



Southern Poverty Law Center
400 Washington Ave
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September 15, 2023

Via email: registry@ohchr.org; srhousing@ohchr.org

Re: UN Human Rights Call for Input: Decriminalize Homelessness and Extreme Poverty

Dear Special Rapporteur on the right to adequate housing and Special Rapporteur on extreme poverty and human rights:

On behalf of the Southern Poverty Law Center and the Southern Poverty Action Fund (“SPLC” and “SPLCAF”), we write in response to your call for input on the decriminalization of homelessness and extreme poverty. For more than 50 years, SPLC has been a catalyst for social change in the South, partnering with impacted communities to challenge discriminatory actions and advancing policies aimed at improving the lives of people in the South. We have offices in five U.S. states in the Deep South: Alabama, Georgia, Mississippi, Louisiana, and Florida. Our core impact issues include eradicating poverty; decriminalizing and decarcerating Black and Brown people; protecting voting rights and civic engagement; and dismantling white nationalism and extremism.

We aim to eradicate poverty by expanding access to opportunity and eliminating racial and economic inequality in all facets of life including education, employment, and public infrastructure and supports. We believe housing is a human right, and housing stability is fundamental to economic well-being. Our deep expertise on the root causes of poverty in the South drives our work to advance the human right to housing across the Deep South with a focus on rooting out race discrimination that is entrenched at all levels of our housing laws and policies.

SPLC has been working to stop the cycle of homelessness and incarceration by advocating for the decriminalization of status offenses that are targeted, or disproportionately enforced, against houseless individuals.¹ Instead of investing in solutions targeted at the root causes of the housing crisis, communities across the country use the criminal justice system to punish unhoused people for conduct necessary to survive—such as sleeping, camping, sitting or lying down, storing personal property, asking for help, or otherwise being physically present in public places. Homelessness is a driver of mass incarceration, filling county jails due to over-policing, pretrial detention, and repeated convictions for minor offenses.

Within our focus states, local and state governments are responding to encampments and the visibility of homelessness with laws and policies intended to drive people using punitive policies from public places where they are forced to live. Often, these policies take the form of local

¹ Kirsten Anderson, “Defending Unhoused people: SPLC fights back against discriminatory ordinances that punish individuals who do not have homes,” SPLC, Nov. 4, 2022. <https://www.splcenter.org/news/2022/11/04/defending-unhoused-people>



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ordinances that target unhoused people for conduct essential to survival: sleeping/camping, lying down/sitting, asking for charity, or otherwise being physically present in public places (loitering, trespass). People simply have nowhere else to go.

Housing is too expensive, and there are not enough shelter beds. In most U.S. states, it is near impossible for someone who works full-time for minimum wage to afford rent for a modest two-bedroom apartment.² In SPLC’s five-state region, a person would need to earn between \$17.21 (Mississippi) and \$30.59 (Florida) per hour – the federal minimum wage currently stands at \$7.25, and many states not only lack laws providing for a higher minimum wage instead have laws prohibiting local governments from increasing it. For example, after the City of Birmingham, Alabama passed a local ordinance to increase the minimum wage to \$10.10, the state legislature enacted a law retroactively prohibiting cities and counties from increasing the minimum wage.³

Policies that target unhoused people for conduct essential to survival do nothing to address the root causes of homelessness, instead, they punish people for their economic situation and disproportionately impact Black people. There is a concerted effort by ultra-conservative groups like the Cicero Institute⁴ to end housing-first solutions that address homelessness.⁵ It is noteworthy that these are often the same groups pushing anti-student inclusion policies and opposing the teaching of truthful history about race in the U.S. This issue also intersects with the over-policing of Black communities, as Black people make up a disproportionate 37% of all persons experiencing homelessness nationwide while only making up 13% of the general population.⁶

1. Examples of Problematic Laws, Regulations, and Ordinances in the Deep South states

a. Laws or regulations that prohibit begging, soliciting, camping, sleeping, or performing life activities in public places.

² National Low Income Housing Coalition, Out of Reach Report, <https://nlihc.org/org>

³ Zachary Roth, “Birmingham Raises Minimum Wage and Alabama Takes It Away, ABC News,” Feb. 26, 2016, <https://www.nbcnews.com/news/nbcblk/birmingham-raises-minimum-wage-alabama-takes-it-away-n526806#:~:text=Alabama%20passed%20a%20bill%20Thursday,it%20wipes%20out%20Birmingham%27s%20raise.>

⁴ Jason DeParle, “Federal Policy on Homelessness Becomes New Target of the Right,” New York Times, June 20, 2023, <https://www.nytimes.com/2023/06/20/us/politics/federal-policy-on-homelessness-becomes-new-target-of-the-right.html>

⁵ Kristian Hernandez, “Homeless Camping Bans Are Spreading. This Group Shaped the Bills, STATELINE, Apr. 8, 2022, <https://stateline.org/2022/04/08/homeless-camping-bans-are-spreading-this-group-shaped-the-bills/>

⁶ National Alliance to End Homelessness, Homelessness and Racial Disparities, <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/>



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Below is a summary of some of the relevant laws, regulations, ordinances, and initiatives in the Deep South that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places, and whether they are still in force and enforced, and attached appendix of relevant bill text.⁷

State of Alabama:

In 2019, the City of Montgomery enacted an ordinance that imposed penalties on the solicitation of donations, including mandatory jail time.⁸ While the city ultimately repealed the ordinance, the city continued to enforce two state statutes that also criminalized the solicitation of charitable donations. SPLC, along with the ACLU of Alabama and the National Homelessness Law Center, filed a federal lawsuit to stop the city from enforcing the statutes. In the two years before the suit was filed, the city issued more than 400 citations.⁹ In 2023, the court granted SPLC's unopposed motion for summary judgment against the state police, permanently ordering the state to stop enforcement of the two statutes. SPLC previously reached a settlement with the City of Montgomery and the Sheriff of Montgomery County. Despite the court finding in March 2023 that two Alabama statutes prohibiting solicitation of donations for personal use are constitutionally protected speech,¹⁰ Alabama passed a bill criminalizing loitering on public roadways maintained by the state, or in the right-of-way of a public roadway maintained by the state, which includes criminal penalties for violations.¹¹ Then the state of Alabama filed an appeal arguing that begging falls outside of the First Amendment because it contends the fact that vagrancy was a crime at the founding of the country justifies censoring speech of persons asking for charity. SPLC's response brief notes that all Eighth Circuit courts (and every state supreme court) that have reached this issue disagree with the State's position and trace the connection between the criminalization of begging and forced labor at this country's founding. It also details the history of vagrancy laws in the U.S. South, and they were used as part of the Black Codes to keep newly emancipated people in a state of racial and economic subjugation. This case is pending.

⁷ For an additional overview of relevant laws: Housing Not Handcuffs 2021: State Law Supplement, Nov. 2021, <https://homelesslaw.org/wp-content/uploads/2021/11/2021-HNH-State-Crim-Supplement.pdf>

⁸ Ala. § 13A-11-9, [https://codes.findlaw.com/al/title-13a-criminal-code/al-code-sect-13a-11-9/#:~:text=\(a\)%20A%20person%20commits%20the,for%20the%20purpose%20of%20gambling.](https://codes.findlaw.com/al/title-13a-criminal-code/al-code-sect-13a-11-9/#:~:text=(a)%20A%20person%20commits%20the,for%20the%20purpose%20of%20gambling.)

⁹ Civil Rights Group File Lawsuit Over Alabama's Laws Criminalizing Panhandling, Feb. 13, 2020, <https://www.splcenter.org/presscenter/civil-rights-groups-file-lawsuit-over-alabamas-laws-criminalizing-panhandling>

¹⁰ Micah West, If seeking help is a crime, HB24 will make us all criminals, Montgomery Advertiser, Jun. 19, 2023, <https://www.montgomeryadvertiser.com/story/opinion/contributors/2023/06/19/if-seeking-help-is-a-crime-hb24-will-make-us-all-criminals/70336325007/>

¹¹ Ala. HB24, <https://legiscan.com/AL/text/HB24/2023>



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In 2022, SPLCAF and other advocates fought and defeated a proposal to enact a Mobile, Alabama ordinance that would have prohibited camping or leaving personal property unattended within the city of Mobile. Violators could be subject to fines of \$100 to \$500 per violation or face up to 6 months in jail.¹²

State of Florida:

Cities in South Florida—including Miami and Miami Beach, Florida— have taken several actions to criminalize unhoused people or their advocates for life-sustaining activities. In 2020 in the wake of the pandemic, the city of Miami passed an ordinance criminalizing food sharing or feeding persons experiencing homelessness in groups of 25 or more without a permit.¹³ One city in South Florida that had a similar restriction, spent 7 years in federal court defending its ban on sharing food in public parks as a social service. This case resulted in two federal court decisions that ultimately struck down the City of Fort Lauderdale’s park rules as unconstitutional infringements on the free speech rights of a political group that shares food with homeless and hungry persons in outdoor parks to demonstrate food is a human right.¹⁴ In 2021, The City of Miami passed an anti-camping ordinance that prohibits encampments on public property.¹⁵ And the Miami Beach city council just voted to amend this ordinance to allow police to arrest homeless people.¹⁶

In 2021, the city of Ocala, Florida had an open lodging ordinance and trespass policy that resulted in police arresting hundreds of homeless people for sleeping outside. A federal court in Florida stopped the City of Ocala from enforcing its lodging ordinance because arresting people experiencing homelessness for sleeping/camping when there is no available shelter is cruel or unusual punishment under the Eighth Amendment.¹⁷ Three plaintiffs spent a combined 210 days in jail and were assessed \$9,000 in fines, fees, and court costs for violating the Ocala ordinance.

¹² “Is anti-camping ordinance aimed at Mobile’s homeless? Council set to debate,” Jan. 24, 2022, <https://www.al.com/news/2022/01/is-anti-camping-ordinance-aimed-at-mobiles-homeless-council-set-to-debate.html>

¹³ See MIA., FLA., CODE 2020 § 25-25.

¹⁴ Amanda Robert, Limit on food distribution to homeless people in parks violate First Amendment, 11th Circuit rules, ABA Journal, Sept. 3, 2021, <https://www.abajournal.com/news/article/limit-on-food-distribution-to-homeless-people-in-parks-violates-first-amendment-11th-circuit-rules>

¹⁵ See Commission passes anti-camping ordinance, MIA. TIMES, Nov. 3, 2021, https://www.miamitimesonline.com/news/local/commission-passes-anti-camping-ordinance/article_c5bc6238-3c2c11ec-9085-4f36d2f85a84.html.

¹⁶ Deidra Funcheon, “Miami Beach camping ordinance would crack down on homeless population ,” Axios Miami, Sep. 11, 2023, https://www.axios.com/local/miami/2023/09/11/miami-beach-ordinance-camping-homeless-vacate; Miami, FL Sec. 70-45, https://library.municode.com/fl/miami_beach/codes/code_of_ordinances?nodeId=SPAGEOR_CH70MIOF_ARTIIP_UPL_DIV1GE_S70-45CAPR

¹⁷ *McArdle v. City of Ocala*, 519 F. Supp. 3d 1045 (M.D. Fla. 2021)



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State of Georgia:

Georgia has been working to ban and criminalize public camping and sleeping and to reduce funding for permanent supportive housing and other housing-first solutions in favor of state-sanctioned encampments. During the 2022 legislative session, the Georgia State Senate introduced SB 535, a bill directly lifted from a right-wing lobbying group, the Cicero Institute.¹⁸ This group is leading efforts to end housing-first solutions to end homelessness and instead proposes further criminalization of unhoused individuals and the creation of state-run camps. SB 535 was blocked from passage and sent to a study committee. The study committee's final report included many of these proposals alongside dedicating funding to state-sanctioned encampments.¹⁹

