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LIVING AT THE INTERSECTION:

Laws and Vehicle Residency



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ADVOCACY PROJECT

Living at the Intersection:

Laws and Vehicle Residency

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Executive Summary

Both nationally and in Washington State, city lawmakers are rapidly prohibiting the use of vehicles as temporary residences for people experiencing homelessness. In fact, cities are restricting or banning vehicle residency faster than any other type of conduct associated with homelessness.¹ Shelter is necessary for survival; people experiencing homelessness often have no other reasonable alternative but to use their vehicles as temporary shelter. With nowhere else to go, vehicle residents are disproportionately impacted by laws that restrict or prohibit public parking.

Few researchers—notably Graham Pruss² and the National Law Center on Homelessness and Poverty³—have deeply examined the rising trend of vehicle residency. This brief examines the laws passed across Washington State in response to the rising trend of vehicle residency. This research concludes that vehicle residency laws and their enforcement are obscured from the public behind complex bureaucracy. This brief details some of the legal and personal impacts these laws have on vehicle residents—an inherently vulnerable population.

Homeless Rights Advocacy Project (“HRAP”) researchers surveyed 29 cities in Washington to identify ordinances that potentially prohibit vehicle residents from conducting life-sustaining activities in their vehicles—for example: sleeping, eating, or simply storing possessions. Researchers found that laws criminalizing vehicle residency are codified under vehicle, traffic, or health and safety sections of the municipal codes. These laws are often written using vague definitions that do not provide exceptions for necessary life-sustaining behavior. Additionally, these laws raise serious constitutional concerns about the laws’ purposes and implementation. Along with the enactment data survey, researchers examined enforcement data from six cities.⁴ Research suggests that systematic criminalization of vehicle residency is a response to visible poverty that negatively and disproportionately impacts a significant number of Washington’s most vulnerable residents.

Key Findings:

- Federal courts are increasingly signaling that ordinances criminalizing necessary life-sustaining conduct—including vehicle residency restrictions—may violate constitutional protections.
- Washington cities have an average of 10 separate ordinances that criminalize vehicle residency.
- Nearly one-third (9) of surveyed cities explicitly ban vehicle residency outright without providing reasonable alternatives for people experiencing homelessness.

¹ See *infra* Part I.A.

² See GRAHAM PRUSS, SEATTLE VEHICULAR RESIDENCY RESEARCH PROJECT: 2012 ADVISORY REPORT (Sept. 26, 2012) [hereinafter “2012 Advisory Report”].

³ See NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 15 (Nov. 2011), https://www.nlchp.org/documents/No_Safe_Place [hereinafter “National Law Center”].

⁴ Researchers selected eight cities from which to collect enforcement data. However, two of the cities were unable to provide responsive data of any kind.

- Seattle has the highest number of ordinances criminalizing vehicle residency (20), followed by Auburn (18), Kent (18), Aberdeen (17), and Vancouver (17).
- A significant number of ordinances do not operate by generating citations. Instead, these ordinances empower enforcement officials to deprive vehicle residents of liberty or property without creating a transparent public record.
- Vehicle residents are often required to move their vehicles frequently throughout the city in order to stay in compliance with time and location restrictions.
- Enforcement data reveals a broad campaign to criminalize vehicle residents through a variety of punitive methods.
- A significant percentage of citations under these ordinances go unpaid and unresolved, resulting in significant waste of city resources. Consequently, enforcing these ordinances cannot reasonably deter necessary conduct.

Conclusions:

- Select ordinances found in Tacoma, Aberdeen, and Longview likely violate the Fourteenth Amendment due to impermissible vagueness and the Eighth Amendment’s prohibition against cruel and unusual punishment.
- Laws restricting vehicle residency are ineffective at reducing vehicle residency rates because vehicle residents have no reasonable alternatives.
- Many city officials and staff expressed confusion or unfamiliarity with how ordinances restricting vehicle residency are enforced or tracked. Consequently, city officials often referred researchers to the wrong departments.
- None of the surveyed cities could provide data regarding the demographics of vehicle residents receiving citations.

Recommendations:

- Abolish laws criminalizing vehicle residency when no reasonable alternatives exist.
- Establish legal safe havens for vehicle residents to occupy, including on-street and off-street parking, public and private parking sites, or designated vehicle residency camps. Legal spaces for vehicle residents should also include portable toilet facilities, electrical hook-ups, potable water, and trash collection.
- Statutorily recognize a “No Reasonable Alternative” defense that excuses the performance of life sustaining activities—including vehicle residency—in public when no reasonable alternative exists.
- Alternatively, existing vehicle residency ordinances should be revised to include: (1) clearly designated exceptions for indigent vehicle residents; (2) alternative/non-punitive payment plans; and (3) legal fee obligation (LFO) forgiveness to vehicle residents cited under these ordinances but who cannot afford to pay.
- Friction between traffic laws and vehicle residents is inevitable. However, the interests of enforcement personnel need not be adverse to the needs of vehicle residents. Cities should equip police officers with better training regarding how to

initiate contact with vulnerable populations and navigate the broad range of circumstances vehicle residents face.

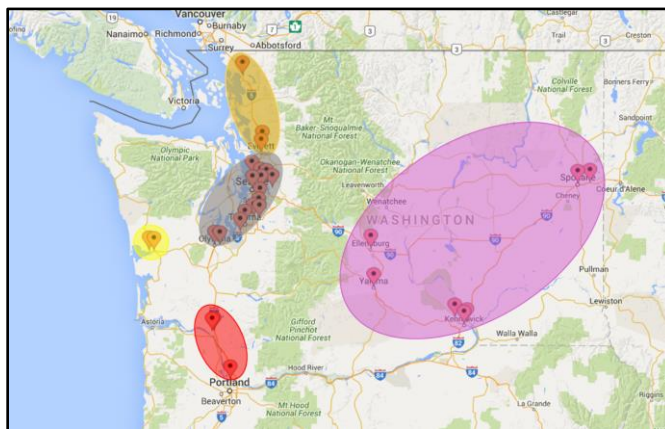
- Across the board, cities could not provide any data regarding the impact of restrictive traffic ordinances on vehicle residents specifically. Thus, cities should begin tracking key demographic data such as housing status, duration of homelessness, and mental health status. Cities should use the current Homeless Management Information System and online vehicle information to enter vehicle resident data as part of outreach efforts.
- Several cities, such as Tacoma, expressed a desire to connect vehicle residents with important social services. However, these cities typically rely on criminalization ordinances as the outreach mechanism. Cities should instead invest in non-punitive techniques to provide services to vehicle residents.
- Cities should structure their traffic enforcement departments so that records are kept in a more consistent, accessible, and transparent fashion, especially for those enforcement actions not resulting in a citation.

Introduction

Do you have a safe place to sleep tonight? Will the police come to your home, tell you to get up, take all your things, and leave under the threat of a fine, impoundment of personal property, or incarceration if you refuse? These are questions and challenges that vehicle residents—individuals with no reasonable alternative but to live in their vehicles—have to face daily. Such challenges are worsened by laws prohibiting or restricting vehicle residents’ access to public space and freedom to conduct life-sustaining activities in their vehicles such as sleeping, eating, or storing their possessions.

People experiencing homelessness typically rely on their vehicles for shelter in one of two scenarios: (1) as the first step toward permanent shelter after a period of homelessness; or (2) as a last resort preventing them from living on the streets. In either case, their vehicle serves a number of crucial functions. A vehicle can provide protection from crime, shelter from the elements, a place to be with family and pets, a place to sleep, a location to store belongings, and a sense of stability during a time of supreme difficulty in their lives. While an emergency shelter bed may be temporarily available in some circumstances, a vehicle does not require residents to abandon their privacy, relationships, and dignity, among other important aspects of autonomy.

Researchers with the Homeless Rights Advocacy Project (HRAP) surveyed vehicle residency laws in 29 cities throughout Washington State.⁵ The resulting data sheds light on how cities throughout Washington prohibit or severely restrict vehicle residency and how those laws negatively and disproportionately impact people experiencing homelessness. Researchers served public records requests to 8 of the 29 cities to obtain enforcement data.⁶ However, at the time of writing, researchers received data from only six cities.⁷ The surveyed cities are within the following geographic regions:



⁵ Researchers initially chose the 24 most populous cities. Five additional cities were added after consulting with vehicle residency expert Graham Pruss, M.A., Director of the Vehicular Residency Research Program (2012–2014) and WeCount.org. These five cities were identified as cities to be “struggling with addressing urban/suburban/rural vehicle residency.” See *infra* Appendix.

⁶ Researchers requested records from September 22, 2010 through September 22, 2015. The eight enforcement case study cities were comprised of the three most populated cities in the Puget Sound region along with the largest cities in the other five geographic regions. See *infra* Appendix.

⁷ See *infra* Part III.D.

Washington’s enactment and enforcement data reveal how vehicle residency laws function, how they are enforced, and how they impact the lives of vehicle residents. Part I introduces the concept of criminalization of vehicle residency and its consequences. Part II surveys the enactment of homeless criminalization ordinances impacting vehicle residents in Washington State. Part III details five case studies of Washington cities with an emphasis on how the laws in those jurisdictions are enforced. Part IV concludes with researchers’ findings and recommendations for lawmakers.

I. WHY LAWS PROHIBITING VEHICLE RESIDENCY AMOUNT TO CRIMINALIZING HOMELESSNESS

Despite lacking adequate shelter space to accommodate growing homeless populations,⁸ cities across the country continue to penalize people who have no reasonable alternative but to live in public spaces, including vehicle residents.⁹ Like all people experiencing homelessness, vehicle residents “experience [] social exclusion and discrimination which are both exemplified and exacerbated by the adoption of punitive responses to homelessness.”¹⁰ A number of laws, including parking prohibitions, time restrictions, street restrictions, and licensing and registration fees, disproportionately and negatively impact vehicle residents. This section reviews: (1) the increasing trend of criminalizing vehicle residency; (2) the impact of criminalizing vehicle residents; and (3) a growing federal acknowledgement of the problem criminalizing homelessness.

A. Criminalization of Homelessness: A Policy of Exclusion

A national One Night Count in January 2015, found an estimated 564,708 people experiencing homelessness throughout the United States—nearly 180,000 of whom were unsheltered (31%).¹¹ However, advocates estimate that each year at least 2.5 to 3.5 million people sleep in shelters, transitional housing, or public places not meant for human habitation.¹² These estimates do not include an additional 7.4 million people who double-up with others in a

⁸ 2016 *Street Count Results*, SEATTLE/KING CNTY. COAL. ON HOMELESSNESS,

http://www.homelessinfo.org/what_we_do/one_night_count/2016_results.php (last visited Feb. 2, 2016).

⁹ Sara Rankin, *A Homeless Bill of Rights (Revolution)*, 45 SETON HALL L. REV. 383, 392 (2015); JUSTIN OLSON & SCOTT MACDONALD, Seattle University Homeless Rights Advocacy Project, WASHINGTON’S WAR ON THE VISIBLY POOR: A SURVEY OF CRIMINALIZING ORDINANCES & THEIR ENFORCEMENT (Sara Rankin ed., 2015); National Law Center, *supra* note 3, at 15.

¹⁰ Marie-Eve Sylvestre & Céline Bellot, *Challenging Discriminatory and Punitive Responses to Homelessness in Canada*, ADVANCING SOCIAL RIGHTS IN CANADA 7 (Martha Jackman and Bruce Porter, eds. 2014), available at <http://ssrn.com/abstract=2484975>.

¹¹ MEGHAN HENRY, AZIM SHIVJI, TANYA DE SOUSA & REBECCA SOHEN, ABT ASSOCIATES INC., THE 2015 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS: PART 1 POINT-IN-TIME ESTIMATES OF HOMELESSNESS, THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT 1–2 (Nov. 2015), available at <https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf> [hereinafter “2015 AHAR”] (defining unsheltered as “people who stay in places not meant for human habitation, such as the streets, abandoned building, vehicles, or parks”).

¹² National Law Center on Homelessness & Poverty, *Homelessness In America: Overview of Data and Cause* (Jan. 2015), http://www.nlchp.org/documents/Homeless_Stats_Fact_Sheet.

single residence due to economic necessity.¹³ Seattle's unsheltered homeless population in 2015 almost mirrored the national percentage at 28% (2,813 individuals).¹⁴ In 2016, nearly a third of Seattle's homeless population (914 individuals) lived in vehicles.¹⁵

As homelessness becomes a more significant crisis across the United States and in Washington, many cities respond by enacting laws regulating the presence and visibility of homelessness and poverty.¹⁷ These city ordinances have the effect of prohibiting or severely restricting access to public space by punishing people that engage in necessary life-sustaining conduct in public.¹⁸

To protect themselves from the punitive reach of these laws and the dire conditions of living on the street, many people experiencing homelessness resort to what is often their last available refuge: their vehicles.¹⁶

Given these realities, it is no surprise that banishing vehicle residency is one of the fastest-growing forms of criminalization.¹⁹ Banishment takes a number of forms including outright bans on vehicle residency, prohibitions/restrictions on parking time and location, vehicle size limits, and junk or abandoned vehicle designations. In 2011 and 2014, the National Law Center on Homelessness and Poverty surveyed 187 cities and assessed the number and type of municipal ordinances that criminalize life-sustaining activities, which included vehicle residency restrictions.²⁰ Nationwide, the number of cities banning sleeping in vehicles increased 119% in three years, going from 37 cities in 2011 to 81 cities in 2014.²¹ In recent years, at least three notable west coast cities—Seattle, Portland, and Los Angeles—have declared states of emergency in response to the growing number of people experiencing homelessness.²²

¹³ *Id.*

¹⁴ 2015 AHAR, *supra* note 11, at 19; 2015 *Street Count Results*, SEATTLE/KING CNTY. COAL. ON HOMELESSNESS, http://www.homelessinfo.org/what_we_do/one_night_count/2015_results.php (last visited Mar. 31, 2016).

¹⁵ 2016 *Street Count Results*, *supra* note 8.

¹⁶ National Law Center, *supra* note 3; 2012 Advisory Report, *supra* note 2.

¹⁷ See National Law Center, *supra* note 3, at 12; OLSON & MACDONALD, *supra* note 9; Rianna Hidalgo, *Nowhere To Go*, REAL CHANGE (July 22, 2015), <http://realchangenews.org/2015/07/22/nowhere-go> [hereinafter "*Nowhere To Go*"]; Rianna Hidalgo, *The Pile Up*, REAL CHANGE (Aug. 5, 2015), <http://realchangenews.org/2015/08/05/pile> [hereinafter "*The Pile Up*"]; Rianna Hidalgo, *Long Road Home*, REAL CHANGE (July 29, 2015), <http://realchangenews.org/2015/07/29/long-road-home> [hereinafter "*Long Road Home*"].

¹⁸ National Law Center, *supra* note 3, at 14, 16; OLSON & MACDONALD, *supra* note 9; see generally KATHERINE BECKETT & STEVE HERBERT, *BANISHED: THE NEW SOCIAL CONTROL IN AMERICA* (2010); MARINA FISHER, NATHANIEL MILLER, LINDSAY WALTER & JEFFREY SELBIN, *CALIFORNIA'S NEW VAGRANCY LAWS: THE GROWING ENACTMENT AND ENFORCEMENT OF ANTI-HOMELESS LAWS IN THE GOLDEN STATE* (Feb. 12, 2015), available at <http://ssrn.com/abstract=2558944>; Coalition on Homelessness San Francisco, *Punishing the Poorest: How the Criminalization of Homelessness Perpetuates Poverty in San Francisco*, <http://www.cohsf.org/Punishing.pdf>; ALEX GLYMAN, SEATTLE UNIVERSITY HOMELESS RIGHTS ADVOCACY PROJECT, *BLURRED LINES, THE INCREASING PRIVATIZATION OF PUBLIC SPACE* (Sara K. Rankin ed., May 2016).

¹⁹ National Law Center, *supra* note 3, at 25.

²⁰ *Id.* at 16.

²¹ *Id.* at 24–25.

²² *Mayor Declares State of Emergency in Response to Homeless Crisis*, CITY OF SEATTLE, <http://murray.seattle.gov/homelessness/#sthash.YcAelhl1a.dpbs> (last visited Jan. 26, 2016); *Mayor Charlie Hales Announces State of Emergency on Housing and Homelessness*, CITY OF PORTLAND, <https://www.portlandoregon.gov/mayor/article/437622> (last visited Jan. 26, 2016); Matt Ferner, *Los Angeles Officials Declare Homelessness 'State of Emergency'*, THE HUFFINGTON POST (Sept. 22, 2015),

Proponents of vehicle residency restrictions cite to public order and health and safety to justify these laws.²³ Nonetheless, these laws may in fact produce negative consequences to public order, health, and safety because the policies do not consider the interest of people experiencing poverty and vehicle residency.

B. The Impact of Criminalization on People Experiencing Vehicle Residency

*[T]hese are average Americans, people like everyone else ... They are struggling to get by, and they are trying to find a way in the world to provide the best lives they can for themselves. If their options include living in a bush, living in a shelter and breaking their family apart, or living in an RV, the choice to live in an RV is a very valuable option.*²⁴

Municipalities have been slow to act in addressing the “emerging crisis” even though the issue of vehicle residency is not a new one.²⁵ As a result, there is a lack of municipal data available for advocates and researchers to analyze.²⁶ Vehicle residents tend to be experiencing homelessness for the first time, housing themselves in their vehicles as a last resort to avoid being without shelter²⁷ or as a transition to permanent housing. They often do not view themselves as homeless and, consequently, struggle to access services due to unfamiliarity with social support mechanisms and the shame they feel in trying to learn and access those services.²⁸

Laws regulating public space force many vehicle residents into a very difficult predicament. The following sub-sections present the impact of laws on vehicle residents, specifically: (1) the continuous game of moving a vehicle; (2) the imposition of fines from citations; and (3) the omnipresent fear of vehicle impoundment.

1. The Moving Game

*You can't park just anywhere, because here come the police, and you just keep moving. You just gotta keep moving.*²⁹

Vehicle residents resort to a strategy of invisibility to avoid scrutiny from local residents, police interaction, and criminal actors.³⁰ This strategy is essential as a response to municipal laws

http://www.huffingtonpost.com/entry/los-angeles-emergency-homelessness_us_5601e32de4b08820d91ab31e; Fox 12 Staff, *Mayor Seeks State of Emergency to Address Homelessness in Portland*, FOX 12 OREGON (Sept. 23, 2015), <http://www.kptv.com/story/30100228/mayor-seeks-state-of-emergency-to-address-homelessness-in-portland>.

²³ National Law Center, *supra* note 3, at 12.

²⁴ *Nowhere To Go*, *supra* note 17. This quote comes from Graham Pruss, Director of the Vehicle Residency Research Program and WeCount.org discussing the stereotypes associated with vehicle residency.

²⁵ Joe Ingram, Bill Kirlin-Hackett, & Graham Pruss, *Alliance Conference on Ending Homelessness: Vehicle Residency Workshop* (May 16, 2013) [hereinafter “Vehicle Residency Workshop”].

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Long Road Home*, *supra* note 17. This quote comes from Lana, a vehicle resident utilizing Road to Housing, whose kidney failure and inability to work led to her eventual eviction from her home.

