

# A NATIONAL LEADER IN CRIMINALIZING SINCE 1981

CHRISTOPHER HERRING

This is the first in a series of articles covering the criminalization of homelessness in San Francisco drawing from findings of the Coalition’s recently released report *Punishing the Poorest*, which can be downloaded online at <http://www.cohsf.org>.

San Francisco is widely considered a liberal city in its provision of care and services to those experiencing homelessness. It has spent about \$1.5 billion on homeless services in the last decade, and has six times more supportive housing units per capita than cities like New York, LA, and San Jose. In the last ten years, it has built 2,699 units of long-term, supportive housing and housed 11,362 formerly homeless people. With its armies of volunteers, network of soup kitchens, and host of service programs that have been replicated elsewhere—such as Project Homeless Connect, the Homeless Outreach Team, and Collaborative Courts—San Francisco has become considered a national leader in responding to homelessness with a caring hand in the eyes of some experts and the general public alike.

However, San Francisco has also long been, and remains, a national leader in responding to homelessness with a punitive fist. Over the

past 35 years, San Francisco has passed more municipal ordinances banning life-sustaining activities than any other city in California.

This set of laws makes it illegal for homeless San Franciscans to sleep or sit on sidewalks, to slumber in parks or in their personal vehicles, and to use any form of shelter from the cold, sun, or rain other than their clothing. All of this, despite the fact that there is only one shelter bed for every six homeless people in the city. While the enforcement of these laws has varied over time, the criminalization of homelessness has been constant. Since 2011, citations for sleeping, sitting, and begging have more than tripled. Over this same period San Francisco has seen waves of “quality-of-life” policing campaigns, and experienced the explosion of mass incarceration.

How does San Francisco rank in this index of anti-homeless laws? San Francisco has more anti-homeless laws than any other city in California, and perhaps in the nation. With 23 laws prohibiting sitting, sleeping, standing, and begging, San Francisco has nine more laws than the average California city. While, this does not necessarily mean that San Francisco enforces these laws more aggressively than any municipalities, it clearly indicates the degree to which legislators invest political capital into anti-homeless campaigns, the amount of time and energy devoted by citizens’ groups to support such measures, and the associated media coverage that follows such campaigns, which not only tend to fuel the fires of hateful anti-homeless sentiments, but distract resources, energy, and attention away from real solutions to creating

“safe and clean” public spaces, and more importantly ending homelessness.

Furthermore, as our report uncovers, it is precisely these laws that incite police and courts to label, ticket, and arrest the city’s poor who are forced to live in public as criminals—a job that many in the police and court system think is inappropriate and a waste of resources.

San Francisco was not always so mean to those experiencing homelessness, but since the late 1980s, the criminalization of homelessness has become a policy norm and has increased unabated across mayoral administrations. The historical record covered in this report is not intended to discount whatever expansions in service provision each of these mayoral administrations advanced—each of the mayors has documented and promoted this legacy for themselves already—but to highlight the underside of creeping criminalization that receives far less media and political attention.

As you read this historical policy record of the criminalization of homelessness ask yourself: If these so-called “quality of life” laws are so effective at reducing homelessness, don’t you think San Francisco would see some tangible results after 35 years?

The pattern of criminalization reveals a number of historical trends. First, while the penal crackdowns on homelessness in terms of arrest and citations ebb and flow depending on the political climate, shifting agency priorities, and election seasons, the restrictions on public spaces and the criminalization of life-sustaining activities homeless people have no choice but to perform in public have increased constantly over the past 35 years.

Second, new policies and practices of criminalization are almost always packaged with new provisions or reforms of welfare assistance for homeless people. Ed Lee opens the Navigation Center for campers while citation enforcement for camping under his administration triples. Angel investor Ron Conway donates \$35,000 and becomes the largest donor of “Coalition for Civil Sidewalks”—the main

