

INTRODUCTION FROM THE SPECIAL ISSUE EDITORS

Refusing to Hide: Exploring the Connection Between Homelessness and Incarceration *Erin DeJ and Dale Spencer*

This special issue of the *Journal of Prisoners on Prisons* sheds light on the contemptible connection between the criminal injustice system and the homelessness industrial complex. We use the term ‘shed light’ with intention. Many of the tactics used to manage homelessness are driven by a desire to hide, invisibilize and misrepresent people experiencing homelessness. We only have to look at the response to increased visible encampments that have emerged from the COVID-19 pandemic to see the lengths housed community members and state actors will go to in their drive to obscure homelessness from public view (Roebuck et al., 2023). Criminalization is a key strategy of this invisibilization, meant to push people out of public space and hide people away in carceral settings, often for minor transgressions, only to abandon them upon their exits from imprisonment. Considering this context, any opportunity to hear from people who have experienced homelessness and criminal injustice system involvement is an act of resistance. The people who share their stories, knowledge and insights in this issue are unapologetically taking up space. They stand in defiance of systems, institutions, decision makers and community members who do not want to bear witness to the human suffering created by colonial, neo-liberal, capitalist, carceral systems.

There is a bi-directional relationship between criminal injustice and homelessness. The criminal injustice and carceral systems have long been used to respond to homelessness. The Poor Laws and Vagrancy Act of 1800s England and the corresponding workhouses are examples of the long history of legislating the invisibilization of homelessness, as well as punishing and incarcerating people living in poverty (Hermer, 2019). People who are homeless experience the heavy hand of the criminal injustice system more frequently and more harshly than housed people (Kouyoumdjian et al., 2019). Likewise, people who have had regular interactions with the criminal injustice system, in particular people who have been incarcerated, are much more likely to experience homelessness than people who have not been in custody (To et al., 2016).

THE CRIMINALIZATION OF HOMELESSNESS

The criminalization of homelessness refers to two distinct elements:

- Law enforcement responding to minor infractions carried out by unhoused people, where they are unlikely to respond to a housed person engaging in the same activities; and
- Creating and upholding laws that intentionally target people who are homeless.

Combined, these elements create the conditions where people who are homeless face regular, negative interactions with law enforcement agents, be it private security, municipal bylaw officers, or police (Walby & Lippert, 2011; Martino et al., 2023), and are repeatedly and severely uprooted and displaced (Berman et al., 2009; Speer, 2019). Criminalization does not always mean arrest and incarceration. Herring and colleagues (2020) refer to key criminalization processes as *pervasive penalty*, that is “a punitive process of policing through move-along orders, citations, and threats of arrest that largely remain hidden from public view and official scrutiny because such policing falls short of official booking” (p. 134). Pervasive penalty causes significant harm, fracturing connection to services and supports as unhoused people are forced to move along, disrupting spaces of relative safety and community, and ultimately prolonging their experience of homelessness and making it more traumatizing. Law enforcement uses trespass and loitering laws, j-walking, public intoxication tickets, and similar infractions to respond to homelessness (Ormond, 2014; Sylvestre, 2010). People who occupy public spaces, because they lack private ones, and whose poverty is highly visible, are subject to extra scrutiny by the criminal injustice system not so much because of what they do (as many housed people engage in similar actions), but for who they are (O’Grady et al., 2011). To put it bluntly, people who are homeless are criminalized for existing in public space.

In Canada, and in Ontario and British Columbia in particular, the creation of the *Safe Streets Act* over twenty years ago are examples of the second element of the criminalization of homelessness – legal tools that specifically target people who are homeless. The laws create infractions against panhandling in numerous public spaces. These pieces of legislation have been dubbed the ‘anti-homeless laws’, as in the Ontario case, there is a

legal exemption for charities to solicit donations on public streets, while the people who are in need are penalized for the same action (Blondeau, 2023). There is widespread evidence of the futility of the Ontario *Safe Streets Act*; it does not generate revenue for the government and it does not do anything to respond to people's needs or help them exit homelessness (Mathieu, 2019), yet efforts to repeal the legislation have so far been unsuccessful. Even provinces, territories, and other countries that do not have a so-called safe streets act often use municipal bylaws that have the same effect of punishing people who are homeless and not addressing its root causes.

These criminalization tactics are part of broader colonial strategies that oppress Indigenous Peoples and deliberately target Indigenous communities. The Indigenous definition of homelessness refers to a disconnection from All My Relations, including relationships with ceremony, kin, land, language, and community (Thistle, 2017). Indigenous homelessness is a direct result of colonization that removes Indigenous Peoples from their land and ways of living and knowing (Rumboldt, 2022). The very notion of being "homeless on homelands" (Keepers of the Circle, 2022) did not exist in traditional Indigenous communities (Rumboldt, 2022). Homelessness derives from western notions of ownership, resource extraction, individualism, and capitalism that exist because of broken treaties and settler-colonial people's rejection of the Two Row Wampum agreement that was meant to allow the Haudenosaunee people and Dutch settlers to live separately in respect and harmony indefinitely (Gae Ho Hwako & Leduc, 2022; Paradis, 2014).