³⁰ *Id.*

regulating the presence of vehicles in public space. For example, some cities require vehicles to move every 72 hours, some prohibit vehicles over 80 inches in width from parking overnight on most city streets except for the those in industrial areas, and some restrict parking during the specific time period of 2:00 to 6:00 a.m.³¹ These laws can be used in various ways to ticket and fine vehicle residents, impound their vehicles, and even lead to arrest in some cases.³² To abide by the law, vehicle residents often have to move from place to place.³³ The end result of these ordinances is to push vehicle residents out of neighborhoods and concentrate vehicle residency in certain parts of cities.

Vehicle residents are typically without designated locations to legally park their vehicles and have few places where they can avoid detection for an extended period of time.³⁵ Unfortunately, extended stays in any one parking spot leads to neighborhood concern over parking spaces, trash, human waste, crime, and visible poverty. Most vehicle residents are law-abiding citizens.³⁶ Unlike most crime, however, vehicle residents as a whole are blamed for illegal conduct when, as is typically the case, the exact source of the conduct cannot be identified.³⁷ This misattribution leads to police intervention, and the forced mobility of vehicle residents soon follows.³⁸ To avoid the legal consequences and confrontation, many vehicle residents proactively move their vehicles every few days in accordance with the law—but rarely going far from their original spot. Thus, laws that regulate public space are rotating doors, perpetuating this moving game.

It wasn't the harsh reality of seeing individuals living on the street that affected me; rather it was their conspicuous absence—the absence of anyone at all ... Sometimes, homelessness hides in plain sight ... vehicle residency describes a community of people whose survival strategy is often built on invisibility.³⁴

But simply moving one's vehicle may carry additional risks. Vehicle residents with suspended or expired licenses risk receiving separate penalties, including arrest, just to move their vehicles in compliance with the law. In some cases, they risk losing their vehicle to impoundment.³⁹ Faced with no place to park for any extended period of time but being unable to

³¹ See, e.g., Seattle Municipal Code 11.72.440; Seattle Municipal Code 11.72.070; Ellensburg Municipal Code 8.12.020.

³² See, e.g., Aberdeen Municipal Code 10.20.100; Aberdeen Municipal Code 10.20.270. Some laws with civil penalties may nonetheless result in criminal penalties through procedural mechanisms. OLSON & MACDONALD, *supra* note 9, at 12–14.

³³ *Nowhere To Go*, *supra* note 17. This approach forces vehicle residents to adopt a strategy of invisibility.

³⁴ Ashwin Warrior, *Everyone Counts: Including Vehicle Residents Hiding in Plain Sight*, FIRESTEEL, <http://firesteelwa.org/2013/01/everyone-counts-including-vehicle-residents-hiding-in-plain-sight/> (last visited Apr. 13, 2016). Mr. Warrior described his experience further: “I spent my three hours walking through parking lots, looking for telltale signs of human habitation: a window cracked for ventilation, warm breath condensing on glass, cars packed to the hilt with a family's entire possessions. Our group acknowledged each heartbreaking sign with a nod, a sigh, and a mark on a clipboard, our silence carrying deep sorrow.”

³⁵ *Nowhere To Go*, *supra* note 17.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *The Pile Up*, *supra* note 17.

risk moving their vehicle great distances, the best and only option for vehicle residents is to move as little as possible (such as the next block) and then back again days later.

2. The Impact of Fines

The imposition of fines triggers a host of problems for vehicle residents with devastating impacts. In Washington, individuals with two or more unpaid traffic tickets are not allowed to renew their license plate tabs until the tickets are paid.⁴⁰ There are a number of possible scenarios wherein vehicle residents could run afoul of police intervention as a result of expired plate tabs. Vehicles could be ticketed while parked for having expired and improper tabs.⁴¹ Alternatively, vehicles with expired tabs could be stopped while moving and incur a moving violation.⁴² If moving infraction fines remain unpaid, drivers could get their license suspended.⁴³ Drivers who are unable to pay for traffic infractions are likely unable to pay for vehicle liability insurance, which often also results in license suspension.⁴⁴ Driving without a valid license is a misdemeanor.⁴⁵ Ultimately, traffic fines perpetuate homelessness for vehicle residents by making it exponentially harder to secure stable housing.⁴⁶

For vehicle residents, fines from vehicle and parking infractions create unjust results. People who can afford to pay will pay the accrued fines without hesitation. For people experiencing homelessness, fines are a major threat to economic security.⁴⁷ Vehicle residents face a difficult decision to use their limited financial resources to either pay the fine or for life essentials. “When the choice is between a traffic ticket and food for your family, you choose the food.”⁴⁸ This example parallels the difficult choice of whether to pay for child-care, medical care, utilities, rent, and other life essentials.

3. The Government Takes Your Home

To a vehicle resident, a vehicle is much more than a source of transportation.⁴⁹ Thus, the most severe vehicle enforcement mechanisms available to cities—vehicle impoundment—impacts vehicle residents far more than any other group. Impoundment may result from any one of a number of scenarios. When a vehicle with expired tabs is found parked on a public street for

⁴⁰ Wash. Rev. Code § 46.16A.120(4); *Nowhere To Go*, *supra* note 17.

⁴¹ Wash. Rev. Code § 46.16A.030(4).

⁴² See Wash. Rev. Code § 46.55.030(5).

⁴³ Wash. Rev. Code § 46.20.289.

⁴⁴ *Id.*

⁴⁵ Wash. Rev. Code § 46.20.342 (driving while license suspended in the third degree).

⁴⁶ Even though Wash. Rev. Code § 46.20.342 was amended to remove unpaid non-moving infractions, and some jurisdictions such as King County have declined to enforce the state law, the fact that the law is still on the books does not undo the burden of fines and prevent criminalization of indigent drivers.

⁴⁷ SEE A PENNY: THE RISE OF AMERICA’S NEW DEBTORS’ PRISONS, AMERICAN CIVIL LIBERTIES UNION (Oct. 2010), https://www.aclu.org/sites/default/files/field_document/InForAPenny_web.pdf; NOT JUST A FERGUSON PROBLEM: HOW TRAFFIC COURTS DRIVE INEQUALITY IN CALIFORNIA, LAWYERS’ COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA (Apr. 8, 2015), <http://www.lccr.com/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.8.15.pdf>.

⁴⁸ Stephanie Schendel, *State’s High Court to Hear Suspended Driver’s License Case*, THE SEATTLE TIMES (Jan. 13, 2013), <http://www.seattletimes.com/seattle-news/states-high-court-to-hear-suspended-drivers-license-case/> (quoting Kevin Hochhalter, an Olympia-based attorney).

⁴⁹ See *infra* p. 1. Vehicles provide warmth, privacy, protection from crime, shelter from the elements, a place to sleep, a place to store belongings, and a sense of autonomy and self-determination.

at least 45 days, police may impound the vehicle at their discretion.⁵⁰ Alternatively, vehicles driven without a valid license face discretionary impoundment.⁵¹ Furthermore, failure to pay multiple parking tickets puts the individual and vehicle on a “scofflaw list”—a list of vehicles that could be immobilized with a “boot” and later impounded.⁵²

Impoundment leaves vehicle residents with the only option of living on the street when there is lack of adequate shelter space or lack of meaningful access to shelter.⁵³ Impoundment also prevents vehicle residents from attending to crucial obligations such as work, medical appointments, or court dates. Without adequate transportation, vehicle residents’ opportunities are significantly compromised, leading to additional financial, health, and legal problems. At the end of the day, vehicle impoundment makes overcoming homelessness exponentially more difficult, removing what is in many cases the last available emergency shelter.

C. Growing Federal Awareness

Courts across the country are beginning to recognize the disparate and discriminatory impact of criminalization ordinances upon people experiencing homelessness. Vehicle residency laws are often poorly written, raising constitutional concerns of due process and vagueness. For example, in *Desertrain v. City of Los Angeles*, four vehicle residents parked their vehicles in the Venice neighborhood of Los Angeles and were cited and arrested for violating the city’s “use of streets and public parking lots for habitation” municipal code.⁵⁴ Los Angeles’s ordinance prohibited the use of vehicles as “living quarters either overnight, day-by-day, or otherwise.”⁵⁵ The court invalidated the law, finding that the city’s prohibition on vehicle residency was unconstitutionally vague.⁵⁶ The court described the law as “broad enough to cover any driver . . . who eats . . . or transports personal belongings in his or her vehicle.”⁵⁷ Further, the ordinance did not provide adequate notice as to the specific types of unlawful conduct that should be avoided and, thus, opened the door to discriminatory enforcement against people experiencing homelessness.⁵⁸ Therefore, a law that bears the hallmarks of *Desertrain* raises serious questions about constitutionality.

⁵⁰ Wash. Rev. Code § 46.55.113(2)(i).

⁵¹ Wash. Rev. Code § 46.55.113(2)(g).

⁵² See, e.g., Seattle Municipal Code 11.35.010; Olympia Municipal Code 10.16.280.

⁵³ Suzanne Skinner, Seattle University Homeless Rights Advocacy Project, SHUT OUT: HOW BARRIERS OFTEN PREVENT MEANINGFUL ACCESS TO EMERGENCY SHELTER (Sara K. Rankin ed., May 2016) (finding numerous barriers to shelter entry, including restrictions on gender, restrictions on pets, and strict curfews).

⁵⁴ *Desertrain v. City of Los Angeles*, 754 F.3d 1147, 1149 (9th Cir. 2014).

⁵⁵ *Id.*

⁵⁶ *Id.* at 1157.

⁵⁷ *Id.*

⁵⁸ *Id.*

Vehicle residency laws explicitly seeking to ban the option of living in vehicles, especially when cities lack sufficient shelter space, may violate the Eighth Amendment prohibition on cruel and unusual punishment.⁵⁹ For example, in *Jones v. City of Los Angeles*, six homeless individuals filed suit to prevent the Los Angeles Police Department from ticketing and arresting people who sit, sleep, or lie on public sidewalks in violation of the city's sidewalk loitering ordinance.⁶⁰ Los Angeles's ordinance provided that "[n]o person shall sit, lie or sleep in or upon any street, sidewalk or other public way."⁶¹ The court held that the ordinance could not be enforced at all times.⁶² The

court reasoned that the acts of sitting, lying, and sleeping are unavoidable consequences of being human; thus, enforcing the city's ordinance when there is a lack of available shelter beds violates the Eighth Amendment's prohibition against cruel and unusual punishment.⁶³

Ordinances Failing *Desertrain* Test Contain:

- (1) a prohibition on parking vehicles on public streets, city property, or city leased or operated property;**
- (2) when using or occupying a vehicle as living quarters, temporary or permanent residence, habitation, abode, etc.; and**
- (3) undefined crucial terms such as "temporary" and "habitation."**

Following the court's decision in *Jones*, the Department of Justice (DOJ) clarified its view on the appropriate reach of the court's opinion. In a recent statement of interest,⁶⁴ the DOJ argued that punishing homeless people when there is insufficient shelter to house them unconstitutionally punishes them for their status.⁶⁵ In other words, punishing universal and unavoidable life-sustaining activities violates the Eighth Amendment prohibition against cruel and unusual punishment.⁶⁶

Desertrain, *Jones*, and the DOJ's statement of interest, separately and together, illustrate some of the constitutional problems with laws banning or restricting vehicle residency. Laws affecting vehicle residency generally regulate the public domain. Cities may regulate public space, but constitutional violations will result when these laws are poorly written or enforced when no reasonable alternatives exist.

⁵⁹ U.S. CONST. amend. VIII ("Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.").

⁶⁰ *Jones v. City of Los Angeles*, 444 F.3d 1118, 1120 (9th Cir. 2006).

⁶¹ *Id.* at 1123.

⁶² *Id.* at 1138.

⁶³ *Id.* at 1132.

⁶⁴ Statement of Interest of the United States Department of Justice, *Bell v. City of Boise*, 993 F. Supp. 2d 1237 (2014) (No. 1:09-cv-540-REB), available at <https://www.justice.gov/opa/file/643766/download> (last visited May 1, 2016).

⁶⁵ *Id.* at 11.

⁶⁶ *Id.* at 11–12.

As discussed in Part II below, much like Los Angeles,⁶⁷ some Washington cities explicitly ban any use of a vehicle for temporary residence.⁶⁸ Not surprisingly, prohibiting vehicle residency leads to the increased visibility of unsheltered people in public spaces—which in turn prompts further homeless criminalization by city officials.⁶⁹ Given the judicial landscape relating to ordinances criminalizing homelessness, Washington cities with laws specifically banning vehicle residency need to seriously evaluate the constitutionality of such laws. Beyond that, any laws restricting the use of vehicles as temporary shelters are subject to heavy critique both normatively and operationally.⁷⁰

II. GENERAL ENACTMENT: A COMPREHENSIVE SURVEY OF LAWS

Throughout Washington, cities are increasingly turning to restrictions and bans as a response to homelessness. Cities often adopt measures that implicitly promote the stereotype and stigma of homelessness as dangerous, disorderly, and problematic.⁷¹ Such measures are punitive and are designed to make homeless people disappear from the public eye.⁷² This section explains key findings regarding enactment trends: (1) criminalization of vehicle residency is pervasive throughout Washington; (2) the rate of criminalization is increasing; (3) the methods of criminalization are diversifying; (4) stark differences in how ordinances function create unique hurdles for advocates; (5) Washington's vehicle residency restrictions disproportionately affect people experiencing homelessness and contribute to the cycle of poverty; and (6) vehicle residency laws may lead to constitutional violations.

A. The Criminalization of Vehicle Residency Is Pervasive Throughout Washington

Researchers found a total of 291 ordinances criminalizing vehicle residency throughout 29 cities in Washington State. The laws that most frequently result in the greatest impact on vehicle residents are prohibitions on parking for periods of time, such as 24 to 72 hours, and prohibitions on large vehicle parking. Every city surveyed by HRAP researchers contained some vehicle residency ordinances; in fact, researchers found an average of ten ordinances per city. Just over 40% of cities had ten or more ordinances. The five cities with the highest number of ordinances are Seattle (20), Auburn (18), Kent (18), Aberdeen (17), and Vancouver (17). Moreover, vehicle residency restrictions do not occur most prominently in sprawling urban environments. Auburn, with a population of just over 76,000 people,⁷³ had nearly as many

⁶⁷ Los Angeles Municipal Code 85.02.

⁶⁸ Researchers analyzed three case study cities banning vehicle residency: Tacoma, Aberdeen, and Longview. *See infra* Part II.E.

⁶⁹ OLSON & MACDONALD, *supra* note 9.

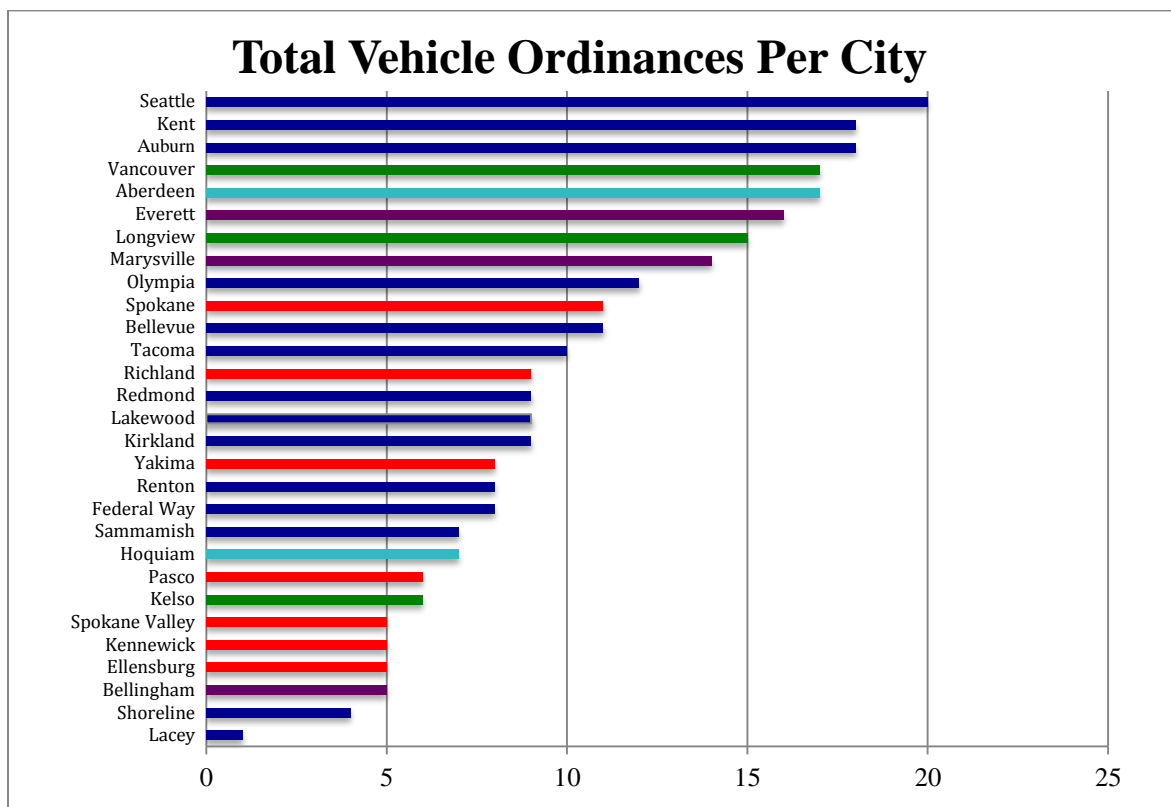
⁷⁰ *Id.* Constitutional challenges look both to the normative behaviors being prohibited as well as how the language of the laws operate to put citizens on notice of prohibited behavior.

⁷¹ Sylvestre & Bellot, *supra* note 10, at 11–12; Sara K. Rankin, *The Influence of Exile*, 76 MD. L. REV. (forthcoming 2016).