During Georgia's 2023 legislative session, a new bill targeting public camping and sleeping laws was introduced and ultimately passed.²⁰ This state bill also prohibited local ordinances or policies relating to camping or sleeping and triggered statewide audits of state and local homeless funding, in order to preempt more progressive local policy.²¹ SPLCAF along with other advocates were able to mitigate the worst harms of the bill, including avoiding "qui tam" lawsuits against non-compliant municipalities, and striking language that directed unallocated ARPA funds to the creation of state-sanctioned encampments. SB 62 now only prohibits cities from passing any resolutions that prohibit enforcement of camping bans that are already on the books and will require a financial audit of nonprofits receiving HUD Continuum of Care funds.

State of Louisiana:

In 2022, the city of Baton Rouge passed an ordinance that criminalized camping by homeless individuals.²² SPLCAF advocated against this ordinance, citing constitutional concerns and the fact that there are not enough shelter beds available to accommodate the rising number of emergency and long-term housing solutions. Despite strong opposition, the ordinance passed, with amendments, and is currently in effect, although anecdotally it does not appear to be enforced by the police.²³

State of Mississippi:

¹⁸ Georgia SB 535, <https://www.legis.ga.gov/api/legislation/document/20212022/207090>

¹⁹ Georgia State Senate: Final Report of the Senate Study Committee on Unsheltered Homeless (SR 659) <https://www.senate.ga.gov/committees/Documents/UnshelteredHomelessnessFinalReport.pdf>

²⁰ Sean Keenan, "Opponent: 'Anti-homeless' bill that cracks down on public camping won't help un-housed residents, Apr. 10, 2023, <https://atlantaciviccircle.org/2023/04/10/georgia-legislation-doesnt-help-homeless-people/>; Georgia SB 62, <https://www.legis.ga.gov/api/legislation/document/20232024/213180>

²¹ Georgia SB 62, <https://www.legis.ga.gov/legislation/63809>;

²² Baton Rouge, 13:107, https://hdlegisuite.brla.gov/attachments/2022/legislation_D136F186.pdf

²³ *Id.*



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In 2023, the Mississippi legislature proposed a bill that would prohibit any local ordinance that legalizes camping on streets, roads, sidewalks, or other public property. The bill is currently still being considered this legislative session.²⁴ In 2018, approximately 30 cities in Mississippi had ordinances that related to criminalizing homelessness, including prohibitions and restrictions around begging, soliciting, or panhandling.²⁵ During that time, the National Law Center on Homelessness & Poverty and the ACLU of Mississippi led a letter-writing

²⁴ Housing Not Handcuffs, Emergent Threats: State Level Criminalization, <https://housingnohandcuffs.org/emergent-threats-state-level-criminalization/>; Mississippi SB 2155 <http://billstatus.ls.state.ms.us/documents/2023/pdf/SB/2100-2199/SB2145IN.pdf>

²⁵ Per research shared by ACLU MS: Jackson, MS, Sect 94-2 (repealed) https://library.municode.com/ms/jackson/codes/code_of_ordinances?nodeId=COOR_CH94PESO; Gulfport, MS Sect 7-3, https://library.municode.com/ms/gulfport/codes/code_of_ordinances?nodeId=PTIICOOR_CH7OFMIPR_ARTIINGE_S7-3BE; Southaven, MS, Sec 8-139 (repealed) https://library.municode.com/ms/southaven/codes/code_of_ordinances?nodeId=CO_TITVIIIIMIBURE_CH6SOST; Biloxi, MS Sec. 13-1-17 https://library.municode.com/ms/biloxi/codes/code_of_ordinances?nodeId=COOR_CH13OFMIPR_ARTIINGE_S13-1-16PAPESOEFEFEX; Meridian, MS, 16-1 (repealed) https://library.municode.com/ms/meridian/codes/code_of_ordinances?nodeId=COOR_CH16OFMIPR_ARTIINGE_S16-3BE; Tupelo, MS, 15-86 and 15-153 https://library.municode.com/ms/tupelo/codes/code_of_ordinances?nodeId=COOR_CH4AI_ARTIIIAIRURE_DIV3PUCO_S4-82SO; Greenville, MS, 5-184, 5-171, 8-14 https://library.municode.com/ms/greenville/codes/code_of_ordinances?nodeId=PTIICOOR_CH5LIBURE_ARTVCH_DIV2SO_S5-184SOPUSTUPMEPR; Olive Branch, MS, 34-182(b) (repealed) https://library.municode.com/ms/olive_branch/codes/code_of_ordinances?nodeId=COOR_CH34OFMIPR_ARTVIIIISOWIRI-WPUST; Horn Lake, MS, 32-7(c) https://library.municode.com/ms/horn_lake/codes/code_of_ordinances?nodeId=COOR_CH32STSIOTPUPL_ARTIIPRDOSO; Clinton, MS, 62-6 https://library.municode.com/ms/clinton/codes/code_of_ordinances?nodeId=COOR_CH62OFMIPR_ARTIINGE_S62-6SOST; Ridgeland, MS, 70-91 (repealed) https://library.municode.com/ms/ridgeland/codes/code_of_ordinances?nodeId=CO_CH110TRVE_ARTVPE_S110-136STSTPUSO; Starkville, MS, 30-28 (repealed) https://library.municode.com/ms/starkville/codes/code_of_ordinances?nodeId=COOR_CH30BU_ARTIITRVE_DIVIGE_S30-32ACRO; Vicksburg, MS, 20-34 (repealed) https://library.municode.com/ms/vicksburg/codes/code_of_ordinances?nodeId=PTIICOOR_CH17OFIS_ARTIINGE_S17-36BE; Columbus, MS, 22-37 https://library.municode.com/ms/columbus/codes/code_of_ordinances?nodeId=COOR_CH22PESOTRPU_ARTIIICHSO; Pascagoula, MS, 54-91(b) https://library.municode.com/ms/pascagoula/codes/code_of_ordinances?nodeId=COOR_CH54OFMIPR_ARTIVOFINPUPEOR_DIVIGE_S54-91BE; Brandon, MS, 54-76 (repealed) https://library.municode.com/ms/brandon/codes/code_of_ordinances?nodeId=COOR_CH54PESO_ARTIIISORO; Oxford, MS, Sec 82-3 https://library.municode.com/ms/oxford/codes/code_of_ordinances?nodeId=COOR_CH82PE_S82-1DE; Gautier, MS, Sec 12-51 https://library.municode.com/ms/gautier/codes/code_of_ordinances?nodeId=CO_CH12LIBURE_ARTVSOPEHAITMETRVE; Laurel, MS, 12-17 <http://www.laurelms.com/departments/city-clerk-finance/code-of-ordinances/>; Clarksdale, MS, 14-7(c) https://library.municode.com/ms/clarksdale/codes/code_of_ordinances?nodeId=PTIICOOR_CH14OFMIPR_ARTIINGE_S14-7BESOEXPE; Ocean Springs https://library.municode.com/ms/ocean_springs/codes/code_of_ordinances_zoning_and_subdivisions?nodeId=CH20.5SEITREEN; Hattiesburg, Peal, Madison not available online.