Because of the nefarious relationship between criminalization and homelessness, Indigenous Peoples have been disproportionately impacted by both systems. Indigenous People make up approximately 5% of the general population, but over 30% of the homeless population in Canada (Belanger, 2013). Relatedly, research from Quebec shows that 46% of First Nations people who have experienced homelessness have a criminal record, compared to 14% who have a criminal record but have not been homeless (Harvey, 2016, cited in Rumboldt, 2022). Indigenous Peoples are especially at risk of pervasive penalty, with one study revealing that Indigenous Peoples who are homeless receive thirteen times more municipal bylaw infractions than is proportional to their population makeup (Armony et al., 2018, cited in Bellot et al., 2021).

Unhoused people who are facing extreme levels of poverty, discrimination, stigma, and violence (Bennett & Larkin, 2018; Bretherton,

2020) are further traumatized by the use of criminalizing tactics as the primary mode of responding to visible homelessness. Using the criminal injustice system to manage homelessness is proven to be ineffectual and in fact harmful for people who are homeless and in collective efforts to prevent and end homelessness.

CARCERAL VIOLENCE AND HOMELESSNESS

The prison industrial complex serves to contain and suppress people experiencing homelessness. The intersection of poverty, race, colonialism, disability, and other oppressions renders particular groups increasingly subject to carceral violence, which can have the effect of producing and/or exacerbating homelessness (Davis, 1998; Wacquant 2009). Being incarcerated is itself a form of homelessness – what is known as provisionally accommodated. A roof over one’s head – especially when that roof encloses devices of deprivation, torture, and abuse (Brown, 2020; Hulley et al., 2016) – does not make someone housed. The carceral system’s linkages with homelessness are two-fold: people who are homeless or precariously housed are more likely to be incarcerated, while the carceral event precipitates and further entrenches homelessness.

Given that people who are homeless are more likely to be surveilled and interact with law enforcement agents than housed people, it is no surprise that they are disproportionately incarcerated. The ‘homelessness-jail cycle’ (Gillespie et al., 2016) means that people who are homeless, and especially people who are sleeping rough, are spending more time in jail than housed people (Rountree et al., 2019). In Ontario, Canada the number of people who are homeless and who are detained in a provincial prison has steadily increased over the last decade (John Howard Society of Ontario, 2022). At the same time, there has been a huge influx of people who are held on remand while awaiting trial, with over half of people in provincial and territorial jails on pre-trial detention (Malakieh, 2020). People who are experiencing homelessness have limited access to a surety, are at risk of not making court appearances, and are set up to fail to comply with numerous and onerous bail or probation conditions that lead to further and harsher criminal charges (Baldry et al., 2012; Bernier et al., 2011; Myers, 2017; Sylvestre et al., 2019). People who are homeless are more likely to plead

guilty than housed people (Novac et al., 2009), leaving them with criminal records that make it even more difficult to access housing and employment, and thus, increased risk of homelessness.

Incarceration creates homelessness. People who have been held in custody are ten times more likely to be homeless than the general public (Couloute, 2018; see also, John Howard Society of Toronto, 2010) and are more likely to be admitted to jail multiple times a year, stuck in a seemingly never-ending homelessness to prison pipeline (John Howard Society of Ontario, 2022). Part of the reason for this is a woeful lack of discharge planning and people who are on remand, many of whom are homeless, are rarely eligible for discharge planning at all (Gaetz & O’Grady, 2009). This means that the carceral violence does not end when someone is released from custody. They are often abandoned by the system that has harmed them, leaving them with nowhere to go, little if any money, and in many cases without identification, medication, or transitional support (Backer et al., 2007). Instead, people are subject to carceral expansion where punitive logics and exclusionary strategies are lurking around every corner (Devereuil, 2009) and where the criminal injustice system penalizes people again when they inevitably struggle because of the very barriers and limitations created by the system itself. This self-fulfilling prophecy feeds the prison industrial complex with people who are objectified and commodified to feed that system (Alexander, 2010).

IN CLEAR VIEW: RECLAIMING VISIBILITY ON INCARCERATION AND HOMELESSNESS

The knowledge and stories shared in this special issue are a testament to, and resistance of, the efforts to invisibilize, harm, and oppress people who have experienced homelessness and criminal injustice intervention. The people who offer their perspectives here are taking up space. In doing so, they challenge readers to confront the realities of systems and communities that are designed to punish and tear-down. There is a boldness woven in each of the pieces of this special issue that calls on us to abolish the institutions, discourses, and structures that have created this inequity and violence, and to imagine “a new possibility of the way the communities function” and “the role of collective work in society” (Ware & Dias, 2020, p. 33).

The subjects covered by the authors in this special issue address the multifaceted systemic failures that create the criminalization and homelessness connection. In their three pieces, Leigh Bursey, C.L. Michel, and Dreddz and Kim Jackson confront the structural, political, and policy failings that drive criminalization and homelessness. Jim Henry and Joe Rust's personal stories of struggle are a testament to the real life lived experiences of these systems. Renee McNab and Paul O'Rourke, Katharina Swirak, and Ute Krenzer offer examples from Australia and Ireland respectively, that point to the globalization of punishment and control for people who are homeless. Combined, the authors offer a window into the painful and brutal reality of what it means to experience homelessness and face incarceration. They also provide examples of what resistance, confrontation, and solidarity look like to advance a new way of responding to homelessness.