⁷² *Id.*

⁷³ U.S. Department of Commerce, *State & County QuickFacts: Auburn City, Washington*, U. S. CENSUS BUREAU, <http://www.census.gov/quickfacts/table/PST045215/5303180> (last visited Mar. 31, 2016).

ordinances as Seattle, which boasts a population of over 668,000 people.⁷⁴ The chart below shows the total ordinances found per surveyed city:

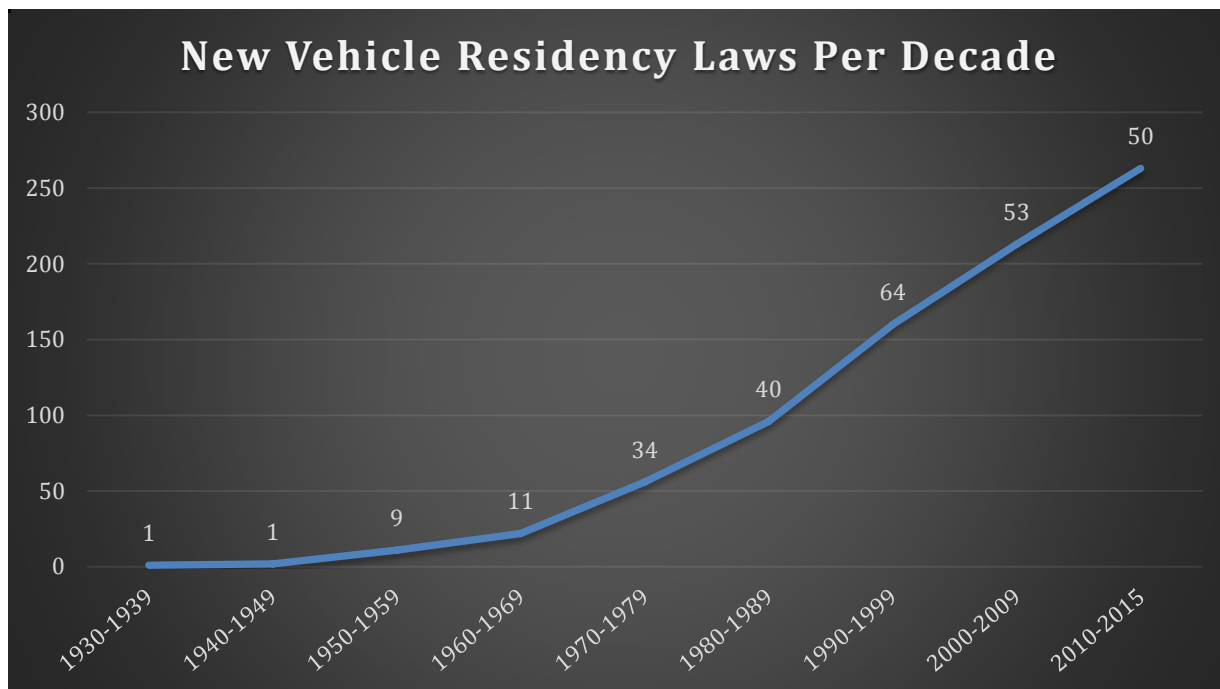


B. The Rate of Criminalizing Vehicular Residency Is Increasing

Not only is the criminalization of vehicle residency common throughout Washington, but these laws are growing increasingly popular in the state. Over a quarter of the ordinances were enacted within the last 10 years, with the biggest increase occurring within the last five years (50 new ordinances). From 1980s through the 2000s, Washington cities have enacted no less than 40 new criminalizing ordinances within each decade. Just within the past five years, Washington cities have already enacted 50 new criminalizing ordinances, and the upward trend does not show any signs of slowing. The graph below depicts the number of new ordinances Washington cities have enacted to criminalize vehicle residency over ten-year increments.⁷⁵

⁷⁴ U.S. Department of Commerce, *State & County QuickFacts: Seattle City, Washington*, U. S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/53/5363000.html> (last visited Mar. 31, 2016).

⁷⁵ These numbers represent only the date of initial passage. Later amendments to these ordinances may represent a continuing commitment to maintaining a policy of criminalization. Additionally, researchers could not determine the enactment year of 28 surveyed ordinances. For example, the City of Aberdeen could not determine the passage date of several ordinances without engaging in additional research into archived documents not reasonably accessible to HRAP researchers.



This graph shows a spike in trends that comport with the increase of criminalization laws in Washington State⁷⁶ and across the nation.⁷⁷

C. The Methods to Criminalize Vehicle Residency Are Diversifying

Most commonly, cities prohibit vehicles from parking at certain locations, prohibit parking for more than a set period of time, prohibit parking large vehicles in specific or general locations, and prohibit vehicles that obstruct or impair traffic flow.⁷⁸ Cities can also declare vehicles as junk, inoperable, abandoned, or a public nuisance.⁷⁹ Vehicles given this determination can then be impounded, immobilized, or both.⁸⁰

Although many of the ordinances do not criminalize vehicle residency on their face, every catalogued ordinance disproportionately criminalizes vehicle residents as applied. For example: 18 cities (62%) criminalize parking of large vehicles on public streets;⁸¹ 18 cities (62%) prohibit and impound junk, inoperable, and abandoned vehicles;⁸² 8 cities (27%) prohibit parking on the public street for a period longer than 24 to 72 hours; and 9 cities (31%) explicitly

⁷⁶ OLSON & MACDONALD, *supra* note 9.

⁷⁷ National Law Center, *supra* note 3.

⁷⁸ As discussed in Part III, failure to abide may subject vehicle owners to a traffic violation that lead to continuous violations and monetary penalties. *See infra* Part III.

⁷⁹ *See, e.g.*, Seattle Municipal Code 11.14.268; Longview Municipal Code 11.18.030; Everett Municipal Code 8.22.030.

⁸⁰ For example, vehicles in violation of Seattle Municipal Code 11.14.268 are subject to impoundment “in addition to any other penalty provided for by law.” Seattle Municipal Code 11.14.268(B).

⁸¹ Those cities include Aberdeen, Auburn, Bellevue, Everett, Federal Way, Hoquiam, Kelso, Kirkland, Lacey, Lakewood, Marysville, Olympia, Pasco, Redmond, Seattle, Tacoma, Vancouver, and Yakima.

⁸² Those cities include Aberdeen, Auburn, Bellevue, Everett, Federal Way, Hoquiam, Kelso, Kent, Kirkland, Lakewood, Renton, Richland, Sammamish, Seattle, Shoreline, Spokane, Spokane Valley, and Yakima.

prohibit living in vehicles.⁸³ Vehicle residents must resort to continuously moving their vehicles to locations that they believe are safe to avoid getting ticketed or, even worse, having their home impounded.⁸⁴

D. Criminalizing With Permissive and Proscriptive Ordinances

HRAP researchers previously reported potential constitutional and practical challenges with the way many local ordinances are drafted.⁸⁵ The problem is compounded when cities draft ordinances in such a way that obscures accountability for enforcement. For this report, researchers recognized the need to create distinct ordinance categories because municipalities often have multiple laws that do not directly result in a citation.

The typical citation, termed “proscriptive” by HRAP researchers, prohibits certain types of conduct and provides specific penalties. The most common proscriptive ordinances are parking time limitation⁸⁶ and place and large vehicle parking restrictions.⁸⁷ Violations of proscriptive ordinances result in citations and arrest records, which leaves a more transparent research trail.

On the other hand, some ordinances empower government officials to take action against a person’s liberty or property rights without the accountability provided by written citations. These ordinances, termed “permissive” by HRAP researchers, allow cities to prohibit specific conduct or conditions outside of the typical citation process. Permissive ordinances typically grant a broad discretionary authority to enforcement personnel and frequently result in the loss of property or other penalties. Permissive ordinances often include impoundment,⁸⁸ public nuisance, and junk, abandoned, or inoperable vehicles.⁸⁹ Because a permissive ordinance does not generate a record of enforcement, advocates cannot determine with certainty how many permissive ordinances exist without access to enforcement records, which are themselves often nonexistent or impossible to locate.

The key difference between proscriptive and permissive ordinances is the resulting documentation of enforcement. Below are examples of a proscriptive and a permissive ordinance from Bellevue:

⁸³ Those cities include Aberdeen, Federal Way, Hoquiam, Kent, Longview, Marysville, Shoreline, Spokane Valley, and Tacoma.

⁸⁴ *Nowhere To Go*, *supra* note 17.

⁸⁵ For example, HRAP researchers previously observed a trend of overlapping ordinances criminalizing the same behavior as well as compound ordinances that target multiple different types of conduct within a single ordinance. *See* OLSON & MACDONALD, *supra* note 9.

⁸⁶ *See, e.g.*, Auburn Municipal Code 10.36.260.

⁸⁷ *See, e.g.*, Lacey Municipal Code 10.14.020. “No person shall park any recreational vehicle, motor home, mobile home, trailer, camper, vessel or boat upon the improved or unimproved portion of any street, alley or public right-of-way for more than twenty-four hours.” Lacey Municipal Code 10.14.020(B). Any violation will result in a parking infraction with a fee not exceeding \$450. Lacey Municipal Code 10.14.040.

⁸⁸ *See, e.g.*, Olympia Municipal Code 10.16.300.

⁸⁹ *See, e.g.*, Renton Municipal Code 6-1-4, except Everett Municipal Code 8.22.030 providing all junk and inoperable vehicles on private property within city limits is a criminal violation and subject to \$100 plus costs per each violation. Violation of this ordinance for multiple days constitutes separate criminal offenses and penalties.

Examples of Proscriptive & Permissive Ordinances	
Proscriptive	Permissive
No person having control over a vehicle may park... upon any public street or public way... for a period exceeding 24 hours. ⁹⁰	Any vehicle... parked or used in violation of... any regulation or restriction... or any other applicable provision of the Bellevue City Code or of any ordinance, is declared to be a nuisance which may be summarily abated by the impounding and removal of the vehicle... ⁹¹

E. Washington’s Anti-Vehicle Residency Laws Disproportionately Affect People Experiencing Homelessness and Contribute to the Cycle of Poverty

Vehicle residency laws may serve some legitimate purposes, but they can also significantly impact people experiencing homelessness and further entrench them in poverty. Traffic tickets, vehicle tabs, licensing fees, and mechanical repairs are typically a fact of life for owning a vehicle; yet most people can simply pay the costs and move on, whereas vehicle residents may not have that option—resulting in a very real chance that the city will impound the vehicle as fines begin to stack up.⁹²

“They were going to take our van right then and there. It took me tooth and nail to fight and say ‘We are doing everything we can to move forward, please don’t kick us down.’”⁹³

Even if the vehicle resident knows the procedure to reclaim her vehicle, she still must pay the associated fines and fees, find alternative transportation, and find a shelter while she attempts to retrieve her vehicle.

Thus, even facially neutral laws can significantly and disproportionately impact vehicle residents who lack money, supportive networks, or other resources to avoid serious consequences.

Like many cities across the United States, Washington cities enact ordinances that broadly criminalize vehicle residency in the name of public order, health, safety, and traffic flow while failing to protect the personal and property rights of vehicle residents. Yet the practical consequences of vehicle impoundment are often lost on proponents of such laws. For instance, a recent count found 914 people living in their vehicles on one night in Seattle.⁹⁴ The practical effect of laws banning vehicle residency would result in 914 more people suddenly living outdoors, congesting sidewalks and streets, erecting tents and other forms of emergency shelter, and putting themselves at greater personal risk.⁹⁵ Friction between this massive influx of street

⁹⁰ Bellevue Municipal Code 11.23.020.

⁹¹ Bellevue Municipal Code 11.23.030.

⁹² *The Pile Up*, *supra* note 17.

⁹³ *Id.* Mills is a vehicle resident who bought a van to provide his pregnant wife with a sense of security at night. He found out after the purchase that the van needed not only a new battery but also new tabs and emissions work to pass the emissions test. *Id.*

⁹⁴ 2016 Street Count Results, *supra* note 8.

⁹⁵ *Id.*

residents and local businesses, housed residents, and police officers would be inevitable. Local Washington lawmakers should consider the natural result of enforcing vehicle residency restrictions and the subsequent negative effects on public health, safety, and traffic flow—the very justifications often cited by proponents of these laws.

Without systemic changes, Washington cities will continue to enact and enforce laws that punish vehicle residents with no reasonable alternative.⁹⁶ Most vehicle residents desire to exit homelessness and participate in social and political lives⁹⁷; however, the enforcement of punitive measures significantly undercuts this opportunity. To understand the extent of this impact, researchers examined the enforcement of those measures.

F. Vehicle Residency Laws and Constitutional Concerns

HRAP researchers have previously noted that ordinances criminalizing necessary life-sustaining behavior may subject cities to liabilities for constitutional violations.⁹⁸ As discussed previously, federal courts have been instrumental in alerting cities to the discriminatory nature of homeless criminalization ordinances, including those laws targeting or restricting vehicle residency.⁹⁹ In *Desertrain*, a vehicle residency ban was struck down for both vagueness and targeting conduct in violation of the Due Process Clause of the Fourteenth Amendment.¹⁰⁰ In *Jones*, a camping ban was struck down because the lack of reasonable alternatives violated the Eight Amendment’s prohibition against cruel and unusual punishment.¹⁰¹ Some Washington ordinances suffer similar deficiencies.¹⁰²

Following the survey of ordinances, researchers took a closer look at eight case study cities. Of those cities, Tacoma, Aberdeen, and Longview have ordinances prohibiting living in vehicles that may be unconstitutional under the *Desertrain* analysis because the ordinances expressly targets vehicle residents.¹⁰³ Additionally, the ordinances may be unconstitutional under *Jones* if the ordinances were enforced at all times.¹⁰⁴

All three cities’ ordinances contain broad prohibitions. The language of these three ordinances is similar to the Los Angeles ordinance in *Desertrain*—language that the court rejected because it specifically targeted individuals who had no reasonable alternative but to violate the law. The below table compares the language critiqued in *Desertrain* with the three Washington ordinances:

⁹⁶ Sylvestre & Bellot, *supra* note 10, at 19.

⁹⁷ *Id.* at 28.

⁹⁸ OLSON & MACDONALD, *supra* note 9, at 7.

⁹⁹ See *supra* Part I.C.

¹⁰⁰ *Desertrain v. City of Los Angeles*, 754 F.3d 1147 (9th Cir. 2014).

¹⁰¹ *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006).

¹⁰² Tacoma Municipal Code 11.05.231; Aberdeen Municipal Code 10.20.100; and Longview Municipal Code 11.44.147.

¹⁰³ Los Angeles Municipal Code 85.02.

¹⁰⁴ *Jones*, 444 F.3d at 1118.

Case Studies Triggering <i>Desertrain</i> Critique	
Los Angeles	No person shall use a vehicle parked or standing upon any City street or upon any parking ... [owned or operated by the City] as living quarters either overnight, day-by-day, or otherwise. ¹⁰⁵
Tacoma	It is unlawful for any person to use, occupy, or permit the use or occupancy of any vehicle for human habitation . ¹⁰⁶ It is unlawful for any person to use a vehicle for human habitation for a period exceeding seven days, in either one or multiple locations, on a public street anywhere in the City of Tacoma ... ¹⁰⁷
Aberdeen	It is unlawful for any person to park ... for the purpose of sleeping therein or maintaining the same as a temporary or permanent residence . ¹⁰⁸
Longview	No person shall park any vehicle ... for the purpose of: ... Habitation in a vehicle or occupying a vehicle for residential purposes . ¹⁰⁹

Beyond the similarity in word choice, the three Washington ordinances similarly fail to define crucial terms. As detailed below, vehicle residents in Tacoma, Aberdeen, and Longview cannot reliably determine what behaviors could result in violations of the ordinance.

First, Tacoma’s “Human Habitation of Vehicles” ordinance, recently amended in March 2016, explicitly prohibits “any person to use a vehicle for human habitation for a period exceeding seven days, in either one or multiple locations, on a public street anywhere in the city.”¹¹⁰ Unfortunately, Tacoma’s amended ordinance still does not provide a clear definition of conduct constituting human habitation. Although Tacoma lists examples of behavior,¹¹¹ the list is non-exclusive.¹¹²

Additionally, Tacoma does not provide a definition for “temporary use of a vehicle for alleviation of sickness.”¹¹³ Few people would say that homelessness is—or should be—a permanent situation,¹¹⁴ and certainly vehicle residents are better protected from sickness than unsheltered residents.¹¹⁵ Tacoma also does not differentiate who can live in their vehicles due to

¹⁰⁵ Los Angeles Municipal Code 85.02.

¹⁰⁶ Tacoma Municipal Code 11.05.231.

¹⁰⁷ *Id.*

¹⁰⁸ Aberdeen Municipal Code 10.20.100.

¹⁰⁹ Longview Municipal Code 11.44.147.

¹¹⁰ Tacoma Municipal Code 11.05.231(B). “Human habitation” is defined as “the use of a vehicle as a dwelling place and does not include temporary use of a vehicle for alleviation of sickness or because of physical inability to operate the vehicle.” Tacoma Municipal Code 11.05.231(A)(1). Interestingly, the definition for “vehicle” includes recreational vehicles, suggesting that weekend camping trips might just as easily be prohibited. Tacoma Municipal Code 11.05.231(A)(2). The ordinance does not provide a definition for “temporary” use. Violation of this ordinance subjects the individual to a class 1 civil infraction with a fee that may not exceed \$250. Tacoma Municipal Code 11.05.231(G)(1).

¹¹¹ Tacoma Municipal Code 11.05.231.

¹¹² If vehicle owners hang their dry-cleaning in the car, it may obscure the view of some windows. If those same vehicle owners leave visible cookware and household in the car, the vehicle owner could be cited under this law.

¹¹³ Tacoma Municipal Code 11.05.231.

¹¹⁴ Sylvestre & Bellot, *supra* note 10, at 5–6.

¹¹⁵ *Id.* at 24 (“[M]any homeless echoed ... they avoid the risk of becoming sick while alone.”).

“physical inability to operate the vehicle.”¹¹⁶ Vehicle residents include those with physical and mental disabilities and conditions that may affect individuals’ ability to physically operate a vehicle. Furthermore, Tacoma does not clearly define “human habitation for a period exceeding seven days.”¹¹⁷ Without more explanation, individuals do not know when the seven days begin or how seven days might be tallied. Seven days could mean seven consecutive days, seven single days at different times throughout the calendar year, or seven days over the course of an individual’s lifetime.

Second, Aberdeen’s “Camping” ordinance makes it unlawful for any person “to park any motor vehicle or trailer on a public street for the purpose of sleeping therein or maintaining the same as a temporary or permanent residence.”¹¹⁸ Notably, crucial terms in Aberdeen’s ordinance such as “temporary residence” and “temporary emergency situation” are not defined.¹¹⁹ However, Aberdeen allows a defense to living in vehicles if the defendant can show that the “offense was necessitated by a temporary emergency situation.”¹²⁰ Due to the ongoing lack of shelter beds and affordable housing, vehicle residents in Aberdeen may find themselves without reasonable alternatives for weeks, months, or even years. Would any of these circumstances trigger a violation? Aberdeen’s law is fatally unclear.

Last, Longview’s “Prohibited Purposes” ordinance provides that “no person shall park any vehicle ... upon a street, a publicly owned or controlled parking facility, or upon any other public property within the city” for the purpose of “[h]abitation in a vehicle or occupying a vehicle for residential purposes.”¹²¹ Longview’s ordinance does not define either “habitation” or “residential purposes.”¹²² As a result, Longview residents cannot know what specific conduct in their vehicle would be considered unlawful. Without clarification, residents cannot know if napping in their vehicle before a long drive or snacking in a vehicle could be considered habitation. Because the language of the three cities’ ordinances suffer the same critical flaws as that of the Los Angeles ordinance, a court could reasonably strike down each of these laws as being unconstitutionally vague as in *Desertrain*.

The following chart illustrates the undefined—yet functionally crucial—key terms found through each of the four ordinances from Los Angeles, Tacoma, Aberdeen, and Longview:

¹¹⁶ *Id.* The ordinance language does not clarify whether “physical inability to operate the vehicle” refers to the vehicle being physically inoperable or the owner themselves being physically unable to operate the vehicle.

¹¹⁷ Tacoma Municipal Code 11.05.231.

¹¹⁸ Aberdeen Municipal Code 10.20.100.

¹¹⁹ *Id.*

¹²⁰ Aberdeen Municipal Code 10.20.100(B).

¹²¹ Longview Municipal Code 11.44.147.

¹²² *Id.*

<i>Desertrain Critique: Undefined Crucial Terms</i>			
Los Angeles¹²³	Tacoma¹²⁴	Aberdeen¹²⁵	Longview¹²⁶
<ul style="list-style-type: none"> • Living quarters; • Overnight, day by day, or otherwise. 	<ul style="list-style-type: none"> • Setting up ... other sleeping materials in such a manner as to be used for sleeping; • Housekeeping or cooking activities; • Storing personal possessions in such a manner that some or all of the vehicle's windows are obscured; • Sanitation, plumbing and/or electrical systems or equipment; Temporary use of a vehicle for alleviation of sickness; • Physical inability to operate the vehicle. 	<ul style="list-style-type: none"> • Temporary emergency; • No reasonable alternative was available to the defendant under the circumstances. 	<ul style="list-style-type: none"> • Habitation; • Occupying a vehicle for residential purposes.