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campaign that succeeded in getting Jackson, Southaven, Meridian, Olive Branch, Ridgeland, Starkville, Vicksburg, Brandon, and Corinth to repeal their ordinances.²⁶

The State of Tennessee²⁷:

The Tennessee state legislature passed a law last year that would make it a class E felony with up to six years in prison and a \$3,000 fine for campers sleeping overnight on an interstate exit or under a bridge.²⁸ Tennessee became the first state in the U.S. to make sleeping outside a felony, which not only carries significant prison time but also the loss of voting rights--effectively making it a crime to be homeless in the entire state.²⁹

It is also important to note that in addition to criminalizing people experiencing homelessness, many cities in the U.S. are even criminalizing people for attempting to help them. These local ordinances, including some in SPLC's region, ban activities such as providing food or other necessities in places like public parks.³⁰ According to reports from the National Coalition for the Homeless, 26 cities passed food-sharing bans, similar to the one in Miami, Florida, some even making it punishable by imprisonment.³¹ A volunteer group in Houston, Texas, is fighting fines of nearly \$25,000 levied as a penalty for providing meals to homeless people near the public library.³²

²⁶ See e.g., letter from the ACLU Mississippi and the National Law Center on Homelessness & Poverty to the Mayor of Jackson, MS, Aug. 28, 2018, <https://www.aclu-ms.org/en/panhandling>

²⁷ While outside our core focus state, this is one of the most egregious examples of criminalization that warrants attention.

²⁸ The Associated Press, "Tennessee is about to become the 1st state to make camping on public land a felony, NPR, May 26, 2023, <https://www.npr.org/2022/05/26/1101434831/public-camping-felony-tennessee-homeless-seek-refuge>; <https://apnews.com/article/nashville-tennessee-homelessness-poverty-1b79a1ac05d2a8b38597a1646004553b>; <https://law.justia.com/codes/tennessee/2021/title-39/chapter-14/part-4/section-39-14-414/#:~:text=It%20is%20an%20offense%20for.agency%20responsible%20for%20the%20land.>

²⁹ The Associated Press, "Tennessee is about to become the 1st state to make camping on public land a felony, NPR, May 26, 2023, <https://www.npr.org/2022/05/26/1101434831/public-camping-felony-tennessee-homeless-seek-refuge>; TN Code § 39-14-414 (2021) <https://codes.findlaw.com/tn/title-40-criminal-procedure/tn-code-sect-40-35-111.html>

³⁰ Ashlie D. Stevens, "'Criminalizing the Samaritan:' Why cities across the US are making it illegal to feed the homeless, Salon, Aug. 7, 2023, <https://www.salon.com/2023/08/07/criminalizing-the-samaritan-why-cities-across-the-us-are-making-it-illegal-to-feed-the-homeless/>.

³¹ National Coalition for the Homeless, NCH Publications, <https://www.nationalhomeless.org/publications/>; Ashlie D. Stevens, "Criminalizing the Samaritan: Why cities across the US are making it illegal to feed the homeless," Salon, Aug. 7, 2023, <https://www.salon.com/2023/08/07/criminalizing-the-samaritan-why-cities-across-the-us-are-making-it-illegal-to-feed-the-homeless/>; "Criminalizing kindness: US woman arrested for feeding homeless people sues, Guardian, Oct 28, 2022, <https://www.theguardian.com/us-news/2022/oct/28/arizona-woman-arrested-homeless-people-criminalizing-kindness>

³² Amanda Holpuch, Houston Volunteers Fight Tickets for Serving Meals to Homeless People, New York Times, Aug. 6, 2023, <https://www.nytimes.com/2023/08/06/us/houston-food-not-bombs-fined-feeding-homeless.html>.



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b. Laws or regulations that allow for petty offences the detention or imprisonment of individuals who are unable to pay the respective fine.