group pushing Newsom’s Sit/Lie Ordinance—while investing thousands of dollars into Project Homeless Connect, where he served as president, and whose mission is “to connect San Franciscans experiencing homelessness with the care they need to move forward.” Mayor Newsom was recognized nationwide as a pioneer in expanding a “housing first” approach to homelessness, while cheerleading the passage of a sit/lie ordinance—a feat Frank Jordan himself failed to accomplish at the height of the 1990s Matrix Program. In addition, Newsom championed a 2003 “aggressive panhandling” ban, loosely defined, that promised substance abuse treatment for offenders, but did not provide necessary funding. The launching of outreach teams, “multi-service” centers, navigation centers, and new investments in homeless housing often end up serving as distractions and cover for continued or ramped up enforcement, which if successful, allows politicians to claim success for a new service program rather than the police who actually “cleared” the streets of the poor. In other cases, new programs or services end up serving as justification for further criminalization, projecting the falsehood that since there are now new services, of which there are never enough, the city should use a punitive stick to encourage the “service resistant” to take advantage of its carrots.

Third, is the fact that across all of the mayoral administrations of the past thirty-five years there has never once been a concerted effort to “decriminalize” homelessness, roll-back enforcement, or approach “quality of life” laws from a civil rights or human rights perspective as suggested by the Department of Justice and Interagency Council on Homelessness. While there has been rhetoric and small steps to curtail criminalization during each administration, these are always momentary breaks

within a broader term, as the record here clearly indicates.

In sum, over the past thirty-five years the Federal and State of California Government has moved out of the business of social services and housing provision for its poorest residents, and increasingly into the business of incarcerating and policing them.

Rather than mitigating these effects, the city government of San Francisco has exacerbated this rising tide of state-sponsored poverty by promoting economic and housing policies that have lubricated the rapid rise of rents, construction of luxury housing, reduction of affordable housing, and eviction of thousands of poor residents. To manage the social fallout from these decisions, San Francisco has consistently increased its spending on homeless housing and services. Yet this meager growth of a new welfare arm has proven wholly inadequate to address the homelessness that the City, state, and Federal governments’ broader housing, health and economic policies create. So the City has also followed, and at various times led, the national trend of criminalizing homelessness. Sometimes out of moral panic, other times for political gains and posturing, sometimes NIMBY sentiments among local neighborhood groups, and almost always backed by Business Improvement Districts and merchant and business associations.

Under the current mayoral administration of Edwin Lee, we see the exact same approach as his predecessors: park closures, a large vehicle ban, an expensive upsurge in citing destitute people for sleeping, camping, and sitting in public spaces, and proposals for a costly new jail and hundreds of more police officers—all of this in just the last four years. As our study reveals, these policies not only violate the civil and human rights of homeless people, they also undercut the investments made in San Francisco’s social service system and contradict the City’s purported goal of reducing homelessness. In doing so they injure and insult our city’s most vulnerable citizens. ■

.....  
“IT’S HARD TO GET SLEEP IN THIS TOWN. I MEAN YOU CAN GO TWO DAYS WITHOUT EATING ALL RIGHT, BUT GOING WITHOUT SLEEP IS MUCH, MUCH WORSE.”

—43-YEAR-OLD, AFRICAN AMERICAN WOMAN WITH A DISABILITY, LIVING UNDER THE BAY BRIDGE

## THREE LESSONS FROM SAN FRANCISCO’S HISTORY OF PUNISHING THE POOREST

1. Restrictions on public spaces and life-sustaining activities homeless people have little choice but to perform in public have constantly increased over the past 35 years.
2. New policies and practices of criminalization are almost always packaged with new provisions or reforms of assistance for homeless people.
3. Over the the past thirty-five years there has never once been a concerted effort across a mayoral term to “decriminalize” homelessness, rollback enforcement, or approach “quality of life” laws from a civil rights or human rights perspective.

# 35 YEARS OF POLICY FAILURE

This extract from the Coalition on Homelessness report *Punishing the Poorest How the Criminalization of Homelessness Perpetuates Poverty in San Francisco* details the numerous anti-homeless measures adopted under the various mayoral administrations of the past three and a half decades. The authors write, “As you read this historical policy record of the criminalization of homelessness ask yourself: If these so-called ‘Quality of Life’ laws are so effective at reducing homelessness, don’t you think San Francisco would see some tangible results after 35 years?”

## FEINSTEIN ADMINISTRATION

- 1980** City replaces old sit/lie law with sidewalk obstruction ordinance.
- 1981** Ordinance passes banning sleeping in parks between 8 p.m. and 8 a.m.
- 1984** Ordinance passes banning habitation in vehicles.