Furthermore, the three cities' ordinances may be in violation of the Eighth Amendment's prohibition against cruel and unusual punishment under the *Jones* analysis. In *Jones*, the court held that Los Angeles could not enforce its ordinance that prohibited people from conducting life-sustaining activities in or upon public streets and roadways at all times when there is a lack of available shelter beds.¹²⁷ Such enforcement punished people experiencing homelessness merely because of their status in violation of the Constitution.¹²⁸ If Tacoma, Aberdeen, and Longview enforce their ordinances when they lack available shelter space, courts could very well reach the same conclusion as *Jones*. Although Aberdeen apparently tried to provide some form of defense for vehicle residents, the defense is conditioned on undefined terms.¹²⁹ Because *Jones* and the DOJ's statement of interest recognize that ordinances can have a disparate impact on homeless individuals lacking reasonable alternatives but to violate the law, enforcing such an

¹²³ Los Angeles Municipal Code 85.02.

¹²⁴ Tacoma Municipal Code 11.05.231(A)(1).

¹²⁵ Aberdeen Municipal Code 10.20.100(B).

¹²⁶ Longview Municipal Code 11.44.147.

¹²⁷ *Jones*, 444 F.3d at 1120.

¹²⁸ *Desertrain v. City of Los Angeles*, 754 F.3d 1147, 1156–57 (9th Cir. 2014).

¹²⁹ As noted above, "temporary emergency" and "no reasonable alternative" were left undefined by the ordinance. Aberdeen Municipal Code 10.20.100(B).

ordinance may be in violation of the Eighth Amendment’s prohibition against cruel and usual punishment.

Even assuming that a shelter bed is available, it is not always a reasonable alternative to vehicle residency. Vehicle residents are asked to abandon the positive benefits that shelters simply cannot provide: privacy, security, autonomy, and preserving the family unit.¹³⁰ In contrast, shelters enforce strict rules as to who can stay, when people must report, when people must leave, and what personal possessions are allowed.¹³¹ Rather than be viewed as a blight on neighborhoods, cities should recognize the constitutional liberties protected by vehicles as a reasonable emergency shelter option.

III. ENFORCEMENT DATA

Along with the survey of vehicle residency ordinances throughout Washington State, researchers sought enforcement data from a number of “case study” cities. Researchers requested enforcement data over a five-year period (September, 2010 through September, 2015) from Seattle, Tacoma, Bellevue, Aberdeen, Longview, Spokane, Vancouver, and Everett. As discussed previously, researchers discovered a significant amount of undocumented, untraceable “permissive” criminalization ordinances in stark contrast to the typical citation data accompanying documented “proscriptive” ordinances. This section examines the function of both permissive and proscriptive ordinances, the constitutionality of enforcement of vehicle residency laws, and specific findings from responsive case study cities.

A. General Finding: Permissive and Proscriptive Ordinances

Permissive laws are prevalent in Washington. The chart below details the high degree with which cities draft permissive ordinances allowing them to avoid tracking the impact of these ordinances and creating a bureaucratic maze for researchers attempting to provide this accountability.

	Permissive	Proscriptive
Seattle	6	10
Bellevue	7	4
Aberdeen	13	4
Longview	6	9
Spokane	3	8
Vancouver	7	3

¹³⁰ See Skinner, *supra* note 53.

¹³¹ See *id.*

Of the surveyed ordinances, Aberdeen has triple and Vancouver has double the amount of permissive ordinances than proscriptive ordinances. Bellevue has almost half as many permissive ordinances than proscriptive ordinances. The problem with permissive laws is that they give cities the justification on the front end to take adverse actions while, on the back end, cities report that no “citations” or “violations” were connected with the given ordinance. Vehicle resident advocates have noted that laws such as these provide an avenue for punitive treatment without any accountability.¹³² Thus, without a transparent trail of data, the public is unable to measure the impact of such laws on vehicle residents.

Of course, the following enforcement data represents the proverbial tip of the iceberg of interactions between people experiencing homelessness and law enforcement. Undocumented encounters not leading to citation make up a substantial source of frustration and stigmatization of vehicle residents.¹³³ While this brief raises several issues regarding the lack of accountability and oversight for enforcement, it does so primarily in the context of proscriptive (documented) citations. Yet as discussed before, the issue of undocumented ordinance enforcement remains a fundamental concern for advocates and people experiencing homelessness. At least in Washington State, neither researchers nor the cities being surveyed have any way to conclusively determine the full impact of vehicle residency laws.

With regard to proscriptive ordinances, the lack of demographic data creates an unclear picture as to what degree the enforcement is impacting vehicle residents. The veil of uncertainty is far greater, however, for permissive ordinances which—without exception—provided no traceable data. Ultimately, state agencies have zero accountability to the public at large or to its citizens experiencing homelessness regarding enforcement of these permissive ordinances.

B. Six Case Study Cities

This section provides an overview of the results of the enactment data from the case study cities. Originally, researchers selected eight cities: the three most populous cities from the Puget Sound Area, the most populous area of the state, and the largest cities from each of the other five regions throughout Washington.¹³⁴ Researchers served requests on those cities but received information back from only six cities at the time of writing. Accordingly, the case studies cover Seattle, Bellevue, Aberdeen, Longview, Spokane, and Vancouver.

1. Seattle

With an estimated population of 662,400, Seattle is the largest city in Washington.¹³⁵ Unfortunately, volunteers for the 2015 One Night Count recorded 2,813 Seattle residents experiencing homelessness.¹³⁶ At that time, a little over a quarter of Seattle’s homeless population was living in their vehicles.¹³⁷ The 2016 One Night Count revealed a staggering total

¹³² See Vehicle Residency Workshop, *supra* note 25.

¹³³ Vehicle Residency Workshop, *supra* note 25; 2012 Advisory Report, *supra* note 2. See also *supra* Part III.A.

¹³⁴ The Washington areas include Coastal, Southwest, Eastern, South, and North.

¹³⁵ About Seattle, CITY OF SEATTLE (Jan. 26, 2016),

<http://www.seattle.gov/dpd/cityplanning/populationdemographics/aboutseattle/population/>.

¹³⁶ 2015 Street Count Results, *supra* note 14.

¹³⁷ *Id.*

of 4,505 unsheltered people in King County—an increase of 19% since the previous year.¹³⁸ In Seattle, there were 2,942 unsheltered people.¹³⁹ Of those people, nearly one third (914) lived in their vehicles—more than any other form of temporary shelter. This number represents an 18% increase since the previous year.

a. Citations

Seattle reported a total of 504,944 citations for a five year period from September, 2010 through September, 2015. The most frequently cited parking infraction was for expired tabs or improper plates (284,306 citations or 56%). Violating posted signs (such as time and location restrictions) was the second most cited infraction (187,470 citations or 37%). Even though parking over 72 hours was the third most cited infraction and only 3% of the total reported citations, Seattle still reported 15,884 citations.

In 2011, Seattle took two controversial actions to regulate vehicles and public space. First, Seattle enacted the Scofflaw program.¹⁴⁰ The purpose of the Scofflaw program is to hold vehicle owners, who had sufficient financial means to pay for accrued parking tickets, accountable.¹⁴¹ However, the Scofflaw program changed focus in response to vehicle residents in public domain, resulting in an escalation of citations.¹⁴² The Seattle City Council passed the ordinance in December 2010, and the program was effective July 1, 2011.¹⁴³ Second, Seattle increased the rates for parking and decreased the length of time per block per neighborhood, implementing a market based pricing.¹⁴⁴ The purpose of the increased cost was not only to create a higher rate of turn-over but also to generate greater revenue.¹⁴⁵ In 2010, parking through taxes, meter income, and citations brought in \$70 million, insulating the transportation budget from severe cuts.¹⁴⁶

Vehicle residents receive more tickets for expired tabs, parking over 72 hours, and scofflaw than residents with permanent shelter.

Vehicle residents received more tickets for expired tabs, parking over 72 hours, and scofflaw than residents with permanent shelter.¹⁴⁷ The high number of total citations for each year suggests a significant detrimental impact of enforcement on vehicle residents. Additionally,

¹³⁸ *One Night Count Shows Increase in Homelessness*, ALL HOME KING CNTY. (Jan. 29, 2016), <http://allhomekc.org/news/2016/01/one-night-count-shows-increase-in-homelessness/>.

¹³⁹ *Id.*

¹⁴⁰ PARKING SCOFFLAW BUSINESS PLAN, CITY OF SEATTLE (June 1, 2011), available at http://www.seattle.gov/Documents/Departments/scofflaw/Parking_Scofflaw_Business_Plan_June_1_2011.pdf.

¹⁴¹ *Id.*

¹⁴² Aaron Burkhalter, *Councilmembers put the brakes on law that would accelerate vehicle impoundment*, REAL CHANGE (Aug. 13, 2014), <http://realchangenews.org/2014/08/13/councilmembers-put-brakes-law-would-accelerate-vehicle-impoundment>. See also 2012 Advisory Report, *supra* note 2, at 34 (“It is somewhat ironic that the ‘Scofflaw Law,’ a program meant to collect on unpaid tickets by use of a mechanical boot, has recently brought focus on this group.”).

¹⁴³ *Id.*

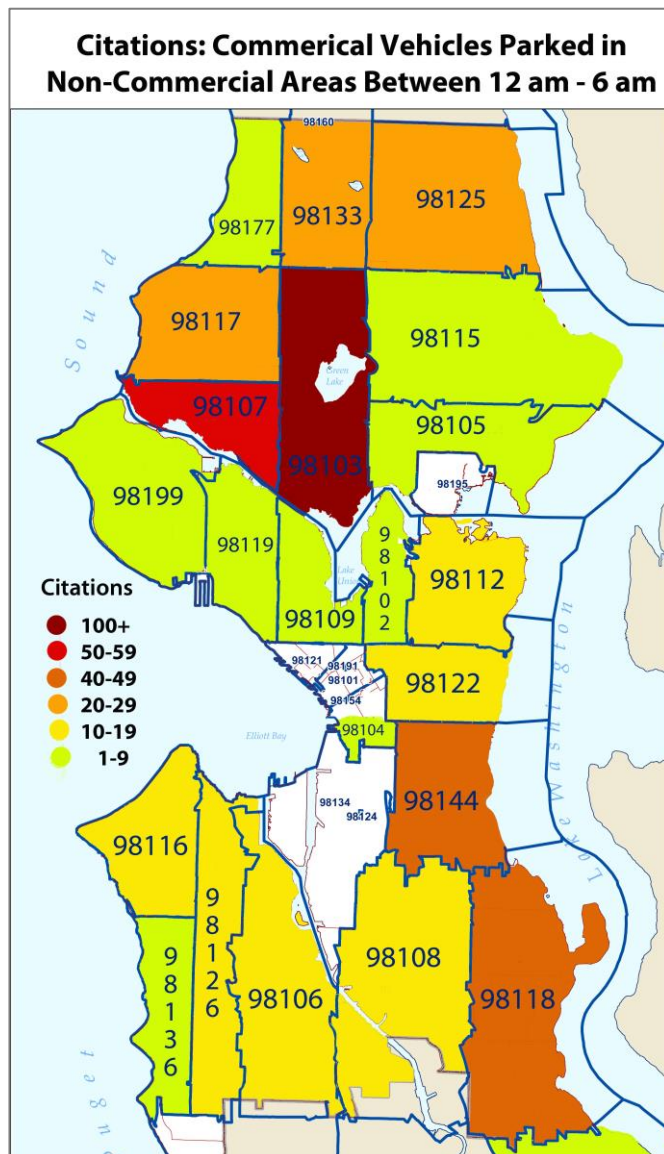
¹⁴⁴ Mike Lindblom, *Coming Soon: Parking rates that go up at busiest times*, THE SEATTLE TIMES (Dec. 29, 2010), available at <http://www.seattletimes.com/seattle-news/coming-soon-parking-rates-that-go-up-at-busiest-times/>.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ Vehicle Residency Workshop, *supra* note 25.

these restrictive parking laws created and continue to create a concentration of vehicle residents in certain areas and neighborhoods, such as Ballard, Wallingford and SODO (“South of Downtown”).¹⁴⁸



Seattle’s data, while substantial, lacked any demographic data that would allow advocates to track the impact of the city’s hundreds of thousands of citations on its substantial vehicle resident population. However, a sample of Seattle’s data for Municipal Code 11.72.070—regulating commercial vehicles parked in a non-commercial zone—reveals that the most cited zip code is 98103 (23%) followed by 98107 (13%).¹⁴⁹ Below is a map of Seattle’s zip codes depicting the areas of heightened enforcement between the hours of midnight to 6:00 a.m. for commercial vehicles parked in non-commercial zones.¹⁵⁰

The data reveals that citations often occur in areas frequented by vehicle residents: Ballard and Wallingford. Ballard received almost twice as many citations as Wallingford. This finding correlates with anecdotal information that vehicle residents concentrate in Ballard and Wallingford.¹⁵¹

Researchers next looked for trends in enforcement of the scofflaw program against vehicle residents. Because no demographic data existed on the residency status of scofflaw defendants, researchers looked instead at the citation trends for two sample ordinances that have been shown to result in disproportionate impacts on vehicle

residents: parking with expired tabs and parking in posted prohibited locations. Both of these ordinances may lead to the designation of scofflaw status if the infraction fines are left unpaid.

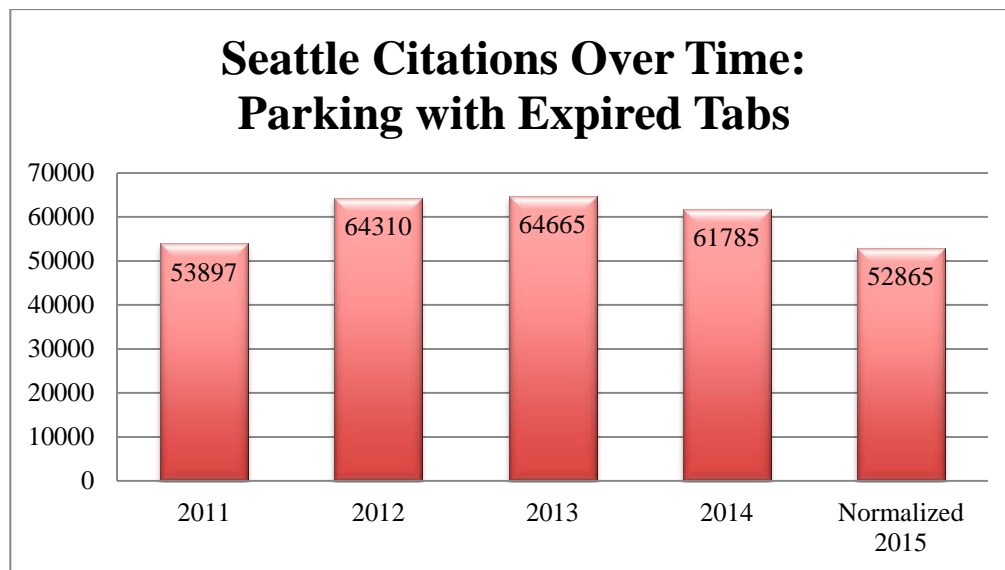
¹⁴⁸ *Id.*; 2012 Advisory Report, *supra* note 2.

¹⁴⁹ As used here, commercial vehicles are defined as any “truck and/or trailer or other conveyance which is over eight (80) inches wide.” Seattle Municipal Code 11.72.070. This definition includes RVs and camper trailers.

¹⁵⁰ *Seattle DPD – 2010 Census Tracts and Zip Code Boundaries*, CITY OF SEATTLE, <http://www.seattle.gov/Documents/Departments/CivilRights/map-seattle.pdf> (last visited Apr. 20, 2016).

¹⁵¹ Vehicle Residency Workshop, *supra* note 25; 2012 Advisory Report, *supra* note 2.

Under Seattle’s parking with expired or improper tabs restriction, vehicles may not park on any street, alley, or property operated by the city with expired invalid license plates.¹⁵² Below is a chart of the total citations over a five-year period. Because the citations in 2015 included through September, the numbers have been normalized for the full year.¹⁵³ Seattle’s vehicle citations showed a 15% increase from 2011 to 2012. This increase coincides with the implementation of the scofflaw program as well as the city’s use of new license plate recognition technology that “reads up to 10,000 license plates per day on vehicles parked on city streets and comparing them against a database of license plates in scofflaw status.”¹⁵⁴



Although the citations in 2015 decreased when normalized, Seattle officials still issued a minimum of 50,000 citations per year for parking with expired tabs. This suggests a specific enforcement floor, a significant portion which is known to affect vehicle residents.¹⁵⁵

Similar to parking with expired tabs, Seattle’s “posted sign locations” restriction¹⁵⁶ also saw an increase in enforcement after the scofflaw program was implemented. There was a significant spike in 2013, and citations have not dipped anywhere close to the pre-2012 numbers.

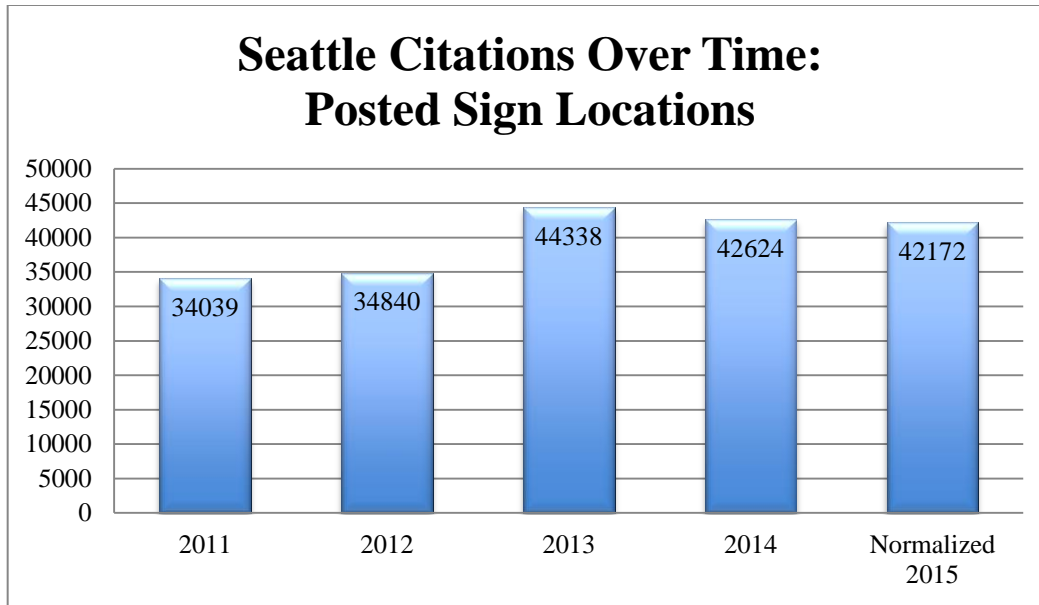
¹⁵² Seattle Municipal Code 11.72.145.

