population, and are thus discriminatorily impacted by homelessness and its many burdens, particularly laws that criminalize necessary, life-sustaining activities in public. The members of marginalized groups should be at the forefront and center-stage in the discussion of ending homelessness.⁴¹¹ Therefore, “centering marginalized folks when thinking about all of these issues around discrimination against homeless individuals is the way forward.”⁴¹² Any attempt to decrease the discriminatory impact of homelessness on marginalized groups must address the causes and exacerbations of homelessness for these groups. Some potential steps include repealing the ordinances that criminalize life-sustaining activities for people experiencing homelessness, improving data collection, updating the laws to prohibit discrimination, and implementing a housing-first program.

First, policymakers must repeal the criminal ordinances that discriminatorily target people experiencing homelessness.⁴¹³ These criminal ordinances are purportedly implemented to improve the quality of life for citizens.⁴¹⁴ However, these ordinances actually function to remove

⁴⁰⁹ *Id.*

⁴¹⁰ *Id.*

⁴¹¹ Concentrated efforts to address homelessness for veterans has proven to be successful. *Veterans*, NAT’L ALLIANCE TO END HOMELESSNESS, <http://www.endhomelessness.org/pages/veterans> (last visited Apr. 25, 2015). “In 2009, the Obama Administration committed to ending veteran homelessness in the U.S. by the end of 2015.” *Id.* Accordingly, there has been a 33[%] decrease in the number of homeless veterans. *Id.* Therefore, if the U.S. similarly commits to addressing homelessness for all marginalized groups, it could reproduce similar successful results. *See also* HOSKINS, *supra* note 386, at 21 (stating that the Committee to End Homelessness in King County adopted the Five Year Plan to End Homelessness Among Veterans in King County in 2011).

⁴¹² Interview with Shannon Perez-Darby, Youth Program Manager, The Northwest Network (Mar. 4, 2015).

⁴¹³ Laws that criminalize homelessness ban “life-sustaining activities that homeless people need to perform in order to survive” and also “condemn homeless people to open hostility and rejection, harassment, and even incarceration—further ensuring a downward spiral.” Sara Rankin, *Should Homelessness be a Crime? Our State Grapples with its Answer*, FIRESTEEL (Aug. 27, 2014), <http://firesteelwa.org/2014/08/is-homelessness-a-crime-should-it-be-washington-grapples-with-its-answer/>. Unfortunately, the presence of these criminal ordinances have increased: city-wide bans on camping in public have increased by 60%; city-wide bans on begging in public have increased by 25%; city-wide bans on loitering, loafing, and vagrancy have increased by 35%; city-wide bans on sitting or lying down in particular public places have increased by 43%; and bans on sleeping in vehicles have increased by 119%. THE NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 365, at 8–9. The increase in criminal ordinances was measured from 2011. *Id.*

⁴¹⁴ *A Dream Denied: the Criminalization of Homelessness in U.S. Cities*, *supra* note 29.

visibly poor people from public spaces.⁴¹⁵ Consequently, the purpose of these laws has been criticized as being one of exclusion and marginalization.⁴¹⁶ These criminalizing ordinances are bad policy and must be repealed because they serve no legitimate purpose and instead only exacerbate the cycle and problems of homelessness.⁴¹⁷ Research shows that these criminal ordinances do not improve the health and safety of citizens,⁴¹⁸ they are not cost-effective,⁴¹⁹ and they guarantee the continued marginalization of certain groups instead of addressing homelessness.

Furthermore, criminal ordinances have been a tool that has been used historically to exclude and physically remove certain populations.⁴²⁰ Society has rejected such laws, which targeted some of the marginalized groups examined in this brief, as discriminatory.⁴²¹ In fact, criminal ordinances are just another form of systemic discrimination. This brief exposes the historical, social, and political systems of discrimination that create inequalities and structure the relative positions of people based on their identity as a member of a marginalized group. These criminal ordinance add another layer to this discriminatory system that exacerbates unequal situations for certain marginalized groups and guarantee their continued marginalization. Accordingly, society should be compelled to reexamine the impact of criminal ordinances on its most vulnerable citizens and reject these ordinances as discriminatory.

Second, policymakers should take steps to improve data collection concerning the demographics of homeless populations in their jurisdictions. Data can help make transparent the causes of and solutions to homelessness.⁴²² However, research for this brief reveals large gaps in data collection on the intersectionality of homelessness and other marginalized groups. For example, these gaps are evidenced through the lack of statistics regarding female single parent families and LGBTQ individuals on both the national level and in Washington State. Data is important because it can help guide agencies and advocacy groups to hire staff with skills necessary to meet their clients' needs, inform the development of inter-organizational and coordinated networks, and aid in program development.⁴²³ Data is also a critical tool for policy advocacy. Once data is collected, it may also be used to inform future legislation and illustrate

⁴¹⁵ *Id.*

⁴¹⁶ See Ortiz & Dick, *supra* note 35.

⁴¹⁷ See generally NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 32; BERKELEY LAW POLICY ADVOCACY CLINIC, *supra* note 32; Howard & Tran, *supra* note 32.