## AGNOS ADMINISTRATION

- 1988** Sweeps in Golden Gate Park, Civic Center, and Cole Valley.
- 1989** Mayor Agnos orders Police Chief Frank Jordan to sweep Civic Center Plaza of the 60-100 people living there.

## JORDAN ADMINISTRATION

- 1992** Between 1988–1995 Food Not Bombs is arrested over 1,000 times for sharing food.  
  
After the passage of Prop J (put on the ballot by Mayor Jordan), the City outlaws aggressive panhandling.  
  
Alvord Lake (part of Golden Gate Park) was closed during the evenings.
- 1993** The Matrix Program begins. Between August and December 5, 602 citations are issued to homeless people for “quality of life” offenses. More citations for sleeping and camping in the parks, drinking in public, obstructing the sidewalk and sleeping in the doorways were issued in the first month of Matrix than in the five previous years combined.  
  
The Transbay Bus Terminal, home to more than 100 homeless people, locks its doors to them. A program serving many of the Terminal’s severely mentally ill residents is shut down.  
  
Virtually every city park is closed at night by the Recreation and Parks Commission.
- 1994** “No parking from 2:00am to 6:00am” signs are put up by the Port Authority on a street in China Basin where most of the city’s mobile residents reside.  
  
Mayor Jordan declared to the media that armed criminals posing as homeless people are using their shopping carts to transport weapons. He ordered the SFPD to arrest people in possession of shopping carts. The people of San Francisco openly express their outrage at this proposal and no one gets arrested.  
  
Sit/Lie Ordinance Fails to Pass as Proposition  
  
11,562 “quality of life” citations issued.
- 1995** In August, Mayor Jordan plans Matrix II, “Take back our Parks:” a multi-departmental intensive sweep of Golden Gate Park, and uses it as a media moment in his mayoral campaign. Homeless people lose property and are displaced.  
  
14,276 “quality of life” citations issued.

## BROWN ADMINISTRATION

- 1996** 50 homeless people are evicted from a lot in the Bayview referred to as “Land of the Lost.” The City settles out of court.  
  
Mayor Brown declares Matrix is over.  
  
SFPD forms “Operation Park.” 2-6 police officers on each shift are assigned to roust and cite homeless people in the parks of their districts.  
  
17,532 “quality of life” citations issued. More citations issued after ending the highly unpopular “Matrix Program.”
- 1997** Massive sweeps of Golden Gate Park begin. Mayor Brown asks to borrow the Oakland Police Department’s night vision-equipped helicopter to locate homeless people illegally sleeping in the park, but is denied. Home-

less people lose property and are displaced. A special crew of Recreation and Park employees is formed specifically to maintain order and identify and destroy encampments across the city.

Caltrans creates a special unit that sweeps homeless people and their property from under bridges and highways.

15,671 “quality of life citations” issued.

- 1998** “No Loitering or Sleeping” signs are placed in public parks around the city.

Civic Center Plaza is remodeled. The fountain is removed, two children’s playgrounds are added, and the park is cleared of homeless people. A police officer was assigned to monitor the park. In a 2015 chronicle article, Brown admits the primary motivation was to rid the area of homeless people.

Board of Supervisors makes it illegal to drink in parks where poor people congregate.

Board of Supervisors passes ordinance making it possible for police to cite people for camping or sleeping in UN and Hallidie Plazas.

18,590 “quality of life” citations issued.

- 1999** SFPD officers take photos of homeless people claiming they were “creating a scrapbook.” They distribute copies to local merchants ordering them not to sell alcohol to anyone in the pictures because they are “habitual drunkards.” City settles lawsuit out of court.

Anti-panhandling legislation, called “Pedestrian Safety Act” fails to pass.

Mayor Brown orders homeless people to be charged with felonies if found in possession of a shopping cart. After a week of bad press, he never orders it.

23,871 “quality of life” citations issued.

- 2000** City attorney begins prosecuting homeless people in traffic court for “quality of life” offenses. Program costs \$250,000 and fails in its stated purpose to connect homeless people with services they supposedly refuse.

Ordinance banning camping in parks passes.

17,954 “quality of life” citations issued.

- 2001** Ordinance banning loitering near public toilets passes.