¹⁵³ Researchers consulted with Matthew Hickman, an Associate Professor at Seattle University’s Department of Criminal Justice, to confirm the methodology for normalizing the 2015 data. Professor Hickman spent seven years as a statistician at the Bureau of Justice Statistics, the statistical arm of the U.S. Department of Justice.

¹⁵⁴ *Scofflaw Boot Program: Frequently Asked Questions*, CITY OF SEATTLE, <http://www.seattle.gov/scofflaw-ordinance/frequently-asked-questions> (last visited Mar. 31, 2016).

¹⁵⁵ Vehicle Residency Workshop, *supra* note 25; 2012 Advisory Report, *supra* note 2.

¹⁵⁶ Seattle Municipal Code 11.72.330.



Key findings related to enforcement data under for ordinances are twofold: (1) Seattle issues a minimum number of citations each year under laws that lead to scofflaw violations—roughly 50,000 citations for expired tabs and 35,000 for posted sign location violations; and (2) this enforcement occurs in neighborhoods frequented by vehicle residents. Whether this enforcement is driven by new technologies or by other factors, vehicle residents are disproportionately impacted by these laws and as a result, are increasingly susceptible to scofflaw ordinances. As long as Seattle continues to aggressively issue citations without mitigation or relief for vehicle residents, vehicle residents will continue to disproportionately suffer the risk of losing their vehicles—their last reasonable refuge from the streets—to scofflaw enforcement.

b. Case Dispositions

According to the court data, over half of the total citations have been paid or otherwise resolved.¹⁵⁷ A community service option provides individuals with infractions, including parking tickets, expired tabs, and suspended license, to pay for their infractions through volunteering.¹⁵⁸ Fines are converted to hours by dividing the total fees and fines associated with the ticket with Seattle’s minimum wage (currently \$13.00/hour) and rounding up. For example, a \$44.00 parking ticket would be converted to four hours of community service. If the individual does not respond within 15 days of the ticket being issued, an additional \$25.00 is added onto the \$44.00 ticket. At this point, the \$69.00 ticket would be converted to 5 hours of community service. Individuals are eligible for the community service option if: (1) they receive federal or state benefits or qualify through low-income screening; (2) have not already used the option 10 times within the year; or (3) have defaulted to the point of collection, except in some circumstances. To complete the program, qualified individuals must find and apply to volunteer at a location

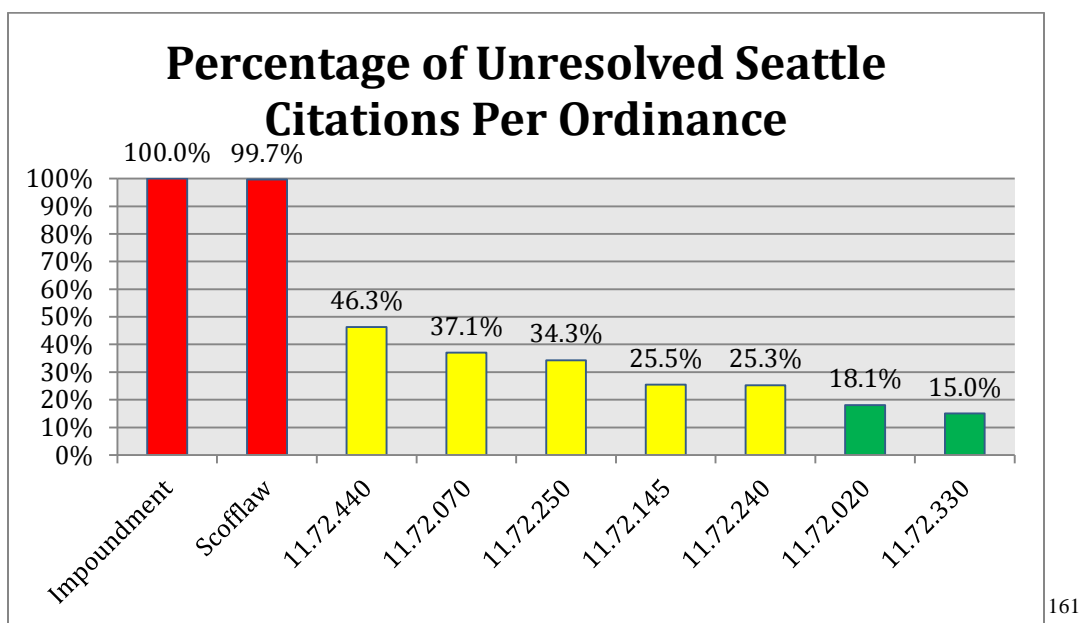
¹⁵⁷ “Paid in full” includes individuals who completed a payment plan or payment arrangement, such as community service.

¹⁵⁸ *On-Vehicle Noticing of Unpaid Parking Tickets*, CITY OF SEATTLE, <http://spdblotter.seattle.gov/wp-content/uploads/2015/06/OVN-One-Pager.pdf> (last visited Mar. 31, 2016); *Scofflaw Boot Program*, *supra* note 152.

approved by the Seattle Municipal Court, volunteer at least five hours per week, submit timesheets, and complete the required hours by the provided timeframe. The community service option provides exceptions to identifiable vehicle residents whose infractions for license suspension or expired license tabs have gone to collections.¹⁵⁹

Critics of the community service option point out two key flaws as it relates to people experiencing homelessness. First and foremost, the alternate payment arrangement still misses the underlying problem of these laws: people experiencing homelessness are still being punished for conducting necessary life-sustaining activities in public space even when they have no reasonable alternative. Second, community service options may still be impractical for this particular population. Studies have shown that homelessness disproportionately affects people with untreated mental health issues, people with physical disabilities, and single parents.¹⁶⁰ For many people, these circumstances undercut their ability to work. For others, the community service program requirements are too burdensome to balance with the daily struggle to survive.

Notwithstanding the community service option, Seattle's data reveals a shocking number of unresolved citations, especially for ordinances relating to scofflaw and impoundment. According to Seattle's status codes, just over 100,000 citations are still active. When researchers examined the percentage of active ordinances for each individual citation, they found a significant trend of unpaid fines and unresolved citations, especially for scofflaw and impoundment violations. The below graph depicts these findings:



¹⁵⁹ *Seattle Municipal Court: Probation Service Division*, CITY OF SEATTLE, <http://www.seattle.gov/courts/prob/probhome.htm> (last visited Mar. 31, 2016); *Seattle Municipal Court: Ticket Response Options*, CITY OF SEATTLE, http://www.seattle.gov/courts/ticket/Ticket_opt.htm (last visited Mar. 31, 2016).

¹⁶⁰ See generally KAYA LURIE & BREANNE SCHUSTER, *Seattle University Homeless Rights Advocacy Project, DISCRIMINATION AT THE MARGINS: THE INTERSECTIONALITY OF HOMELESSNESS AND OTHER MARGINALIZED GROUPS* (Sara Rankin ed., 2015).

¹⁶¹ Impoundment is under Seattle Municipal Code 11.30.040(10); scofflaw is under Seattle Municipal Code 11.30.040(7).

The chart above reveals a tremendous waste of city resources in enforcing these ordinances. The first two red bars represent Seattle’s scofflaw and impoundment ordinances—and almost all of these citations were unresolved throughout the entire five year enforcement period. Notably, the scofflaw ordinance generated over 10,000 citations.¹⁶² The five yellow bars represent Seattle’s restrictions on 72-hour parking, commercial vehicles in non-commercial zones, and expired plates. These five ordinances resulted in a combined total of 317,448 citations over the five year period, with 84,592 of those being unresolved.¹⁶³ The chart suggests trend that approximately 25–50% of Seattle’s vehicle citations go unresolved.

Seattle’s data shows that a city can generate many citations through very few proscriptive ordinances. It is not surprising that Seattle’s enforcement efforts are high due to its urban population and homeless population growth. However, Seattle should reevaluate policies and the purposes behind the policies to ensure that vehicle residents are not disparately and discriminatorily impacted.

2. *Bellevue*

Bellevue, located just ten miles east of Seattle, is the fifth largest city in Washington.¹⁶⁴ In 2016, 245 people were reported homeless on a single night in January—representing an increase of 83% since the previous year (134 in 2015). There was a 372% increase of individuals living in vehicles since the previous year— 85 individuals identified living in vehicles, up from 18 in 2015.¹⁶⁵ The city has one safe parking lot at a church and two potential new locations for vehicle residents to stay overnight.¹⁶⁶

a. Citations

Bellevue reported a total of 808 citations during the requested five-year period. As the below table indicates, the great majority of Bellevue’s citations split into one of two categories: violation of time limits (52%) and parking over a 24-hour time limit (40.59%).

TOTAL BELLEVUE CITATIONS	
Ordinance/Infraction	Total Citations
Parking over 24 hours ¹⁶⁷	328
Time limit zones ¹⁶⁸	430

¹⁶² Seattle reported 10,164 citations under SMC 11.30.040(7).

¹⁶³ The individual numbers for each citation are as follows: SMC 11.72.440 (17,049 total, 7889 unresolved); SMC 11.72.070 (502 total, 186 unresolved); SMC 11.72.250 (140 total, 48 unresolved); SMC 11.72.145 (297,456 total, 75,888 unresolved); and SMC 11.72.240 (2,301 total, 581 unresolved).

¹⁶⁴ *City Profile*, CITY OF BELLEVUE, <http://www.ci.bellevue.wa.us/profile-intro.htm> (last visited Mar. 31, 2016).

¹⁶⁵ *2016 Street Count Results*, *supra* note 8.

¹⁶⁶ Safe Parking Program Map, GOOGLE, <https://www.google.com/maps/d/viewer?mid=z4DK5B6QW9i4.kK0RJS4DHmfQ> (last visited Jan. 26, 2016).

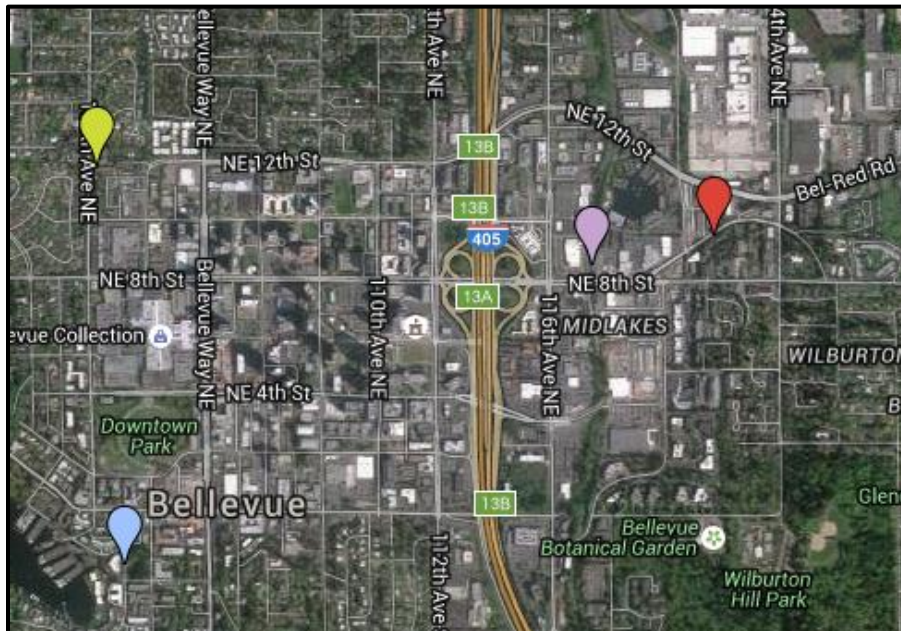
¹⁶⁷ Bellevue Municipal Code 11.23.020.

¹⁶⁸ Bellevue Municipal Code 11.23.022.

Parking on municipal property ¹⁶⁹	29
Parking of trucks, truck tractors or truck semitrailer combinations of public rights-of-way ¹⁷⁰	27
Impoundment	35

Bellevue's 24-hour parking restriction ordinance is applied throughout the entire city. As the title aptly suggests, this ordinance prohibits a vehicle from remaining parked at the same location for more than 24 hours. Researchers could not identify any one particular neighborhood amassing more citations than any other; in fact, the highest numbers of reported citations on any one street was seven over the entire five-year period. This finding raises concerns that Bellevue's enforcement scheme targets public space throughout the entire city, regardless of designations as commercial or residential areas.

Almost all of the citations issued under Bellevue's time limit zone ordinance¹⁷¹ occurred at four locations (372 citations – 87%). Bellevue's time limit zone ordinance prohibits vehicles from parking “beyond the time limit permitted by official signs.”¹⁷² Vehicles also cannot be re-parked on “either side of the same street in order to extend the vehicle's parking time beyond the time limits established.”¹⁷³ Unless the vehicle moves to a different street, the vehicle is considered to be in violation of permitted time limits. The four most frequently cited locations are around the Bellevue downtown and Interstate 405 corridor, as depicted by the following map with a citation breakdown by location included thereafter:



¹⁶⁹ Bellevue Municipal Code 11.23.035.

¹⁷⁰ Bellevue Municipal Code 11.70.100.

¹⁷¹ Bellevue Municipal Code 11.23.022.

¹⁷² *Id.*

¹⁷³ *Id.*

BELLEVUE TIME LIMIT CITATIONS BY NEIGHBORHOOD				
Address	10100 NE 12 th St.	12100 Bel-Red Rd.	200 101 st Ave. SE	800 118 th Ave. NE
# of Citations	32	23	112	205

The location with the majority of citations, 800 118th Avenue NE, is a commercial area surrounded by small shops and car dealerships. The location is tucked away but off a main road making it an ideal place to park for an extended period of time while still being close to resources.

Bellevue issued a total of 29 citations for parking on municipal property over the 5-year period.¹⁷⁴ The ordinance prohibits vehicles from parking on property owned, leased, or operated by the city unless the vehicle is owned by a city worker or a party doing business with the city.¹⁷⁵ Vehicles cited under this ordinance are automatically declared a nuisance and are subject to impoundment.¹⁷⁶ Almost all of the citations (79%) occurred at the Newcastle Beach Park at 4400 Lake Washington Blvd. SE, mostly during the summer of 2014. The data suggests targeted enforcement during a particular day of the week—Sunday afternoon and evenings at a time when park visitors have probably cleared out for the day. Regardless of the underlying explanation, the data reveals a sudden spike in discretionary enforcement. The table below illustrates the breakdown of citations:

BELLEVUE CITATIONS FOR PARKING ON MUNICIPAL PROPERTY					
Day & Time	Thursday 12 – 1 PM	Friday 4 – 5 PM	Sunday 3 – 4 PM	Sunday 5 – 7 PM	Sunday 7 – 8 PM
Citations	2	4	1	16	5

These trends suggest that vehicle residents, who may not move their vehicles at the close of a recreational day at the park, could be disproportionately impacted by such practices.

b. **Case Dispositions**

Bellevue did not provide specific disposition data for the citations listed above. However, researchers did discover a unique quality to the city's municipal code that sets it apart from the other case study cities.

As with all people experiencing homelessness, vehicle residents are particularly vulnerable to additional punitive actions resulting from failing to respond or appear in court for parking infractions. In King County, the District Court provides a specific procedure for defaulted parking infractions as follows:

¹⁷⁴ Bellevue Municipal Code 11.23.035.

¹⁷⁵ Bellevue Municipal Code 11.23.035 (A).

¹⁷⁶ Bellevue Municipal Code 11.23.035 (B).

- If a defendant fails to respond to a parking infraction, a \$52 default fee is added to the case. If the defendant fails to pay, the case is referred to collections.
- If a defendant fails to appear for a hearing then they are found liable, a \$52 default fee is added, and the case is referred to collections.
- If a defendant has several unpaid parking tickets, the Department of Motor Vehicles can put a hold on their tabs until the tickets are paid in full.¹⁷⁷

On top of the county procedure, the Bellevue Municipal Code provides an enhanced punitive system that can escalate a civil infraction to a criminal charge. First, people receiving parking violations who fail to respond within 15 days are subject to an additional \$25 penalty and lose the right to a mitigation hearing.¹⁷⁸ There is no leniency to extend a deadline: a person cited with a parking infraction has to respond within the 15 day window. The city, at the discretion of the Bellevue City Attorney, even has the power to file a criminal charge against any vehicle owner merely for failing to respond to an infraction.¹⁷⁹

Bellevue's unyielding approach to parking infractions leads to the sort of cyclical legal woes described earlier in this brief.¹⁸⁰ Vehicle residents in Bellevue with an unpaid parking ticket may one day wake up to discover that they have lost the ability to contest the citation, can no longer renew their vehicle license, or face criminal charges. Although the Bellevue City Attorney can choose not to enforce this law against indigent individuals, discretionary non-enforcement is no substitute for legal protection.

3. *Aberdeen*

Aberdeen is a growing tourist location just west of the state capitol. Located at the convergence of the Wishkah and Chehalis Rivers, Aberdeen was a traditional logging and fishing town in Grays Harbor County.¹⁸¹ Grays Harbor County has 152 homeless individuals on any given night based on a one night count performed in January 2015.¹⁸² Of that total, 47 individuals (31%) were unsheltered. In March 2015, the city distributed eviction notices to homeless tent campers and vehicle residents on private property along the Chehalis River after community members complained.¹⁸³ Some advocates believe that the city's actions resulted from

¹⁷⁷ *Citations and Tickets*, KING CNTY., <http://www.kingcounty.gov/courts/district-court/citations-or-tickets.aspx> (last visited Mar. 31, 2016).

¹⁷⁸ Bellevue Municipal Code 11.23.040(B). Mitigation hearings are an opportunity for citation defendants to argue the underlying facts or merits of the charge with the goal of receiving a waiver or reduction in the fine.

¹⁷⁹ *Id.*

¹⁸⁰ See *supra* Part II.B.

¹⁸¹ *Welcome to Aberdeen*, KING CNTY., <http://www.aberdeenwa.gov/> (last visited Mar. 31, 2016).

¹⁸² Washington State Point in Time Count of Homeless Persons – January 2015, STATE OF WASH. DEPT. OF COMMERCE (2015), http://www.commerce.wa.gov/Documents/PIT_2015_Rollup_Summary.pdf.

¹⁸³ Kyle Mittan, *Riverfront homeless face evictions as Aberdeen deems camps unsafe*, THE OLYMPIAN (Mar. 28, 2015, 12:00 AM), <http://www.theolympian.com/news/local/article26117710.html>.

a new focus on improving the city’s tourism industry, resulting in a charge to remove visible poverty without regard to the rights of the city’s homeless residents.¹⁸⁴

a. Citations

Aberdeen reported a total of 690 citations. Parking with expired vehicle license plates or tabs was the most common basis for citation (70%). Parking for more than 24-hours on a public street follows as the second most cited ordinance (28%).¹⁸⁵

ABERDEEN CITATIONS	
Ordinance	Total Citations
Basic limit ¹⁸⁶	194
Trucks in residential zones ¹⁸⁷	6
Camping prohibited ¹⁸⁸	6
Expired vehicle licenses or tabs--Parking prohibited ¹⁸⁹	484

Significantly, Aberdeen’s ordinance prohibiting camping¹⁹⁰ specifically targets vehicle residents and was enforced on six different occasions. Aberdeen’s camping prohibition ordinance provides that no person can “park any motor vehicle or trailer on a public street for the purpose of sleeping therein or maintaining the same as a temporary or permanent residence.”¹⁹¹ The first two infractions within 12 months are traffic infractions. Any excess citations within 12-months are misdemeanors. Although there were only six reported citations between 2012–2014, two of the 2012 citations belonged to one vehicle. The vehicle owner was first cited on August 16, 2012. On August 20, 2012 the vehicle received a second citation at the same location. According to subsection 3 of the ordinance subpart 3, a third infraction would have resulted in a misdemeanor. This data substantiates two key points commonly asserted by homeless rights advocates: (1) vehicle residents return to locations even after receiving citations due to lack of any alternative; and (2) citations are ineffective at deterring people from conducting necessary life-sustaining activities—in this case, sleeping and protecting oneself from the elements—in public.