There is a proliferation of state practices that punish low-income people who cannot afford to pay fines and fees. This includes states and municipalities collecting more fines and fees to generate revenue and using private probation companies to extort money from individuals too poor to pay the cumulative fees arising from a petty offense.³³ For example, in Montgomery, Alabama, when an individual receives traffic tickets or other low-level crimes and is unable to pay the full fee, the individual can be sentenced to probation and put into a debt collection scheme where they could be sentenced to jail time if they fail to make payments.³⁴ Similar schemes are used in cities around the South, often through a contract with a private, for-profit probation company that charges the individual a monthly fee.³⁵

In Valley, Alabama, the city sparked international outrage after city police handcuffed and arrested an 82-year-old Black woman whose only source of income was social security for falling behind \$77 on her trash bill.³⁶ It turned out the arrest was routine: for at least two decades, the city of Valley has relied on suspension of trash services, fines, and criminal prosecution to coerce payment of overdue trash bills, regardless of a person's ability to pay. Our research found over 800 criminal cases that the city brought over two decades and found striking racial disparities.³⁷ Although only 38% of city residents are Black, 63% of City arrests for alleged failure to pay trash fees were of Black people. Forty percent of arrests were of Black women alone. The City prosecutor agreed to stop prosecuting the offense, to support a waiver of financial obligations for people with past convictions, and moved to remit outstanding fees and costs in every open case we could identify for individuals who had been prosecuted for failing to pay their garbage bills and the court entered orders doing so. Other states in the South have

³³ SPLC, "The Return of Debtors Prisons,"

https://www.splcenter.org/sites/default/files/debtors_prison_factsheet_0116_4.pdf

³⁴ Fine & Fees Justice Center, *Carter v. Montgomery*, <https://finesandfeesjusticecenter.org/articles/carter-v-montgomery/>, *Carter v. Montgomery*, 473 F. Supp. 3d 1273 (M.D. Ala. 2020), <https://casetext.com/case/carter-v-city-of-montgomery-9>

³⁵ See <https://www.splcenter.org/seeking-justice/case-docket/gina-harper-et-al-v-professional-probation-services-inc-et-al> While the SPLC lawsuit against the private probation services, the city of Gardendale, and the Municipal judge was able to alleviate the problem in Alabama, this predatory private probation company remains active in Georgia and Florida.

³⁶ "I'm so serious, laughing Alabama officer tells 82-year-old woman arrested for not paying trash bill, Dec. 23, 2022, <https://www.al.com/news/2022/12/im-so-serious-laughing-alabama-officer-tells-82-year-old-woman-arrested-for-not-paying-trash-bill.html>

³⁷ Dwayne Fatheree, "Trashing their rights: Alabama town uses 'Debtors' Prison; for people who fall behind on garbage bills," Mar. 31, 2023, <https://www.splcenter.org/news/2023/03/31/alabama-town-debtors-prison-garbage-bills>



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similar laws that impose fines on petty offenses that potentially create a vicious extortive cycle on individuals unable to pay.

2. Comments on whether any of these laws and regulations may violate international human rights law.

Panhandling laws have origins in vagrancy laws designed to criminalize African Americans after the Civil War. They reinforce unfounded stereotypes about homelessness, addiction, and mental illness. Criminalization laws exacerbate rather than alleviate the challenges of the homeless population. Criminalizing poverty and homelessness can prolong the problems that this body is trying to solve. When individuals are arrested for violating these “camping bans,” the individuals are punished for having nowhere to sleep or shelter themselves. They then must deal with criminal histories, fines, fees, and other collateral consequences of being convicted, which create new barriers for these individuals to overcome as they try to get out of a situation where they do not have safe and permanent housing.

Many of the Deep South counties and municipalities have ordinances or rules for unsheltered homeless people that simply disperse unsheltered individuals, and cut them off from any available community resources, potential friends or family that may be trying to help them. These ordinances also result in increased contact with law enforcement and drive-up public costs from jailing and prosecuting these individuals. This again creates a hard cycle for people in bad situations to escape. The disproportionate impact of enforcement of laws criminalizing homelessness on Black, indigenous, and Latinx people violates Articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, and Article 26 of the International Covenant on Civil and Political Rights.

Severe shortages of affordable housing units and temporary housing and barriers such as drug testing and background checks make it difficult for people experiencing homelessness to gain temporary and permanent housing. Black people, children, LGBTQ+ individuals, and veterans have higher-than-average periods of individuals experiencing homelessness, due to systemic racism, discrimination, and disparities in housing access.³⁸ Racial disparities in the availability of adequate housing driven by systemic racial discrimination violate Articles 2 and 5 of the United Nations Committee on the Elimination of Racial Discrimination (CERD).

Those who are formerly incarcerated face significant barriers to employment and stable housing, and the imposition of fines, fees, and detention for simply living in poverty.³⁹ As recognized in

³⁸ National Alliance to End Homelessness, Homelessness and Racial Disparities, <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/>

³⁹ Calandra Davis, “Examining the Intersection Between Criminal Justice and Financial Services in the Deep South,” Hope Policy Institute, Jan. 13, 2021, <http://hopepolicy.org/manage/wp-content/uploads/Criminal-Justice-Paper.pdf>



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the United Nations System Common Position on Incarceration, in countries where individuals are incarcerated for reasons directly related to poverty – such as inability to pay fines - “the result is the overrepresentation of minorities and other marginalized groups among prisoners.”⁴⁰

The CERD has also raised concern about the “disproportionately high number of persons belonging to racial and ethnic minorities affected by homelessness” and “women and lesbian gay, bisexual, and transgender persons.”⁴¹ Additionally, laws that criminalize life-sustaining activities such as sleeping, eating, sitting, walking, and relieving oneself, violate the right to life pursuant to Article 6 of the ICCPR.⁴²

Sanctioned camps—without proper oversight and implementation—could violate U.S. law under the Eighth, Fourth, and Fourteenth Amendments of the U.S. Constitution as well as the Americans with Disabilities Act. Several federal courts have found that anti-camping ordinances violate the Eighth Amendment cruel or unusual punishment when there is inadequate shelter for unhoused individuals.⁴³ Other courts have found that anti-camping ordinances may violate the Fourth and Fourteenth Amendments to the extent it results in the unlawful seizure and destruction of an unhoused person’s property.⁴⁴ Sanctioned camp ordinances may also violate the Fourteenth Amendment’s Equal Protection Clause because it discriminates against persons experiencing homelessness, who are the only people who have no choice but to sleep or camp outside and have personal belongings with them in the public places where they live.⁴⁵ The ICCPR also mandates equal protection of the law in Article 26, prohibiting discrimination “*on any ground* such as race, colour, sex, language, religion, political or other opinion, national or social origin, *property*, birth or *other status*.”