⁴¹⁸ NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 32 (stating that criminal ordinances have not been shown to improve public health or safety).

⁴¹⁹ BERKELEY LAW POLICY ADVOCACY CLINIC, *supra* note 32 (finding no meaningful evidence to support claims that sit-lie ordinances increase economic activity); Howard & Tran, *supra* note 32 (finding that criminal ordinances are not cost effective and there are alternatives that will address homelessness while saving tax payers money).

⁴²⁰ Ortiz & Dick, *supra* note 35.

⁴²¹ *Id.*

⁴²² Darby, *supra* note 412 ("Quality data that is across our field is an important step to move forward to get a big picture of homelessness." However, "that data can't come at the cost of young people and their experiences. We can't disrespect homeless people." Intake forms include very invasive questions and this detailed information has real implications for peoples' lives. "It is very, very important to collect data without compromising people's integrity and privacy." In states that are criminalizing homelessness, "it is dangerous to have data collection that is not private" and includes such invasive, detailed information—such as immigration status, whether someone is HIV positive, whether someone is dealing with substance abuse, etc.).

⁴²³ ROBERT ROSENHECK, ET AL., SPECIAL POPULATIONS OF HOMELESS AMERICANS 2, *available at* http://www.urbancentre.utoronto.ca/pdfs/elibrary/1998_Special-Pop-HL.pdf.

how ordinances that may appear facially neutral actually negatively and disproportionately affect marginalized communities. Policymakers should pursue more specific, targeted efforts to improve demographic data, which helps to illuminate the question of who is most impacted by homelessness (and the laws that disproportionately impact homeless people).

Third, policymakers should be mindful of the discriminatory impact of homelessness on marginalized groups and modify laws that currently contribute to this marginalization. For example, policymakers at the local, state, and federal levels can update employment and housing laws to prohibit discrimination against a broader range of systemically marginalized people. Specifically, marginalized groups need increased protection from various forms of employment discrimination. Racial minorities, women, and LGBTQ individuals “face an uphill battle in achieving pay equity.”⁴²⁴ Accordingly, “[w]ithout strong protections against discrimination, [racial minorities, women, and LGBTQ individuals] are at a disadvantage, more likely to work in low-paying industries and be paid less within industries and occupations.”⁴²⁵ Regarding fair housing, the FHA should be updated to include protecting individuals from housing discrimination on the basis of sexual orientation and gender identity.⁴²⁶ Moreover, states should update housing laws to protect all minority groups by prohibiting landlords from discriminating against systemically marginalized groups in the process of renting property and evicting tenants. Ultimately, policymakers should understand the relationship between homelessness and marginalization so that laws can more equitably support economic and housing security for all Americans.

Finally, policymakers should implement a low-barrier Housing First program that affords permanent housing to all homeless individuals as an alternative to criminalizing the homeless. Housing First places people into permanent housing “supplemented by any supportive services necessary to help them maintain housing stability.”⁴²⁷ The theory of Housing First “is that any issues that may have contributed to an individual or family becoming homeless can best be addressed after they are stably housed.”⁴²⁸ Housing-first programs have proved to be successful in other states. For example, Salt Lake City, Utah implemented a Housing First program that has decreased chronic homelessness by 74% since 2005.⁴²⁹ Similarly, states across the country have pledged to end homelessness for veterans and have centered their approach around Housing

⁴²⁴ HENRY & FREDERICKSEN, *supra* note 48.

⁴²⁵ *Id.*

⁴²⁶ HUD implemented the LGBT Equal Access policy that will prohibit “all owners and operators of HUD-assisted or HUD-insured housing from discriminating against an applicant or occupant of a residence based on sexual orientation, gender identity, or marital status.” Maya Rupert, *Department of Housing and Urban Development Unveils LGBT Equal Access Policy*, NAT’L CTR. FOR LESBIAN RIGHTS (Jan. 28, 2012), <http://www.nclrights.org/department-of-housing-and-urban-development-unveils-lgbt-equal-access-policy/>. This rule “marks the first time that any administration has extended such broad protections against housing and mortgage discrimination to the LGBT community.” *Id.* This rule “will increase access to essential housing services and programs, making it easier for LGBT families to secure home loans, and keep more LGBT people in safe and affordable housing.” *Id.* “It will literally save lives.” *Id.* If the FHA is updated to similarly protect the LGBTQ community, its effects could increase housing protections to reach the greater LGBTQ population—not just those individuals affected by this HUD rule.

⁴²⁷ THE NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 365, at 37.

⁴²⁸ MBILINYI, *supra* note 124, at 7.

⁴²⁹ THE NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 365, at 38.