¹⁸⁴ See, e.g., *id.*

¹⁸⁵ Aberdeen Municipal Code 10.20.050, entitled “Basic limit,” prohibits a vehicle from parking over 24 hours on any city streets. Almost half of the citations occurred in Central Aberdeen (92 citations, 47%). Almost a quarter were issued cited in East Aberdeen (44 citations, 23%); the remaining citations occurred in West Aberdeen (37 citations, 19%) and South Aberdeen (21 citations, 11%).

¹⁸⁶ Aberdeen Municipal Code 10.20.050.

¹⁸⁷ Aberdeen Municipal Code 10.20.070.

¹⁸⁸ Aberdeen Municipal Code 10.20.100.

¹⁸⁹ Aberdeen Municipal Code 10.20.220.

¹⁹⁰ Aberdeen Municipal Code 10.20.100.

¹⁹¹ *Id.*

b. Case Dispositions

Aberdeen Municipal Court reported 1,573 dispositions for parking cases. Case dispositions are categorized into three groups: committed, paid, and dismissed. Committed cases are those where the individual fails to respond within 30-days, the court enters finding of default, and the case is sent to a collection agency. Most cases were marked as “committed,” making up a total of 817 cases (52%). Paid cases followed at 650 total (41%). Dismissed cases made up only 106 of the total (7%). In this context, “dismissed” cases are those where the cited defendants presented themselves to the court and received an order of dismissal. The following graph is a visual representation of the breakdown:



Similar to Seattle, the majority of Aberdeen’s citations are unresolved.

Aberdeen Municipal Court also reported that parking citations and other infractions are not warrantable or punishable by imprisonment.¹⁹² This assertion is puzzling, however, because at least one enforced municipal code—AMC 10.20.100 Camping prohibited—provides that any charge in excess of two citations within a 12-month period can transform the charge from an infraction to a misdemeanor.¹⁹³ The subsequent misdemeanor is punishable by up to 90 days imprisonment and a five hundred dollar fine.¹⁹⁴ If the court’s assertion is true, the disposition and consequences are unclear for an individual that violates Aberdeen’s camping ordinance a third time within the same year.

4. Longview

Longview resides near the southern border of Washington State between the banks of the Columbia and Cowlitz rivers, just 47 miles north of Portland, Oregon.¹⁹⁵ More than any other

¹⁹² The Aberdeen Municipal Court provided a memorandum response to researchers’ questions dated October 13, 2015, in which a city representative reported: “Parking and Infractions are not warrantable and /or jailable.” (On reserve with HRAP).

¹⁹³ Aberdeen Municipal Code 10.20.100.

¹⁹⁴ Aberdeen Municipal Code 10.20.270.

¹⁹⁵ *Our Community: Location*, CITY OF LONGVIEW, <http://www.mylongview.com/index.aspx?page=51> (last visited Nov. 28, 2015).

case study, however, Longview’s data reveals a policy of relying on enforcement mechanisms to remove vehicle residents from the city altogether.

a. Citations

Longview reported a total of 2,344 citations during the requested five-year period. Of those, impoundment was the most cited ordinance (1,446 impoundments, 62%). An ordinance restricting parking in the public library’s parking lot during evening hours was the second-most cited ordinance (346 citations, 15%). The table below details the complete findings:

LONGVIEW CITATIONS	
Ordinances	Total Citations
Location limited to designated areas – Exception ¹⁹⁶	125
Impoundment without prior notice ¹⁹⁷	1,446
Immobilization of vehicles constituting public nuisance ¹⁹⁸	17
Restricting use of Longview Public Library parking facilities ¹⁹⁹	346
Roadways – Stopping, standing or parking prohibited ²⁰⁰	1
Alleys – Parking prohibited except for loading and unloading ²⁰¹	43
Time Limits – Non-posted streets and public property ²⁰²	30
Prohibited purposes ²⁰³	330
Motor vehicles and recreational vehicles – Special parking locations – Restrictions – Penalties ²⁰⁴	6

Of these specific ordinances, two prohibit living in vehicles entirely. Longview’s prohibited purposes ordinance prohibits “storing, repairing, or rehabilitating any inoperative vehicle, except repairs, necessitated by an emergency, which can be accomplished within a single 24-hour period” and “habitation in a vehicle or occupying a vehicle for residential purposes” on public streets.²⁰⁵ As demonstrated by the chart below, around 30% of the total citations for this ordinance were issued in 2015—yet the data requested encompassed only nine months of that year:

¹⁹⁶ Longview Municipal Code 7.28.020.

¹⁹⁷ Longview Municipal Code 11.16.030.

¹⁹⁸ Longview Municipal Code 11.18.040.

¹⁹⁹ Longview Municipal Code 11.44.130.

²⁰⁰ Longview Municipal Code 11.44.140.

²⁰¹ Longview Municipal Code 11.44.142.

²⁰² Longview Municipal Code 11.44.145.

²⁰³ Longview Municipal Code 11.44.147.

²⁰⁴ Longview Municipal Code 11.45.030.

²⁰⁵ Because this “compound ordinance” prohibits two different types of conduct, researchers could not determine whether the citations were made for storing and repairing a vehicle or living in vehicle.

LONGVIEW “PROHIBITED USE” CITATIONS PER YEAR				
2011	2012	2013	2014	2015
46	83	48	39	114

The sudden spike in 2015 indicates a substantial commitment to criminalizing vehicle residents.

Longview’s designated trailer parking ordinance makes it unlawful for any person “to occupy a trailer house, independent mobile home or other temporary moveable place of abode in the city except in trailer parks within [the] area permitted” by Longview.²⁰⁶ Of the 125 citations reported 122 cases were classified as a public nuisance, 1 was classified as a zoning violation, and 2 were classified as building violations.²⁰⁷

The public nuisance classification can be applied to vehicle residents. By classifying a behavior as a public nuisance, an additional fine/penalty is imposed whereby the owner incurs the responsibility to pay all remediation costs incurred by the city.²⁰⁸ Putting this in the context of vehicle residency, if a person’s vehicle is impounded and labeled a public nuisance, the vehicle resident may then have to bear the costs the city incurred in removing the vehicle whether or not they ever recover the vehicle.

Public nuisance is not defined under title 7. However, under the purpose and scope of code compliance, violation of any titles listed in the ordinance is “determined to be detrimental to the general public health, safety and welfare and are also hereby declared public nuisances.”²⁰⁹ Any person who willfully or knowingly violates any titles, including title 7, is guilty of a misdemeanor.²¹⁰

With only five apparent trailer parks in Longview, vehicle residents may not be able to gain access due their distance from resources.²¹¹ The citation locations indicate that enforcement efforts were mostly concentrated in the St. Helens and Highlands neighborhoods.²¹² The map below displays the location where all but one citation was made in red and trailer parks in Longview in blue.²¹³

²⁰⁶ Longview Municipal Code 7.28.020.

²⁰⁷ Researchers could not determine why citations under Longview Municipal Code 7.28.020 are not all cited under the “prohibited purposes” ordinance, Longview Municipal Code 11.14.147.

²⁰⁸ Longview Municipal Code 1.30.040(2).

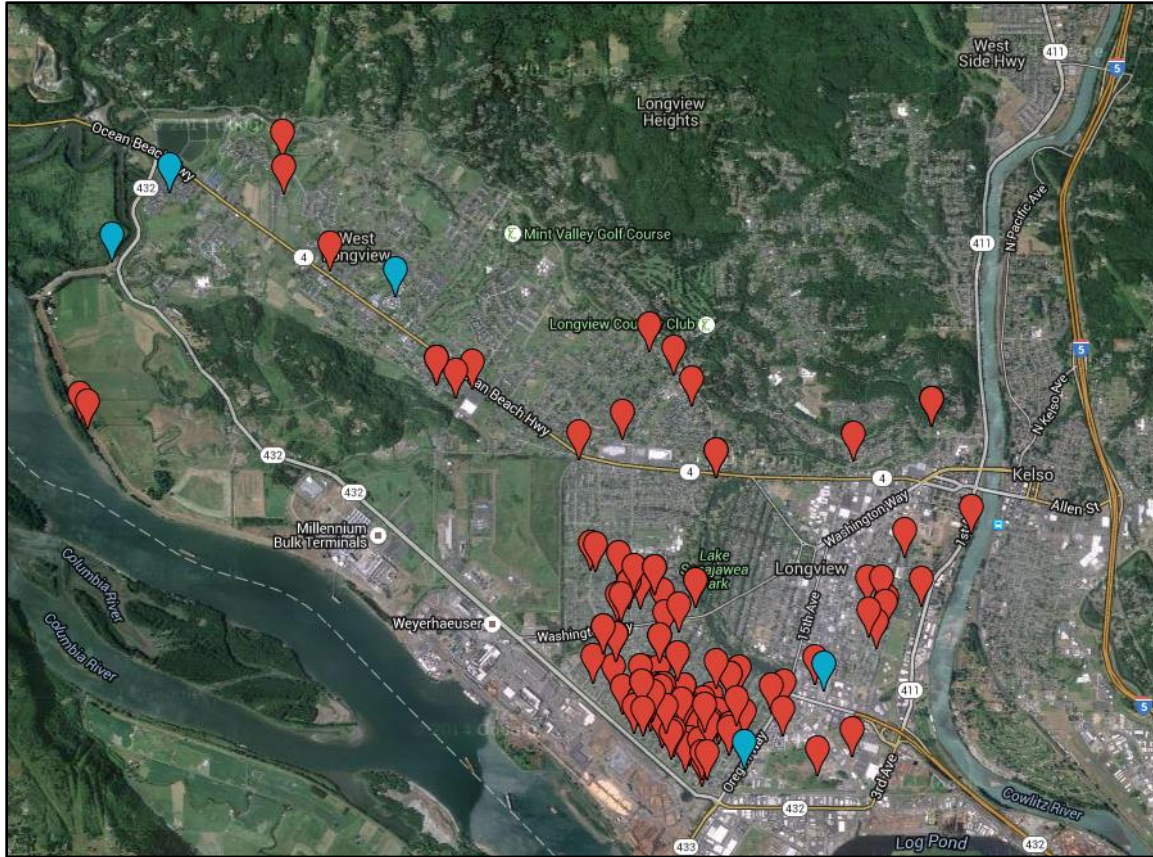
²⁰⁹ Longview Municipal Code 1.33.130(1).

²¹⁰ Longview Municipal Code 1.33.130(2) (“Upon conviction, the person shall be punished by a fine not to exceed \$1,000 and/or incarceration for a term not to exceed 90 days. Each week (seven consecutive days) such violation continues shall be considered a separate misdemeanor offense.”).

²¹¹ Access formed through basic Google search.

²¹² *Our Community: Neighborhood*, CITY OF LONGVIEW, <http://www.ci.longview.wa.us/modules/showdocument.aspx?documentid=34> (last visited Nov. 28, 2015).

²¹³ Map created using Google Maps. That one citation not included listed the BNSF Rail as the violation location.



The reported vehicle impoundments were related to abandoned vehicle, blocking, parking, and “miscellaneous” reasons. Longview issued 361 citations under the relevant categories. Abandoned vehicles were the most frequently reported reason for impoundment, followed by “miscellaneous” reasons. There is no definition of miscellaneous in the reports.

b. Case Dispositions

Longview does not issue warrants for unpaid parking tickets. Instead, the city sends “immobilized notice” letters to violators with multiple unpaid tickets. There were 18 reported “immobilized notices.” Sending a notice through mail is legitimate and reasonable; however, mailing letters to people experiencing homelessness who do not have a permanent address is clearly ineffective. Even if food banks, shelters, and other service offices were used as a permanent address, people experiencing homelessness would not likely receive the actual notice due to the realities of homeless mobility. Without receiving notice, vehicle residents cannot possibly respond in a timely manner, the city will not be able to obtain the imposed fines and the outstanding fines will be sent to collections.

The data confirms that Longview is a “hot bed” for aggressively criminalizing vehicle residency.²¹⁴ Although the penalties do not impose an immediate criminal charge, the civil infractions create nearly insurmountable barriers for vehicle residents and unpaid infractions can evolve into criminal misdemeanors under failure to appear or pay provisions.

²¹⁴ E-mail from Graham Pruss to Jessica So (on file with author).

5. *Spokane*

Spokane is the largest Washington city east of the Cascade Mountains. According to the January 2015 point-in-time count, at least 1,033 people were experiencing homelessness in Spokane—a 10% increase from 2014.²¹⁵ Its unsheltered population decreased 15% over the prior year from 155 to 132.²¹⁶

a. Citations

Spokane reported a total of 56,445 citations. The majority of citations were issued for “stopping, standing, or parking in specified places” (29,275, 52%). The second most cited ordinance was “improper display of vehicle tabs” (21,003, 37%). Below is a table with details of findings.

SPOKANE CITATIONS	
Ordinances	Citations
Stopping, Standing, or Parking Outside Business or Residence Districts ²¹⁷	84
Time Limit, General - Parking Continuously Over 12 Hours ²¹⁸	2,960
Time Limit - Parking Longer Than Allowed In Downtown Zones ²¹⁹	734
Time Limit, Central Business District - Two Hours Maximum ²²⁰	3
Parking Non-passenger Vehicles in Residence Zones ²²¹	666
Parking in Alley Regulated ²²²	584
Parking in Manner as to Obstruct Traffic ²²³	664
Standing at Angle to Curb and Backing to Curb Regulated ²²⁴	355
Advertising, Selling, Or Repairing Vehicle - Standing/stopping ²²⁵	117
Improper Display - Vehicle Registration Tabs ²²⁶	21,003
Stopping, Standing, or Parking Prohibited in Specified Places - Reserving Portion of Highway Prohibited ²²⁷	29,275

²¹⁵ COMMUNITY, HOUSING AND HUMAN SERVICES DEPARTMENT, SPOKANE REGIONAL POINT-IN-TIME COUNT – FACT SHEET (2015), available at <https://static.spokanecity.org/documents/chhs/plans-reports/reports/2015-spokane-regional-point-in-time-count-fact-sheet.pdf>.

²¹⁶ *Id.*

²¹⁷ Spokane Municipal Code 16A.61.560.

²¹⁸ Spokane Municipal Code 16A.61.561(A).

²¹⁹ Spokane Municipal Code 16A.61.561(B).

²²⁰ Spokane Municipal Code 16A.61.561(C).

²²¹ Spokane Municipal Code 16A.61.562.

²²² Spokane Municipal Code 16A.61.563.

²²³ Spokane Municipal Code 16A.61.565.

²²⁴ Spokane Municipal Code 16A.61.566.

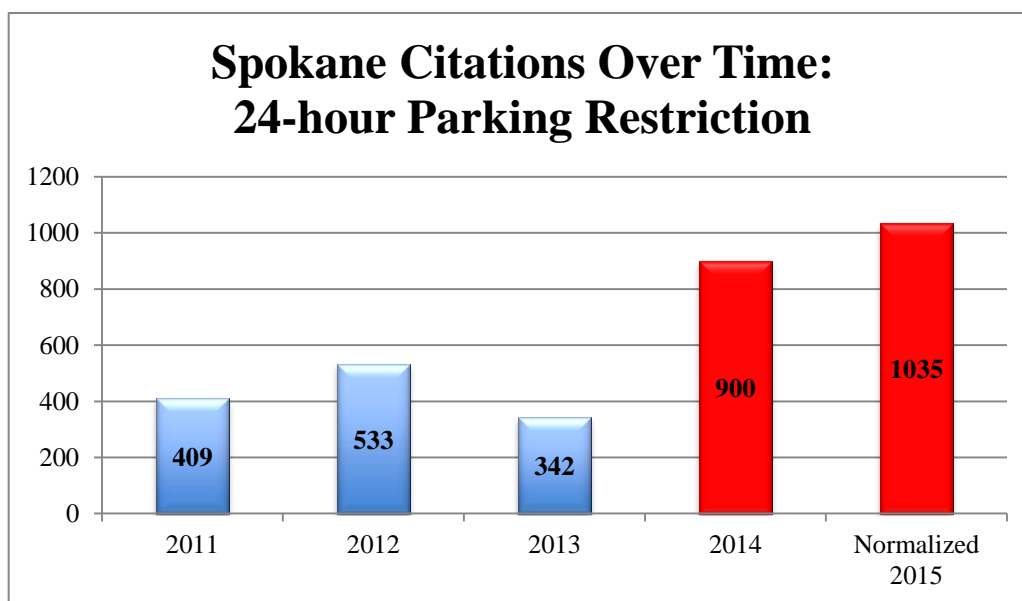
²²⁵ Spokane Municipal Code 16A.61.567(A).

²²⁶ Spokane Municipal Code 16A.61.567(B).

Vehicle Immobilization ²²⁸	154
Vehicle Impoundment ²²⁹	25

Spokane’s data showed—better than any case study city—the impact of new technologies on vehicle residents. Vehicle impoundment, generated both directly by ordinance penalties as well as indirectly through scofflaw ordinances, has been demonstrated and documented to disproportionately impact vehicle residents.²³⁰ When combined with cutting-edge enforcement technology that strips away the ability to hide in plain sight, vehicle residents in Spokane are almost guaranteed to fall prey to the cycle of civil infractions, unpaid citations, impoundment, and ultimately unsheltered homelessness. Unfortunately, Spokane could not provide a detailed breakdown regarding enforcement of its scofflaw ordinance.²³¹ Thus, researchers looked to triggering ordinances that lead to inclusion on the scofflaw list: unpaid tabs and parking infractions.²³²

Under Spokane’s 24-hour parking restriction, no vehicle may be parked continuously on any public street or highway within the city for a period of longer than 24 hours.²³³ The following chart depicts the total citations under this law each year over the five year period. Because the data for 2015 included only through September, the numbers have been normalized to represent the entire year.²³⁴



²²⁷ Spokane Municipal Code 16A.61.570.

²²⁸ Spokane Municipal Code 16A.61.790(D).

²²⁹ Spokane Municipal Code 16A.61.790(E).

²³⁰ 2012 Advisory Report, *supra* note 2; Vehicle Residency Workshop, *supra* note 25.

²³¹ Spokane Municipal Code 16A.61.790. Although Spokane provided total numbers for the entire time period, the city could not provide additional information such as a chronological breakdown.