Camping ordinances likely violate the Fourteenth Amendment’s substantive due process, which protects a person from arbitrary, wrongful government action regardless of the fairness of the

⁴⁰ United Nations System Common Position on Incarceration, Apr. 2021, https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf

⁴¹ See the NHLHC and Miami Law Report to the United Nations Human Rights Committee for the United States’ review of the International Covenant on Civil and Political Rights, Sep. 12, 2023, <https://homelesslaw.org/wp-content/uploads/2023/09/ICCPR-Report-2023.pdf>

⁴² *Id.*; International Covenant on Civil and Political Rights art. 6, adopted Dec. 16, 1966, 999 U.N.T.S. 171

⁴³ *McArdle v. City of Ocala*, 519 F. Supp. 3d 1045, 1052 (M.D. Fla. 2021); *Martin v. City of Boise*, 920 F.3d 584, 616 (9th Cir. 2019); *Blake v. City of Grants Pass*, No. 1:18-CV-01823, 2020 WL 4209227, at *6 (D. Or. July 22, 2020).

⁴⁴ See *Lavan v. City of Los Angeles*, 693 F.3d 1022, 1027–30 (9th Cir. 2012); *United States v. James Daniel Good Real Property*, 510 U.S. 43, 53 (1993); *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1573 (S.D. Fla. 1992) (holding that the city’s seizure of an unhoused person’s personal belongings in public areas violated the Fourth Amendment).

⁴⁵ See *McArdle*, 519 F. Supp. 3d at 1055 (denying City’s motion for summary judgment and concluding that it would violate equal protection “if no inquiry of the availability of shelter space is made prior to an individual’s arrest” for camping on public property).



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procedures used to implement them. Courts have suggested that it may violate substantive due process to outlaw sleeping in public where there are insufficient alternatives.⁴⁶

U.S. Courts have found that laws that criminalize the soliciting of donations and begging violate the First Amendment's protection of free speech, as well as the right to freedom of expression as protected in Article 19 of the ICCPR.⁴⁷ U.S. Federal Courts have long found that solicitation is protected speech under the First Amendment.⁴⁸ In *Reed v. Town of Gilbert*, the Supreme Court found that when the government prohibits speech based on its content, these prohibitions are subject to the strict scrutiny standard. Federal courts have consistently struck down panhandling prohibitions to be unconstitutional, content-based speech restrictions.⁴⁹

3. Examples of efforts and initiatives to change law enforcement or incentivize support for people living in poverty.

In our region, there are limited examples of attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping, or performing personal hygienic activities in public places. On the contrary, some states have enacted laws to preempt positive local or municipal efforts to decriminalize people experiencing homelessness or living in poverty.⁵⁰ There are some initiatives by the Federal Government to change the response of law enforcement officials and of the criminal justice system from penalization, punishment, or detention, towards facilitating social inclusion of persons living in poverty or experiencing homelessness.⁵¹ However, in the U.S. South there is scant evidence of these types of initiatives moving, instead we are seeing an increase of punitive

⁴⁶ See, e.g., *McArdle v. City of Ocala*, 418 F. Supp. 3d 1004, 1008 (M.D. Fla. 2019) (denying City's motion to dismiss plaintiffs' substantive due process claim that the City was using the ordinance to arrest and incarcerate unhoused people for sleeping or resting while awake because they were homeless).

⁴⁷ SPLC, Federal Judge Rules that Alabama Laws Criminalizing Homelessness are Unconstitutional, Mar. 14, 2023, <https://www.splcenter.org/news/2023/03/14/alabama-law-solicitation-donation-unconstitutional>

⁴⁸ Brian Edwards, Montgomery Ramps Up Penalties for Panhandlers, Hopes to Deter Frequent Rulebreakers, *Montgomery Advertiser* (July 2, 2019) available at <https://www.montgomeryadvertiser.com/story/news/2019/07/02/montgomery-ramps-up-penalties-panhandlers-hopes-deter-frequent-rulebreakers/1634242001/>

⁴⁹ *Loper v. New York City Police Dep't*, 999 F.2d 699, 704 (2d Cir. 1993); *ACLU v. Las Vegas*, 466 F.3d 784, 792 (9th Cir. 2006); *Speet v. Schuette*, 726 F. 3d 867, 875 (6th Cir. 2013); *Reynolds v. Middleton*, 778 F.3d.222, 225 (4th Cir. 2015); *McLaughlin v. City of Lowell*, 140 F. Supp.3d 177, 189 (D. Mass. 2015); *Brown v. City of Grand Junction*, 136 F. Supp. 3d 1276, 1289 (D. Colo. 2015); *Homeless Helping Homeless Inc. v. City of Tampa, Fla.*, No. 8:15-CV-1219-T-23AAS,2016 WL 4162882 (M.D. Fla. Aug. 5, 2016).

⁵⁰ See Georgia and Mississippi. We have seen a trend in states in the South using preemption to block local progressive policies aimed at advancing economic equity and protecting people of color, women, and workers, see <https://www.epi.org/publication/preemption-in-the-south/>

⁵¹ See e.g. USICH criminal justice strategies, <https://www.usich.gov/solutions/criminal-justice/>



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policies particularly with the rise of statewide Cicero bills in places like Tennessee and Georgia.