Benches are moved from UN Plaza in a midnight attack, costing city \$24,000 in overtime.

Large encampment under César Chávez Circle overpass is swept by DPW. Property belonging to homeless residents was videotaped being thrown into garbage truck. After the story aired on local news, Mayor Brown claims homeless advocates staged the incident and that the homeless person interviewed by news crews was an actor. 75 homeless people were displaced and many lost property. A fence is erected by Caltrans.

DA starts prosecuting California Penal Code 647(j), a misdemeanor that makes it illegal to lodge on public or private property. Homeless people begin to spend more time in jail.

The City spends \$30.8 million to incarcerate homeless people in 2001.

9,134 “quality of life citations” issued.

- 2002** A large encampment is swept from Berry Street. 100 homeless people are displaced and a fence is erected by DPW. City spends \$13,644 on this sweep, not including costs for extensive police presence on the day of the sweep.

DPW starts “Operation Scrubdown” targeting downtown streets and alleys. Workers move encampments, and then hose them down with nasty chemicals making it impossible to return to that spot. DPW estimates that the operation cost the city \$11,000 every day.

Board of Supervisors passes new law prohibiting urinating and defecating in public, but no new public bathrooms are opened.

6,957 “quality of life” citations issued.

**2003** “No habituating in your vehicle between 10pm-6am” signs are put up in China Basin and Bayview districts.

Ordinance banning aggressive panhandling passes to include areas around check cashing operations and motor vehicles.

Homeless people living and caring for the property behind Laguna Honda hospital are relocated.

Homeless people are swept out of Dolores Park by SFPD. A nearby drop-in center is closed indefinitely.

10,000+ “quality of life” citations issued.

## NEWSOM ADMINISTRATION

**2004** Anti-panhandling ordinance championed by Newsom, and passed as a ballot initiative comes into effect. Newsom claims criminalization will push violators into substance abuse or mental health treatment. Instead, the treatment remains grossly underfunded, and the result is fines and arrest.

SF Coalition discovers that it costs San Francisco more than \$10,000 to prosecute a single CPC 647(j) case (that’s “illegal lodging” to the uninitiated), which was being charged as a misdemeanor at the time.

SFPD launches “Operation Outreach” and begins assigning special units of officers to addressing 911 calls regarding homelessness.

Camping citations triple from 436 in 2003 to 1114 in 2004.

**2005** District Attorney grants amnesty to thousand homeless people with “nuisance” citations.

Despite promises that no one would be arrested for the anti-panhandling Prop M passed in 2003, the police begin arresting some for simply begging.

**2006** San Francisco is named the 11th meanest city in the nation to its homeless according to a National Law Center on Homelessness and Poverty and the National Coalition for the Homeless, based on an index of anti-homeless laws and the severity of penalties among other indicators.

City creates “focused enforcement” program to target quality of life infractions including sleeping in public, while city loses 300 shelter beds over the past 18 months.

**2007** Eight days after Chronicle runs story on homelessness in Golden Gate Park, Police raid camps at the park at 4:30am. After, seven workers are hired to work full-time to remove encampments.

Newsom proposes new park code to expand the definition of camping to prohibit modifying “the landscape in any way in order to create a shelter or accommodate household furniture or appliances or construction debris in any park.”

**2008** Panhandler shot dead by officers who were trying to give him a citation for begging, when the man pulled a knife out as he was trying to escape.

**2009** San Francisco is named the 7th meanest city in the nation to its homeless, according to a National Law Center on Homelessness and Poverty and the National Coalition for the Homeless. A move up from #11 three years earlier.

San Francisco launches the Community Justice Center, which focuses on low-level crimes in the Tenderloin. Although the court’s diversion of these cases from jail-time may be seen as a step towards de-criminalization – lowering punishments and reducing jail costs —some scholars and critics also see this as a further legitimization of dealing with sleeping and drug-use through a punitive court system, rather than simply expanding social services. In its first year, the most common crime tried is misdemeanor sleeping followed by possession of a crack-pipe. In the same year, shelters and resources for substance abuse are cut in the city budget.