First.⁴³⁰ Accordingly, “the retention rate for homeless veterans placed in permanent housing stood at 85[%] nationally after one year.”⁴³¹ Providing housing is not only less expensive than lengthy shelter or transitional housing stays, but also helps individuals become self-sufficient more quickly.⁴³² Currently, many housing programs force participants to succumb to strict requirements, including sobriety, in order to remain in the shelter, and many exclude individuals with certain criminal histories.⁴³³ However, individuals with mental disabilities and criminal histories must have their primary housing needs met before they can begin to address other needs. Furthermore, denying housing to felons only further ensures that they will end up back in the criminal justice system.⁴³⁴ In fact, studies have shown that providing housing reduces recidivism rates, which “contradicts the expectations of housing operators and policy makers.”⁴³⁵ Counties that have used low barrier housing models have not only seen higher success rates in decreasing homelessness, but have saved their counties a great deal of money as well.⁴³⁶

These recommendations are modest suggestions to help address the disturbing legal and policy issues raised by the disproportionate representation of people of color, women, LGBTQ individuals, individuals with mental disabilities, formerly incarcerated individuals, and veterans in homeless populations. Revealing this discriminatory impact of homelessness on marginalized groups is important because ignoring the diverse identities and causes of homelessness facilitates dehumanization. In turn, dehumanization encourage erroneous negative stereotypes, assumptions, and prejudices against people experiencing homelessness. As a result, dehumanization facilitates the implementation of ordinances that criminalize the conduct of necessary, life-sustaining activities in public and other forms of systemic discrimination that guarantee the marginalization of certain groups. Consequently, a vicious cycle is created, trapping marginalized groups in homelessness and other unequal situations.

CONCLUSION

This brief shatters monolithic constructions of “who’s homeless” by unveiling the diverse identities and causes of homelessness. Ignoring such diversity facilitates dehumanization, erasing the varied identities of people experiencing homelessness, and obscuring the many causes of homelessness. Furthermore, monolithic constructions encourage erroneous negative stereotypes, assumptions, and prejudices against people experiencing homelessness. Popular sentiment is to

⁴³⁰ Fernanda Santos, *Program to End Homelessness among Veterans Reaches a Milestone in Arizona*, THE N.Y. TIMES (Jan. 15, 2014), <http://mobile.nytimes.com/2014/01/16/us/program-to-end-homelessness-among-veterans-hits-milestone-in-arizona.html?referrer=&r=0>.

⁴³¹ *Id.* (stating that in Phoenix, the retention rate for homeless veterans placed in permanent housing is at 94%).

⁴³² *What We Do, Washington State Homelessness and Family Stability*, BILL & MELINDA GATES FOUNDATION, <http://www.gatesfoundation.org/What-We-Do/US-Program/Washington-State/Homelessness-and-Family-Stability> (last visited Oct. 11, 2014); Fernanda Santos, *supra* note 430 (noting that a 2009 study in Los Angeles “found that the monthly cost of housing and supportive services for one person was \$605, while the public costs of a person living on the streets were roughly \$2,900 a month”).

⁴³³ METRAUX, ET AL., *supra* note 315; *Why Common Ground Works*, COMMON GROUND, <http://www.commonground.org/mission-model/why-common-ground-works/#.VB8v2kupdPc>.

⁴³⁴ Daniel K. Malone, *Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders*, 60 PSYCHIATRIC SERVICES 224 (Feb. 2009).

⁴³⁵ *Id.*

⁴³⁶ THURSTON CNTY., *supra* note 227.

feel “repulsed, desensitized, and perhaps fearful of the homeless population.”⁴³⁷ As a result, “America’s homeless are now more likely to be labelled as pathological predators who spoil downtown areas and threaten suburbia.”⁴³⁸ The dangers of such sentiment are exemplified through the ordinances that criminalize the conduct of necessary, life-sustaining activities in public. While these ordinances may appear to be facially neutral, in essence they criminalize the existence of homeless people, who have no reasonable alternative but to perform these activities in public spaces.⁴³⁹ The criminalization of homelessness not only raises moral questions about the way that society deals with the visibly poor, but also raise legal and policy concerns about such criminalization ordinances.

The interplay between marginalization and homelessness is an expression of systemic discrimination, exclusion, and oppression. National and Washington State statistics show that certain marginalized groups are disproportionately represented in the homeless population compared to the general population. Therefore, the ordinances that criminalize homelessness disproportionately impact these groups.⁴⁴⁰ Society has already rejected laws and practices that discriminatorily target many of these same marginalized groups.⁴⁴¹ And yet criminalization ordinances do the same thing.

It is time to lift the veil and confront the discriminatory impact of criminalization laws in Washington and throughout the nation.

⁴³⁷ *Id.* at 407–08.

⁴³⁸ Nancy Wright, *Not in Anyone's Backyard: Ending the "Contest of Nonresponsibility" and Implementing Long-Term Solutions to Homelessness*, 2 GEO. J. ON FIGHTING POVERTY 163, 164 (1995).

⁴³⁹ NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 26

⁴⁴⁰ NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY, *supra* note 84 (stating that “[l]aws criminalizing homelessness tend to target minorities; as the Special Rapporteur on racism has noted, ‘the enforcement of minor law enforcement violations...take[s] a disproportionately high number of African American homeless persons to the criminal justice system’”).

⁴⁴¹ *See generally* Ortiz & Dick, *supra* note 35.

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