- a. Measures and services available at national, regional or municipal level to support people living in poverty or in situations of vulnerability from having to resort to begging, sleeping, washing, defecating or performing other hygienic activities in public places, because they lack access to employment, social assistance, adequate housing, public showers and toilets.**

The Federal Government has taken some administrative actions and created various coordinated efforts to address homelessness. The U.S. Interagency Council on Homelessness (“USICH”), which includes 19 federal member agencies, is working to address the problem of unsheltered homelessness.⁵² The administration also rolled out All In: The Federal Strategic Plan to Prevent and End Homelessness.⁵³ One localized effort is the Biden-Harris ALL INside project, which invested more than \$2.5 billion in projects focused on reducing and preventing homelessness and providing funds in six state and local efforts: Chicago, Dallas, Los Angeles, Phoenix, Seattle, and State of California.⁵⁴ This pilot project embeds dedicated federal officials in the community to accelerate local system changes, deploys a dedicated team to identify opportunities for regulatory relief and federal funding assistance, and convenes private philanthropic opportunities.

The U.S. Housing and Urban Development Agency (“HUD”) led various initiatives to help support people who are housing unstable and potentially facing criminal charges. For example, in 2015, HUD updated its application for the continuum of care grant to incentivize grant recipients to reduce and prevent the criminalization of unhoused people.⁵⁵ The current Secretary of HUD has also been outspoken about condemning the clearing of encampments and advancing Housing First solutions.⁵⁶ HUD recently announced it would be providing more than \$3.1 billion in competitive funding to homeless services across the country to be

⁵² United States Interagency Council on Homelessness, <https://www.usich.gov/>

⁵³ All In: The Federal Strategic Plan to Prevent and End Homelessness, Dec. 2022, https://www.usich.gov/All_In_The_Federal_Strategic_Plan_to_Prevent_and_End_Homelessness.pdf

⁵⁴ The White House: Factsheet: Biden-Harris Administration Announces New Initiative to Tackle Unsheltered Homelessness, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/18/fact-sheet-biden-harris-administration-announces-new-initiative-to-tackle-unsheltered-homelessness/>

⁵⁵ Criminalization of Homelessness Factsheet, Eric Tars, Legal Director, National Homelessness Law Center, https://nlihc.org/sites/default/files/AG-2021/06-08_Criminalization-of-Homelessness.pdf; HUD Continuum of Care Grant Application, <https://files.hudexchange.info/resources/documents/Revised-FY-2015-CoC-Program-NOFA.pdf>

⁵⁶ Sec. Marcia Fudge, To address homeless encampments, we must put housing first, Apr. 28, 2023, <https://thehill.com/opinion/congress-blog/3978950-to-address-homeless-encampments-we-must-put-housing-first/>



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spent on supportive services and housing programs.⁵⁷ Furthermore, HUD has analyzed and released data showing that pandemic relief efforts such as emergency rental assistance, eviction moratoria, stimulus payments, and expanded unemployment insurance and Child Tax Credits-temporarily reduced homelessness and prevented a rise in housing instability during the COVID-19 pandemic.⁵⁸

Several local and state pilot projects have focused on guaranteed income to address homelessness. In Atlanta, the Income Mobility Program for Atlanta Community Transformation (I.M.P.A.C.T.) provides residents with unrestricted cash payments of \$500 per month for one year.⁵⁹ The City of Birmingham partnered with the Mayors for a Guaranteed income program, Embrace Mothers that provides \$375 a month for 12 months through a random drawing.⁶⁰ In Jackson, Mississippi, the Springboard to Opportunities, a resident-driven non-profit created a new initiative, The Magnolia Mother's Trust, that provides low-income Black mothers \$1,000 cash on a monthly basis, no strings attached, for 12 months.⁶¹ In Ann Arbor Michigan, the city allocated \$1.6 million of its Federal American Rescue Plan dollars to fund the program with University of Michigan's Poverty Solutions to pilot a guaranteed basic income program aimed at low- and moderate-income entrepreneurs in Ann Arbor.⁶² New York City also launched a public-private 2-year partnership that provides \$1,250 per month of direct cash transfers and optional supportive services to young adults experiencing homelessness, with a similar goal to study the impacts.⁶³ In Santa Clara, California, 150 families experiencing or at risk of homelessness will receive \$1,000 a month of income for two years as part of the Silicon Valley Guaranteed Income Project.⁶⁴

Addressing mental health needs is another avenue some states are taking to help individuals experiencing homelessness. In 2022, Georgia enacted The Mental Health Parity Project to

⁵⁷ HUD announces more than \$3.1 billion to help people experiencing homelessness, Jul. 5, 2023,

https://www.hud.gov/press/press_releases_media_advisories/hud_no_23_134

⁵⁸ USICH, Federal Strategic Plan, Aug. 28, 2023, <https://www.usich.gov/news/new-hud-data-show-federal-covid-relief-prevented-rise-in-homelessness>

⁵⁹ Guaranteed Income Pilots Dashboard, <https://guaranteedincome.us/atlanta>

⁶⁰ Embrace Mothers, <https://www.birminghamal.gov/embracemothers>

⁶¹ The Magnolia Mother's Trust, <https://springboardto.org/magnolia-mothers-trust/>

⁶² "Ann Arbor to pilot guaranteed basic income program in partnership with University of Michigan's Poverty Solutions," Jun. 6, 2023, <https://poverty.umich.edu/2023/06/06/ann-arbor-to-pilot-guaranteed-basic-income-program-in-partnership-with-university-of-michigans-poverty-solutions/>

⁶³ Public-Private Partnership Launches the First Direct Cash Transfer Study for Addressing Young Adult Homelessness. First Project Begins in New York City. NYC Nonprofit Agencies Can Apply For Funding To Staff And Implement The Pilot Program. PRNewswire, Jun. 15, 2021, <https://www.prnewswire.com/news-releases/public-private-partnership-launches-the-first-direct-cash-transfer-study-for-addressing-young-adult-homelessness-first-project-begins-in-new-york-city--nyc-nonprofit-agencies-can-apply-for-funding-to-staff-and-implement-the-pilo-301314199.html>