**2010** In a replay of the 1993 Transbay terminal sweep, the State closes the terminal where roughly 140 San Franciscans lived, a large portion among the most disabled people in the city. Newsom was quick to boast about the work the City was doing in housing people, but an investigation of the Coalition found that the services being offered were merely a couple dozen already-existing shelter beds taken from other homeless people, and a handful of stabilization rooms.

Sit/Lie Ordinance is enacted through voter passed proposition and championed by Newsom. A blitz media campaign funded largely by Pacific

Heights moguls ultimately outspent opponents by roughly \$400,000.

## LEE ADMINISTRATION

**2011** 317 homeless people found in San Francisco’s jail in the Point in Time Count, the first time the count included counting those in jail. This amounted to roughly 25% of the entire jail population and represented 5% of the homeless people counted that night.

SF Recreation and Parks hire 10 new rangers leading to a six-fold increase in citations for sleeping in camping over the next three years.

**2012** Oversized vehicle ban ordinance passes through the board of supervisors. MTA begins plastering signs throughout the entire city, which continues to this day, narrowing the legal spaces homeless people may park their vehicles.

Benches removed from Harvey Milk Plaza by the Castro/Upper Market Community Benefit District.

**2013** Supervisors pass a park closure ordinance, making it illegal for those with out shelters to sleep from 12 am–5 pm.

**2014** BART begins displacing, citing, and arresting homeless people resting inside stations. ■

## JAZZIE’S PLACE

FROM PAGE 1

identified and successfully advocated for funding early on, planning challenges resulted in a wait of several more years before the shelter was finally able to open its doors. As you read this, Jazzie’s Place is fully operational, expanding the City’s shelter system by 24 beds. A homeless person does not need to identify as queer or transgender to access Jazzie’s Place, but shelter-seekers may select a preference for this shelter.

Jazzie Collins—the shelter’s namesake—was a poor and queer and trans people’s activist in San Francisco. In the early 2000s, she became involved in community organizing with development issues at the Plaza Hotel. Over the years, she became deeply involved in organizing the annual Trans March, joined the board of the Tenderloin Housing Clinic, became a strong leader with the Senior Action Network (now Senior and Disability Action), and was a member of the LGBT Aging Policy Taskforce. Jazzie was involved in the initial planning of the shelter, but passed away in 2013.

At the launch of Jazzie’s Place, Jazzie was remembered by her friend Gabriel Haaland. Gabriel and the other speakers stood before a multi-storey mosaic of a butterfly, which Gabriel found reminiscent of Jazzie’s transformations in life. “I’m still a little angry. She was only 56 years old, and she was an African American transgender woman, poor, living in an SRO, who showed up at Kaiser and said, ‘I am in pain,’ and she got turned away, twice. And you can’t tell me that if she had been a cisgender white woman 55 years old who showed up at Kaiser and said, ‘I’m in pain,’ they wouldn’t have checked it out! I’m angry that she died. I still am... It’s real and it’s still happening, and we’ve all got to be part of the solution, and be the village for the

people like Jazzie, and that’s what this is part of.”

Sadaisha Shimmers, a transgender activist who came to San Francisco after being rejected from her home in Portland, Oregon at the age of ten, and then queer-bashed in a shelter there, also spoke at the shelter’s opening. “When you grow up homeless and queer, life skills are the last things you learn. You don’t realize that it takes a lot to get an apartment. You don’t realize that

everything you have— every fork, spoon, and toilet paper has to be bought by you. And you have no idea what a fixed income is because you’ve never had an income of your own. So what happens when you turn 18? Where do you go, what do you do, and how do you manage things when they’re given to you? This shelter is teaching life skills. This shelter is teaching people of queer backgrounds who may never have been shown how to create a life, how to transition from youth as a queer person to adulthood as a queer individual. This shelter is teaching people how to grow and move forward.”

“When we see broken people, it’s easier not to look at them because we have to look at ourselves and realize that we have helped create this problem. Today, a group of you has said that there should be a difference and we should start it right here in San Francisco. They said, ‘My money in my bank account is not important as long as there are people who have no housing.’ This baby has been birthed to shelter people, but it is just a beginning. The next step is to create affordable housing for each and every person, regardless of minority, regardless of gender, and regardless of sexual orientation.”

Everyone who knew and loved her knows that Jazzie—always an advocate of affordable housing, housing protections, and poor people’s rights—would no doubt agree. ■