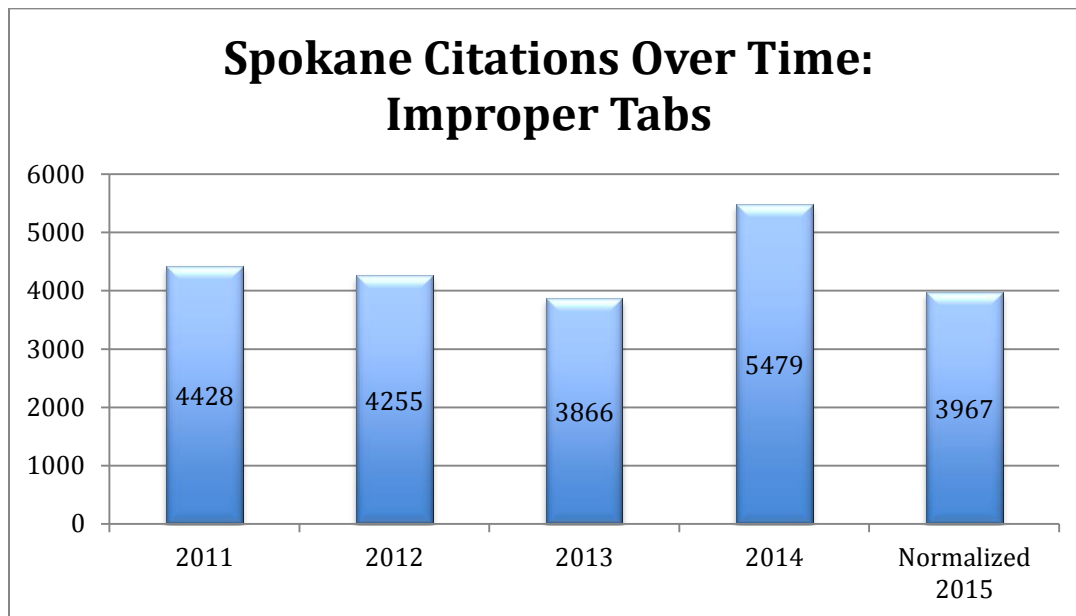
²³² Under SMC 16A.61.790(A), the scofflaw list is populated by vehicles “involved in four or such greater number of parking tickets unpaid”

²³³ SMC 16.61.561(A). Interestingly, the data provided by Spokane labels this ordinance incorrectly as a 12-hour restriction.

²³⁴ *Supra* note 151.

Spokane issued a significant spike in citations from 2014 onward, roughly double the level of enforcement from prior years. This spike may coincide with two changes made by Spokane in 2014: the passage of its scofflaw ordinance²³⁵ and the use of automatic license plate reader technology on its police vehicles.²³⁶

Enforcement data for Spokane's improper vehicle tabs ordinance reveals a similar trend:



As with the 24-hour parking restriction, Spokane's improper tabs enforcement data reveals a significant jump in total citations for 2014. Although the numbers return to an average level the following year, another crucial emerges: Spokane maintains a minimum of roughly 4,000 citations per year for improper tabs. This finding supports the conclusions of earlier researchers who found that Spokane maintains a policy of aggressively enforcing criminalization ordinances against vehicle residents.²³⁷

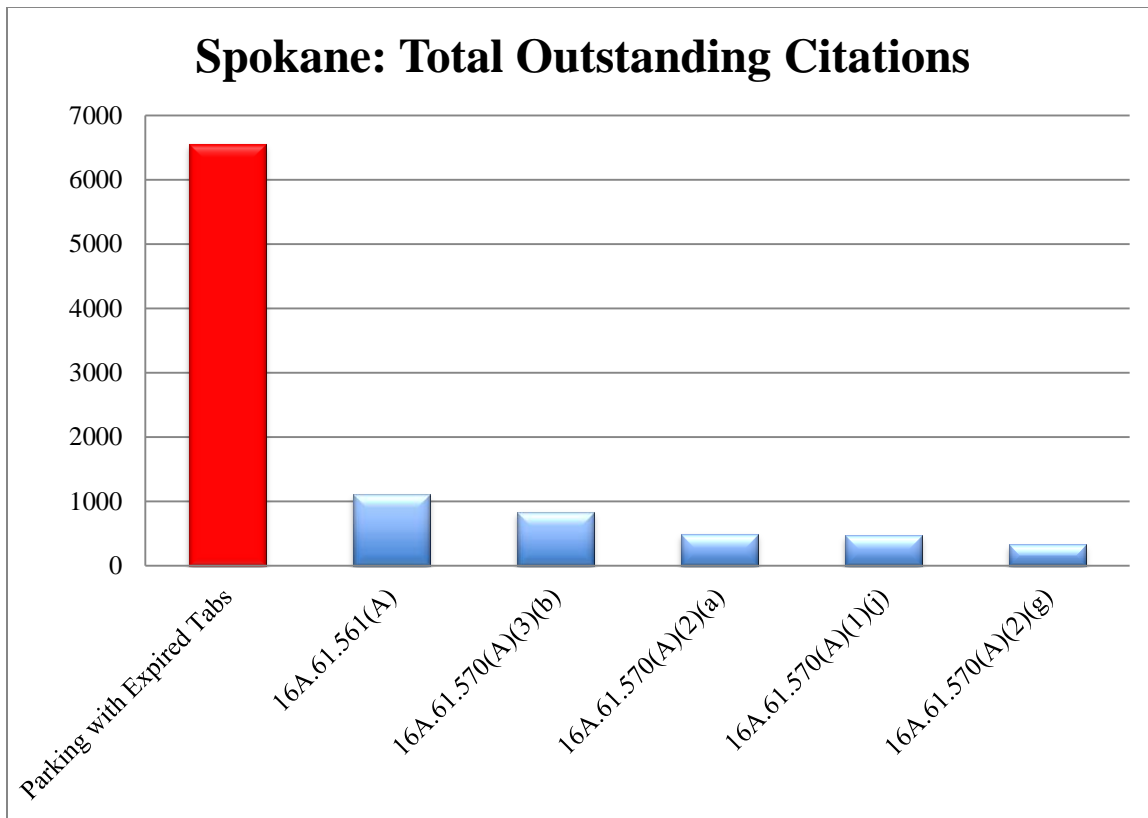
b. Case Dispositions

Spokane disposition and status data separated into two categories: completed and outstanding. Within the requested time period, Spokane issued 50,101 completed citations and 11,882 outstanding citations. Outstanding tickets account for about 18–20% of each year's citations. Below is a chart showing the total outstanding citations for the top six ordinances:

²³⁵ SMC 16A.61.790.

²³⁶ Mike Prager, *Spokane to give parking scofflaws the boot*, THE SPOKESMAN-REVIEW (July 11, 2014), <http://www.spokesman.com/stories/2014/jul/11/spokane-police-to-give-parking-scofflaws-the-boot/>.

²³⁷ OLSON & MACDONALD, *supra* note 9, at 23.



Of the total outstanding citations, parking with expired tabs²³⁸ had the most outstanding citations at 6556 citations still standing. This category accounts for 55% of the total outstanding reported citations. Parking over 12 hour limit had the second most outstanding citations with 1106 citations (9%). These findings further support the conclusion that Spokane heavily enforces criminalization ordinance that disproportionately impact vehicle residents.

6. *Vancouver*

Located on the north bank of the Columbia River, Vancouver sits at the southern border of the state directly across from Portland, Oregon.²³⁹ The city is the fourth largest in Washington and the largest in Clark County.²⁴⁰ The 2015 Clark County point-in-time count recorded 662 people experiencing homelessness.²⁴¹ In September 2015, Vancouver amended one of its primary criminalization ordinances in response to the DOJ's statement of interest following *Bell v. City of Boise*. In *Bell*, homeless individuals challenged the enforcement of City of Boise's ordinance prohibiting sleeping or camping in public on nights when there are insufficient shelter beds. The plaintiffs argued that enforcement amounted to violation of the Eighth Amendment's

²³⁸ Spokane Municipal Code 16.61.567(B).

²³⁹ *All About Vancouver*, CITY OF VANCOUVER, <http://www.cityofvancouver.us/ourcity/page/all-about-vancouver> (last visited Mar. 31, 2016).

²⁴⁰ Scott Bailey, *Clark County Profile*, <https://fortress.wa.gov/esd/employmentdata/reports-publications/regional-reports/county-profiles/clark-county-profile> (last visited Mar. 31, 2016).

²⁴¹ Scott Hewitt, *Clark County homeless census improves slightly: January count highlights funding, services' value*, THE COLUMBIAN (June 4, 2015), <http://www.columbian.com/news/2015/jun/03/clark-county-homeless-census-improves-slightly/>.

cruel and unusual punishment clause.²⁴² On remand, the court dismissed all claims and entered a declaratory judgment, stating that enforcement of the city ordinance violated the Eighth Amendment.²⁴³ As part of the court record, the DOJ submitted a Statement of Interest on August 6, 2015, agreeing with the analysis that enforcement of anti-camping ordinances would violate constitutional protections when the city does not provide adequate shelter space.²⁴⁴

Consequently, Vancouver amended its camping ordinance to allow legal camping overnight on most publicly owned property, except for parks, between 9:30 p.m. to 6:30 a.m.²⁴⁵ This amendment includes sleeping in cars parked on most public property.²⁴⁶ However, between the hours of 6:30 a.m. to 9:30 p.m., it is unlawful for individuals to camp in any park, street, or publicly owned or operated property.

a. Citations

Vancouver reported a total of 905 citations. Only three of the ten ordinances requested by researchers produced any records.²⁴⁷ Of the enforcement requests issued under ten ordinances, only three ordinances had records. Parking a truck, trailer, or motor home on residential streets was the most cited offense at 862 citations. The table below²⁴⁸ describes the breakdown in total citations:

VANCOUVER CITATIONS	
Ordinance	Citations
Moving to evade ²⁴⁹	20
Parking in alleys ²⁵⁰	21
Truck, trailer, and motor home parking on residential streets ²⁵¹	862
Former 9.64.131	1
Former 9.64.132	1

²⁴² *Bell v. City of Boise*, 709 F.3d 890, 894 (9th Cir. 2013), *remanded to* 993 F. Supp. 2d 1237 (D. Idaho 2014).

²⁴³ *Bell v. City of Boise*, 993 F. Supp. 2d 1237, 1239 (D. Idaho 2014).

²⁴⁴ Statement of Interest, *supra* note 64, at 10.

²⁴⁵ *Get the Facts About the City's Camping Ordinance*, CITY OF VANCOUVER, <http://www.cityofvancouver.us/citycouncil/page/get-facts-about-citys-camping-ordinance> (last visited Mar. 31, 2016).

²⁴⁶ Vancouver Municipal Code 8.22.040.

²⁴⁷ Vancouver did provide records for five additional ordinances not specifically requested by researchers. Those Vancouver Municipal Codes included: 9.64.190; 9.64.040(c); 9.64.130; 9.64.131; and 9.64.132.

²⁴⁸ Citation data for former ordinances have been combined with the current versions.

²⁴⁹ Vancouver Municipal Code 19.12.020(A). Citation data for former ordinances have been combined.

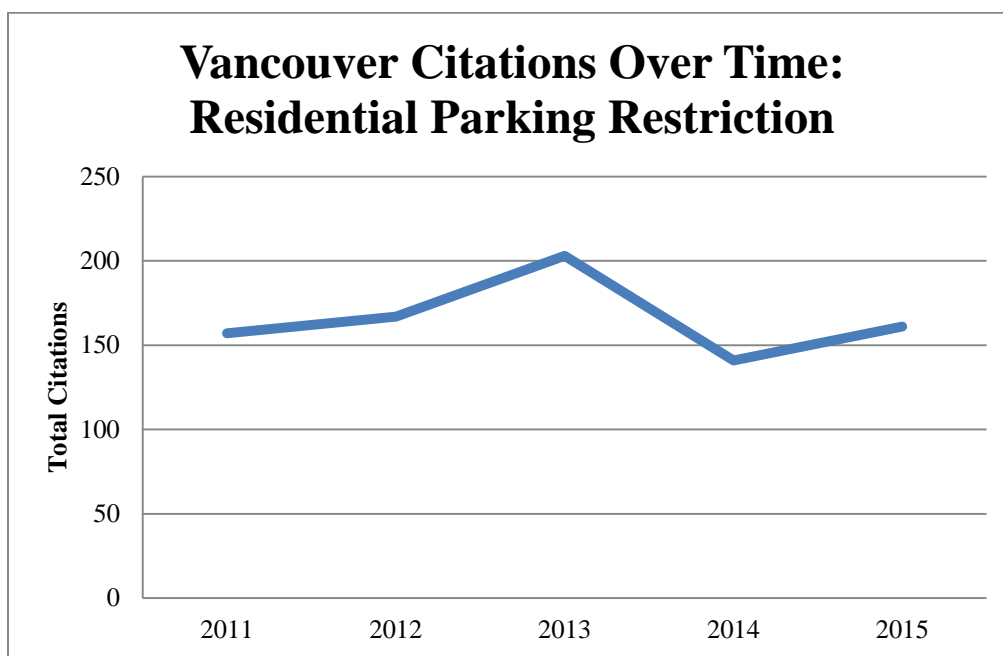
²⁵⁰ Vancouver Municipal Code 19.12.070. Citation data for former ordinances have been combined.

²⁵¹ Vancouver Municipal Code 19.12.080. Citation data for former ordinances have been combined.

Of the ordinances, the prohibition of parking a truck, trailer, or motor home on residential streets²⁵² may have the greatest disproportionate impact on vehicle residents. The current ordinance prohibits any person from parking in any residential area: (1) a truck with a gross weight capacity in excess of 9000 pounds, (2) a trailer, (3) a travel trailer, or (4) a motor home.²⁵³ The original ordinance was amended and re-codified in 2014 to remove key definitions for travel trailers and motor homes. Vehicles cited under this ordinance are subject to impoundment at the discretion of the police.

Despite recent amendments, Vancouver's law is vague and subject to constitutional challenges under *Desertrain*. Ordinary citizens have no way of knowing whether their vehicles, parked on a public street, are subject to impoundment. Enforcing the amended ordinance for vehicle residents continues to mean losing their home and possessions.

The enforcement data below reveals no discernable change in citation numbers following the 2014 amendments.²⁵⁴

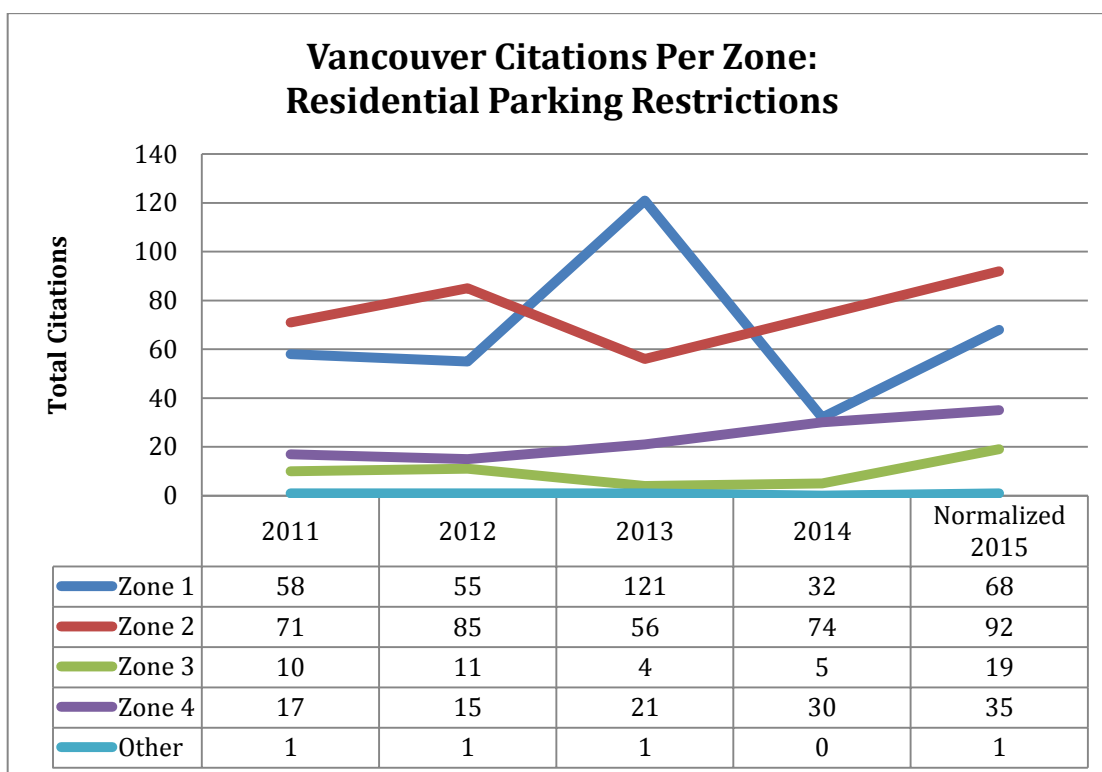


²⁵² *Id.*

²⁵³ The original ordinance was amended and re-codified in 2014 to remove key definitions for travel trailers and motor homes. Prior to 2014, Vancouver defined travel trailers as “a trailer built on a single chassis transportable upon the public streets and highways that is designed to be used as a temporary dwelling without a permanent foundation and may be used without being connected to utilities.” Former Vancouver Municipal Code 9.64.190(a)(4). Motor homes were defined as “motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation, which include lodging and cooking or sewage disposal, and is enclosed within a solid body shell with the vehicle, but excludes a camper or like unit constructed separately and affixed to a motor vehicle.” Former Vancouver Municipal Code 9.64.190(a)(1). The definition for trailers remains but was moved to a different section (VMC 19.03.010).

²⁵⁴ As previously noted, the 2015 numbers extend only through September and represent only 75% of the final data for that year.

Of the citation locations, neighborhood zone 1²⁵⁵ and zone 2²⁵⁶ were the most frequently cited locations making up 80% (672 citations) of the total citations. Neighborhood zones 1 and 2 are in West Vancouver. In particular, citations in neighborhood zone 1 in 2013 made up 15% (121 citations) of the total citations. Notably, enforcement in zone 2 increased by 60% over just nine months in 2015 following ordinance amendments. Vancouver's data suggests that people experiencing vehicle residency and living in large parked vehicles may be disproportionately impacted, particularly in neighborhood zones 1 and 2.



Vancouver's data shows an across-the-board increase in total citations throughout every zone in Vancouver.²⁵⁷ Notably, zones 1 and 2, the geographic locations receiving the most enforcement, both experienced a sharp increase in citations following the 2014 changes to the law. Thus, the data suggests that enforcement officers may regulate more aggressively when

²⁵⁵ Neighborhoods associated with zone 1: West Hazel Bell Neighborhood Association, Fruit Valley, Northwest, Lincoln, Carter Park, Hough, Armada, Esther Short, Shumway, Rose Village Neighborhood Association, and West Minnehaha.

²⁵⁶ Neighborhoods associated with zone 2: Central Park, Hudson's Bay, Columbia Way, Edgewood Park, Fourth Plain Village, Bagley Downs, Meadow Homes, Harney Heights, South Cliff, Dubois Park, Riverview, Evergreen Highlands, Northcrest, and Van Mall.

²⁵⁷ *Supra* note 151. The pre-normalized totals for 2015 through September are as follows: 51 for Zone 1; 69 for Zone 2; 14 for Zone 3; 26 for Zone 4; and 1 for Other.

granted increased discretionary authority. Additionally, zones that had historically low rates of enforcement—zones 3 and 4—jumped significantly compared to historical averages.²⁵⁸

Vancouver’s enforcement data reveals a troubling tension. Although the city amended its camping ordinance to permit overnight vehicle residency, the ordinance prohibiting parking of trucks, trailers, and motor homes on residential streets provides no such exception.²⁵⁹ Rather, Vancouver permits overnight camping on public property but criminalizes parking on residential streets. Additionally, the data suggests a wave of enforcement that coincides with the amended ordinance’s new grant of discretionary authority. For vehicle residents, the increased enforcement of a vague ordinance suggests that no neighborhood is safe refuge for motor homes or travel trailers—at least during the daylight hours, and perhaps not even at night.