⁶⁴ Destination Home, Guaranteed Income, <https://destinationhomesv.org/our-strategies/guaranteed-income>



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expand mental health coverage across the state and create a commission designed to coordinate new initiatives to keep people out of the criminal legal system and provide services to improve outcomes for those experiencing homelessness.⁶⁵ This project was modeled after the Federal Mental Health Parity and Addiction Equity Act.⁶⁶

The Mayor of the City of Atlanta, Georgia signed an executive order in August 2023 to invest \$4 million into a new housing plan for residents experiencing homelessness.⁶⁷ This project would refurbish shipping containers donated by the Georgia Management Agency into places to live for the unhoused. While welcomed, the effort comes more than six years after the city worked with downtown business interests to force the closure of Atlanta's largest homeless shelter, leaving hundreds of people with nowhere to go.⁶⁸

Some efforts to combat homelessness include bringing together funds through public-private partnerships. For example, in Seattle, Washington, Amazon, Starbucks, Microsoft, and the Bill & Melinda Gates Foundation, and Steven and Connie Balmer committed more than \$10 million to address homelessness.⁶⁹

Milwaukee, Wisconsin has had zero families living on the streets since 2020.⁷⁰ This incredible process is credited to cross-system solutions. In 2020, the United Way partnered with the Milwaukee Continuum of Care to develop the Safe and Stable Homes: Ending Family Homelessness (SASH) Initiative. This interagency group meets quarterly to adopt collaborative strategies and focus on 1) conducting a community-wide education and fundraising campaign to cover the cost of the strategies; 2) researching and sharing best practices for homelessness prevention; and 3) evaluating SASH's programs, policies, and progress. For example, in Ozaukee County, daily calls occur between family shelters and rapid rehousing providers to ensure families are quickly provided emergency shelter, housing vouchers, and homelessness prevention resources. In Milwaukee County, weekly prevention meetings are spent matching at-risk clients with case managers to slow the flow of families into homelessness and shelters. Milwaukee County also implemented Eviction Free MKE, which provides free and same-day

⁶⁵ Georgia HB 1013, <https://www.legis.ga.gov/legislation/61365>

⁶⁶ CMS.gov, The Mental Health Parity and Addiction Equity Act, <https://www.cms.gov/marketplace/private-health-insurance/mental-health-parity-addiction-equity>

⁶⁷ Dormiya Vance, City of Atlanta invests \$4 million into new housing plan for homeless residents, Aug. 8, 2023, <https://www.wabe.org/city-of-atlanta-and-partners-invest-4-million-into-new-housing-plan-for-homeless-individuals/>

⁶⁸ Sam Whitehead, "Atlanta's Homeless Face Uncertain Future As Peachtree-Pine Closes, Georgia Public Broadcasting," Aug. 25, 2017, <https://www.gpb.org/news/2017/08/25/atlantas-homeless-face-uncertain-future-peachtree-pine-closes>

⁶⁹ "Companies, philanthropists award \$10 million to combat homelessness," Philanthropy news, Feb. 22, 2022, <https://philanthropynewsdigest.org/news/companies-philanthropists-award-10-million-to-combat-homelessness>

⁷⁰ USICH, Milwaukee is Close to Ending Family Homelessness, Jul. 25, 2023, <https://www.usich.gov/news/milwaukee-is-close-to-ending-family-homelessness.-heres-how>



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legal representation to help low-income people avoid eviction and thus homelessness. They also created Family Flex Fund, a flexible cash pot to help families who need it but don't qualify for certain government assistance. This fund had tiers of financial and case management support that could be used for rental, energy, or material needs for families.

4. Closing

The SPLC believes that the best way to address homelessness is to create “Housing First” policies that prioritize providing permanent housing for individuals first to allow them to address their basic needs first, without interposing hurdles that must be cleared to gain access to housing, such as substance abuse treatment or employment. Research also supports that high housing costs are a driving factor to high homelessness and more affordable housing and rental assistance can reduce housing insecurity.⁷¹

Measures that will help lift people out of homelessness include:

- Increasing incentives for the private sector to create and allocate more affordable housing, particularly housing that is affordable to extremely low-income individuals,
- Prioritizing housing first and permanent supportive housing to address complex needs of persons experiencing chronic homelessness instead of measures that punish people for their lack of housing and disabilities,
- Creating incentives, including through federal funding for local and state governments to decriminalize homelessness and instead invest in proven evidence-based solutions,
- Addressing food insecurity and affordable childcare,
- Providing cash payments to individuals,
- Investing in wrap-around services that public schools can provide for low-income families,
- Providing different types of emergency services so that individuals can receive long-term support outside of the criminal legal system, and
- Expanding Fair Housing Laws to protect tenants from income-based discrimination could also help reduce the housing-insecure population.

⁷¹ Alex Horowitz, “How Housing Costs Drive Levels of Homelessness,” Aug. 22, 2023, <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/08/22/how-housing-costs-drive-levels-of-homelessness>; Peggy Bailey, “Addressing the Affordable Housing Crisis Requires Expanding Rental Assistance and Adding Housing Units,” Center for Budget and Policy Priorities, Oct. 23, 2022, <https://www.cbpp.org/research/housing/addressing-the-affordable-housing-crisis-requires-expanding-rental-assistance-and>; Testimony of Anna Oliva, “Ending Homelessness: Addressing Local Challenges in Housing the Most Vulnerable,” Feb. 2, 2022, <https://www.cbpp.org/research/housing/ending-homelessness-addressing-local-challenges-in-housing-the-most-vulnerable>



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Policies that target and criminalize unhoused people for conduct essential to survival do nothing to address the root causes of homelessness, instead, they punish people for their economic situation. We thank you for collecting this important information and appreciate your consideration. Please let us know if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Lau', with a long horizontal flourish extending to the right.

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Cc: Lisa Borden, Senior Policy Counsel, International Advocacy, Southern Poverty Law Center