***b.* Case Dispositions**

Vancouver did not provide detailed disposition data along with the citations. Instead, the city reported that of a total of 1,250 issued citations 938 (75%) had been “resolved.” Interestingly, Vancouver supplied raw data for only 905 citations. The missing 345 citations are not represented in the citation data above.

D. The Inaccessibility of Data

Despite months of repeated requests, several cities were able to provide researchers with complete data at the time of writing; Tacoma and Everett were unable to provide any data. Researchers discovered a disturbing trend in responses: city officials often insisted they did not know where relevant, and even basic, data was kept or how to access it. For example, Tacoma Municipal Court directed researchers to the Washington State Administrative Office of the Courts for the requested information. The Tacoma City Clerk’s office forwarded the public records request to the Code Enforcement Department. Next, the Code Enforcement Department directed researchers to the Tacoma Police Department. The Tacoma Police Department provides public records through South Sound 911, a regional public records agency. South Sound 911 explained that they only retain records for one year before they are destroyed. South Sound 911 then referred researchers back to Tacoma Municipal Court.

To date, Everett has not provided any responsive data. While the public records request was accepted, the city has delayed its response due to its inability to determine whether Everett Municipal Court of Everett Police Department has the requested information.

IV. CONCLUSIONS & RECOMMENDATIONS

Across Washington, cities restrict vehicle residency in public spaces in response to growing rates of homelessness and visible poverty. Despite the lack of adequate shelter beds and affordable housing, cities frequently ban or restrict vehicle residency under the justification of public order, traffic, and health and safety concerns. Although these concerns may be legitimate,

²⁵⁸ Zone 3 increased from an average of 8 citations between 2011–2014 to a normalized 19 citations in 2015, representing a 137% increase. Zone 4 increased from an average of 21 citations between 2011–2014 to an normalized 35 citations in 2015, representing a 67% increase.

²⁵⁹ Vancouver Municipal Code 19.12.080.

cities statewide fail to reflect serious consideration about how their laws and practices create serious, disproportionate consequences for vulnerable vehicle residents.²⁶⁰ This section provides: (1) a summary of researchers' findings in Washington; and (2) recommendations to better understand some problems and potential solutions regarding vehicle residency.

A. Conclusions

This brief examined criminalization of vehicle residency across Washington, specifically enactment and enforcement of punitive measures. In general, enforcement officials understand that citations, fines, arrests, and impoundments do little to stop the underlying conduct of vehicular residency.²⁶¹ They also know that involving vehicle residents in the municipal court system can be a catastrophic blow; vehicle residents can literally lose their home and all their possessions with the stroke of a pen. As a result, researchers distilled five core findings from the data gathered thus far.

Involving vehicle residents in the court system can be a catastrophic blow; vehicle residents can literally lose their home and all their possessions with the stroke of a pen.

First, ordinances throughout Washington are likely unconstitutional under federal case law, regardless of enforcement. For example, Tacoma, Aberdeen, and Longview have ordinances with language that closely mirrors Los Angeles's defective ordinance in *Desertrain*. These Washington ordinances target vehicle residents and suffer from the same deficiencies, such as vagueness and due process.

Second, city officials and staff commonly indicate that they do not understand how their vehicle residency enforcement regimes function. Two of the eight case study cities (25%) could not provide any responsive data of any kind including basic parking citations. The remaining six cities were able to provide basic responsive data, but often times, the cities could not include address information for registered owners or license plate information that might reveal repeat defendants. Indeed, many cities struggled to direct researchers to the correct department, suggesting a general unfamiliarity with how cities manage their enforcement departments, or whether they retain complete and accessible enforcement data.²⁶² Deficient data tracking and deficient record-keeping created significant transparency problems with city data concerning vehicle residency.

Third, a significant number of ordinances permit heightened police interaction without any subsequent documentation. Many "permissive" laws do not generate citations or any record of when, where, why, or against whom the permissive law was used. Thus, the lack of

²⁶⁰ Jennifer Romich, Poverty, *Income Inequality Increase in Washington State*, UWToday (Sept. 18, 2014), <http://www.washington.edu/news/2014/09/18/poverty-income-inequality-increase-in-washington-state/>.

²⁶¹ Officer Chris Coles, Officer Andrea Herrera, Justin Dawson, Officer David Sullivan, Brendan Brophy, Beth Gappert, and Sergeant Eric Pisconski, Seattle Police Department Panel Interview, Seattle University School of Law (Nov. 2015).

²⁶² For example, researchers submitted a public records request on September 25, 2015 to the City of Everett. As of April 2, 2016, the City is still attempting to determine if Everett Police Department has or may be able to provide researchers with requested materials.

transparency creates a barrier to demonstrating and determining the impact of permissive laws on vehicle residents.

Fourth, laws that ban or restrict vehicle residency do not achieve the desired purposes of maintaining public order, traffic, and protecting health and safety.²⁶³ Cities gain little up-front economic benefit from citing vehicle residents for civil infractions because vehicle residents can rarely pay their fines.²⁶⁴ Further, the time police spend enforcing vehicle residency ordinances results in significant costs to the city, costs that may not generate objectively worthwhile results. Such enforcement is futile when vehicle residents have no reasonable alternatives but to continue violating the law. Thus, outright bans and restrictions do little to curb acts of necessity. Indeed, the draconian enforcement of vehicle residency laws may result in an influx of unsheltered residents on city streets. The flood of unsheltered people further fuels friction between former vehicle residents and businesses, creates more unofficial encampments on sidewalks, and may lead to more hazardous environments for homeless individuals and the community.

Finally, enforcement data reveals that Washington cities collectively engage in a war against vehicle residents using a variety of punitive methods. Cities have permitted expansive criminal penalty provisions (Bellevue), vague ordinance terminology permitting discretionary enforcement (Vancouver), and aggressive use of outright vehicle residency bans (Longview). Even in smaller cities such as Aberdeen, the limited data mirrors common narratives surrounding enforcement: (1) citations failing to deter future conduct; and (2) enforcement leading to a cyclical punitive scheme eventually resulting that eventually results in the loss of liberty and property for already vulnerable people.

B. Recommendations

This brief does not provide solutions to homelessness and its myriad of potential causes. Rather, it looks at a single dimension of homelessness: vehicle residency. In so doing, HRAP researchers hope to suggest alternative ways for cities to respond to vehicle residency that protect the liberty, property, and dignity of people experiencing homelessness. Ultimately, this brief recommends: (1) repealing ordinances that ban vehicle residency; (2) providing long-term safe parking lots; (3) creating “no reasonable alternative” exceptions to code enforcement; (4) providing alternative remediation schemes for individuals financially unable to pay their fines; and (5) tracking key demographic data for issued citations.

First, ordinances targeting people experiencing homelessness or otherwise criminalizing necessary life-sustaining activities, including vehicle residency laws, should be repealed. A vehicle means much more than a mode of transportation to vehicle residents; in many cases, one’s vehicle is the last barrier to living completely without shelter. The performance of necessary life-sustaining activities in public space when no reasonable alternative exists should not result in punitive penalties under the law. Although cities certainly have the authority to impose reasonable restrictions on activities, overbroad and vaguely-worded laws that fail to meet the *Desertrain* analysis should be repealed.

²⁶³ National Law Center, *supra* note 3, at 12.

²⁶⁴ AMERICAN CIVIL LIBERTIES UNION, IN FOR A PENNY: THE RISE OF AMERICA’S NEW DEBTORS’ PRISONS (Oct. 2010), *available at* https://www.aclu.org/sites/default/files/field_document/InForAPenny_web.pdf.

Second, cities should create long-term safe parking encampments. Cities should either allocate public property for vehicle encampments or revise zoning restrictions to allow private parties to do so.²⁶⁵ For example, Seattle’s Road to Housing (R2H) program is a public-private partnership between Seattle and faith-based organizations providing safe places to park.²⁶⁶ The program has worked with 143 vehicle residents²⁶⁷ and helped 100 households move into stable housing.²⁶⁸ Additionally, the program was able to provide outreach to 173 households in 2014.²⁶⁹ Seattle’s safe parking program illustrates that designated parking is a viable alternative to punitive penalty regimes.²⁷⁰ Furthermore, providing designated camping locations will help prevent vehicle residents from clashing with non-transient local populations over lack of parking space, trash, and the perception of increased crime: all primary complaints from adverse community members. Cities would also be able to use the centralized locations to provide services such as trash collection, health care treatment, and information dissemination on public programs. Sanctioned vehicle camps could also allow residents the ability to form communities, talk about important issues, and organize around those issues.

Third, vehicle residents should be allowed to invoke a “no reasonable alternative” exception at the time of violation. This opportunity could be provided on the back of issued notices and citations. If the vehicle resident can demonstrate that they have no private residence in which to perform necessary life-sustaining activities, the police officer should be prevented from issuing a citation. With this defense, police officers would receive better training regarding the existence and true availability of alternative resources. Accordingly, citations would be issued only to those defendants making an active choice to violate the law in spite of reasonable alternatives.

Fourth, non-punitive penalties should be considered to allow vehicle residents to preserve personal and property rights while balancing achieve public order, traffic, and health and safety goals. Taking into consideration the limited finances of vehicle residents, courts and lawmakers should consider allowing repayment of penalties based on income. Such mitigations may mean allowing payment plans in small dollar amounts without the contingency that default would result in heightened penalties. Cities could also adopt community service options as Seattle has done. A range of these methods might allow vehicle residents to keep their vehicles and allow the city to gain some monetary or benefit. Most importantly, vehicle residents would remain sheltered without fear of losing their vehicle or spiraling into debt.

²⁶⁵ See, e.g., Joel Moreno, *Des Moines Restricts Homeless Camp Near Schools*, KOMO NEWS (Nov. 11, 2015), <http://komonews.com/news/local/des-moines-restricts-homeless-camps-near-schools>.

²⁶⁶ *Road to Housing*, CITY OF SEATTLE, <http://www.seattle.gov/council/issues/RoadtoHousing.html> (last visited Feb. 3, 2016).

²⁶⁷ *Id.*

²⁶⁸ Lynn Thompson, *“Desperately needed”: Church Provides Safe Parking Spaces for Homeless*, THE SEATTLE TIMES (Sept. 20, 2015), <http://www.seattletimes.com/seattle-news/eastside/desperately-needed-safe-parking-spaces-for-homeless/>.

²⁶⁹ *Road to Housing*, SEATTLE CITY COUNCIL, <http://www.seattle.gov/council/meet-the-council/mike-obrien/road-to-housing> (last visited Apr. 29, 2016).

²⁷⁰ *Id.*

Finally, cities should track key demographic data of persons cited for violating municipal codes. Accurate demographic data provides city officials with the information needed to understanding the impact of criminalization ordinances to their homeless communities and to better tailor their laws as a result. Demographic data is currently very difficult to obtain; however, cities should direct law enforcement and the municipal courts to begin obtaining this information. Police departments could connect existing vehicle information databases to the new demographics data. Helpful information may include (but is not limited to) current or most frequented addresses, length of time in living arrangement, length of time without medical treatment, employment information, or self-reporting as a vehicle resident. This information would help law enforcement and city officials improve the quality of services for both sheltered and unsheltered residents alike.

CONCLUSION

Vehicle residency continues to grow throughout Washington regardless of increased criminalization efforts by local municipalities. Vehicle residents typically have no reasonable alternatives but to utilize their vehicles as a form of emergency shelter. By decriminalizing this necessary conduct, Washington can return its focus to providing services and support. The alternative—increasing unsheltered residence on the streets—is a harrowing road Washington should avoid.

APPENDIX²⁷¹

A. Methodology

Researchers performed a survey of cities' municipal codes followed by public records request to selected cities. Researchers submitted two records requests to the selected cities. The second request was a modification of the first based upon what cities could provide to researchers.

1. Survey of City Ordinances

Researchers chose the 24 most populous cities²⁷² based on the 2010 U.S. Census.²⁷³ An additional five cities²⁷⁴ were added by suggestion of vehicle residency expert, Graham Pruss, as cities that are “struggling with addressing urban/suburban/rural vehicle residency” but would be too low in population to make the initial list of 24 cities. In addition to population limits, the cities are also only representative of five different spatial/geographic areas throughout Washington (Puget Sound, Eastern, Northwest, Southwest, and Coastal).

Search terms²⁷⁵ to identify vehicle residency ordinances were generated after a thorough reading of Seattle's Municipal Code. Each of these search terms was present in at least one relevant law that affected vehicle residency in Seattle's code.

Researchers used the searched city codes in two different ways. The first way was to use the search function on the city code's website. When the code's search engine allowed for root word searches, researchers only searched for root words (i.e., when a “park” search yields all words containing the word “park,” there is no need to search “parks,” “parked,” or “parking”).

When presented with municipal codes that were non-searchable or very challenging to search, researchers resorted to the second search method: an examination of particular sections of each code that showed to be more relevant than other sections for these purposes. The sections in which researchers chose to focus were “Vehicle and Traffic” and “Health and Safety” codes. The former sections contain many of the parking regulations while the latter seemed to be relevant only to “junk” or “abandoned” vehicle laws.

²⁷¹ See Bibliography, *infra* p. 50.

²⁷² Researchers surveyed the following cities: Seattle, Spokane, Tacoma, Vancouver, Bellevue, Everett, Kent, Yakima, Renton, Spokane Valley, Federal Way, Bellingham, Kennewick, Auburn, Marysville, Pasco, Lakewood, Redmond, Shoreline, Kirkland, Richland, Olympia, Sammamish, and Lacey.

²⁷³ U.S. Department of Commerce, *2010 Census Gazetteer Files*, U.S. CENSUS BUREAU, http://www2.census.gov/geo/docs/maps-data/data/gazetteer/2010_place_list_53.txt.

²⁷⁴ Researchers additionally surveyed the following cities: Kelso, Longview, Aberdeen, Hoquiam, and Ellensburg.

²⁷⁵ Researchers surveyed city codes using the following terms for reference: Car, Truck, Van, Motor+home, Trailer, Recreational, Park, Parks, Parked, Parking, Repark, Reparked, Reparks, Stop, Stopped, Stops, Garage, Garaged, Garages, Scofflaw, Tow, Tows, Towed, Towing, Large, Oversized, Impound, Impounds, Impounded, Impoundment, Immobilize, Immobilized, Immobilizes, Immobilizing, Immobilization, Boot, Booted, Booting, Junk, Abandon, Abandoned, Abandoning, Abandons, Plate, and Plates.

The results were evaluated for relevancy and then discarded or included in the survey as appropriate. Researchers included any laws as relevant when they could have a disproportionately discriminatory effect on people's ability to reside in their vehicles.

Researchers typically did not include laws that universally affected all members of a community and had a non-discriminatory practical effect, such as "no parking in fire lane laws" and "no parking in loading/unloading zones." However, researchers did include laws that appear neutral on its face but have been shown to disproportionately target or impact vehicle residents. These include scofflaw ordinances, restrictions on parking in certain areas during the early hours of the morning, and penalties for failing to keep current vehicle tabs.

Researchers selected eight case study cities for the enforcement data section. Researchers chose the three most populous cities from the Puget Sound Area, the most populous area of the state, and the largest cities from each of the other five areas for the case studies:

1. Puget Sound
 - a. Seattle
 - b. Tacoma
 - c. Bellevue
2. Spokane
3. Vancouver
4. Everett
5. Aberdeen
6. Longview

B. Record Request Form²⁷⁶

[Month] [Day], [Year]

[Served Entity]

Attn: [Recipient name]

[Title]

[Address 1]

[Address 2]

Via [mail or Email]: [email address if applicable]

RE: Public Records Act Request – Citation Information for [City] Municipal Codes

To Whom It May Concern:

I am requesting that the records described below be made available for inspection, pursuant to the Washington Public Records Act (RCW §42.56 et seq.). In accordance with RCW 42.56.520, you must, within five business days of receipt of this request, respond and let me know the status of the request and how soon you will be able to produce all discoverable records.

I am researching the resultant interactions between parking ordinances that limit one's ability to reside in one's vehicle and persons experiencing homelessness. Please let me know if there is a more appropriate department with which I should be corresponding and/or if your municipality is already tracking enforcement data on how parking ordinances affect persons experiencing homelessness. Specifically, I am requesting certain information (see specific questions below) pertaining to citations issued due to violations of the following [City] Municipal Codes:

[Code section 1]

[Code section 2]

[Code section 3]

[Repeat as necessary]

I am requesting all relevant records related to the following questions for the time period between [Date and Date]:

1. How many total citations were issued under the city codes specified above?
2. How many citations were issued per each separate city code specified above?
3. How many of the citations were issued to people who were homeless/transient?
4. Of the citations issued to homeless/transient individuals, how many citations were issued per each separate city code specific above?
5. How many of these citations were resolved, or how many are still outstanding?
6. What are the consequent fines that result from any citation issued pursuant to violations of the city codes specified above?

²⁷⁶ OLSON & MACDONALD, *supra* note 9.

7. How many people spent time in custody as a result of these citations and how much time did they spend in custody?
8. How many cases led to the issuance of a warrant? How many were brought to the station and/or sent to jail?
9. What are the consequent fines/additional charges that are a result of a failure to appear for these citations?
10. How many vehicles were towed, impounded, or immobilized as a result from any citation issued pursuant to violations of the city codes specified above?
11. How many citations were issued to persons that had been previously ticketed under the same city codes specified above?

At this time, please refrain from making copies of any responsive documents. Instead, please contact me to schedule a time for me or my representatives to inspect the documents requested above, at which time we will select those documents we would like copied. You may send any written responses to this request to:

[Supervisor]
[Institution]
[Address]
[Tel]

If any documents are withheld in whole or in part, please specify the reason for withholding such document or any portion thereof. For any document withheld in its entirety, please state the name and date of the document as well as the number of pages within the document. To the extent that portions of the request are specifically exempted from disclosure, please provide all non-exempt portions as allowed for under the Washington Public Records Act. To the extent that any portion of the requested records contain classified information, please redact such information and furnish the requested records.

We very much appreciate your attention to this request. If there are questions or concerns about the records request, please feel free to contact me.

I look forward to hearing from you within five business days. Thank you for your assistance.

Very truly yours,

[Name]
[Title]
[Institution]
[Address]

C. Follow Up Records Request

The cities that HRAP requested records from experienced difficulty answering many of the demographic questions asked. As such, researchers modified the request to the following:

1. Please provide the Ticket Address, Ticket Charge Status, Ticket Date and Time, and Ticket Number for the above codes?
2. How many of these citations were resolved, or how many are still outstanding?
3. What are the consequent fines that result from any citation issued pursuant to violations of the city codes specified above?
4. How many people spent time in custody as a result of these citations and how much time did they spend in custody?
5. How many cases led to the issuance of a warrant? How many were brought to the station and/or sent to jail?
6. What are the consequent fines/additional charges that are a result of a failure to appear for these citations?
7. How many vehicles were towed, impounded, or immobilized as a result from any citation issued pursuant to violations of the city codes specified above?
8. How many citations were issued to persons that had been previously ticketed under the same city codes specified above?

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