REFERENCES

- Alexander, Michelle (2010) *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, New York: The New Press.
- Backer, Thomas E., Elizabeth A. Howard & Garrett E. Moran (2007) "The Role of Effective Discharge Planning in Preventing Homelessness", *Journal of Primary Prevention*, 28(3): 229-243.
- Baldry, Eileen, Leanne Dowse & Melissa Clarence (2012) *People with Mental and Cognitive Disabilities: Pathways into Prison* (Background Paper for Outlaws to Inclusion Conference), School of Social Sciences and International Studies, The University of New South Wales.
- Belanger, Yale D., Olu Awosoga & Gabrielle Weasel Head (2013) "Homelessness, Urban Aboriginal People, and the Need for a National Enumeration", *Aboriginal Policy Studies*, 2(2): 4-33.
- Bellot, Céline, Marie-Ève Sylvestre, Véronique Fortin & Jacinthe Poisson (2021) *Judicialization of Homelessness in Montreal: Alarming Evidence of Increased Social Profiling (2012-2019)*, Montreal: RAPSIM, FPJCM, & Clinique Droits Devant.
- Bennett, Darcie & D. J. Larkin (2018) *Project Inclusion: Confronting Anti-Homeless & Anti-Substance User Stigma in British Columbia*, Vancouver: Pivot Legal Society.
- Berman, Helene, Gloria Alvernaz Mulcahy, Cheryl Forchuk, Kathryn Ann Edmunds, Amy Haldenby & Raquel Lopez (2009) "Uprooted and Displaced: A Critical Narrative Study of Homeless, Aboriginal, and Newcomer Girls in Canada", *Issues in Mental Health Nursing*, 30(7): 418-430.
- Bernier, Dominique, Céline Bellot, Marie-Ève Sylvestre & Catherine Chesnay (2011) *La judiciarisation des personnes en situation d'itinérance à Québec: Point de vue des acteurs socio-judiciaires et analyse du phénomène*, Toronto: The Canadian Homelessness Research Network Press.

- Blondeau, Sam (2023) *Squeegee Punks Reunite: Safe Streets for All*, MA thesis: Ontario Tech University.
- Bretherton, Joanne (2020) "Women's Experiences of Homelessness: A Longitudinal Study", *Social Policy and Society*, 19(2): 255-270.
- Brown, Ellie (2020) "A Systematic Review of the Effects of Prison Segregation", *Aggression and Violent Behavior*, 52: 101389.
- Couloute, Lucius (2018) "Nowhere to Go: Homelessness Among Formerly Incarcerated People", *Prison Policy Initiative*. Retrieved from <https://www.prisonpolicy.org/reports/housing.html>
- Davis, Angela Y. (1998) "Masked Racism: Reflections on the Prison Industrial Complex", *Colorlines* – September 10. Retrieved from <https://www.historyisaweapon.com/defcon1/davisprison.html>
- DeVerteuil, Geoffrey, Jon May & Jürgen von Mahs (2009) "Complexity Not Collapse: Recasting the Geographies of Homelessness in a 'Punitive' Age", *Progress in Human Geography*, 33(5): 646-666.
- Gae Ho Hwako, & Timothy B. Leduc (2022) *Odagahodhes: Reflecting on our Journeys*, Montreal: McGill-Queen's University Press.
- Gaetz, Stephen & Bill O'Grady (2009) "Homelessness, Incarceration, and the Challenge of Effective Discharge Planning", in J. David Hulchanski, Philippa Campsie, Shirley B.Y. Chau, Stephen H. Hwang & Emily Paradis (eds.), *Finding Home: Policy Options for Addressing Homelessness in Canada*, Canadian Homelessness Research Network, pp. 7.3. Retrieved from <https://www.homelesshub.ca/resource/finding-home-policy-options-addressing-homelessness-canada>
- Gillespie, Sarah, Benjamin Chartoff, Devlin Hanson & Mary K. Cunningham (2016) "The first step toward breaking the homelessness-jail cycle", *Urban Wire* – May 19. Retrieved from <https://www.urban.org/urban-wire/first-step-toward-breaking-homelessness-jail-cycle>
- Hermer, Joe (2019) *Policing Compassion: Begging, Law and Power in Public Spaces*, New York: Hart Publishing.
- Herring, Chris, Dilara Yarbrough & Lisa Marie Alatorre (2020) "Pervasive Penalty: How the Criminalization of Poverty Perpetuates Homelessness", *Social Problems*, 67(1): 131-149.
- Hulley, Susie, Ben Crewe & Serena Wright (2016) "Re-examining the Problems of Long-term Imprisonment", *British Journal of Criminology*, 56(4): 769-792.
- John Howard Society of Ontario (2022) *No Fixed Address: The Intersections of Justice Involvement and Homelessness*, Toronto.
- John Howard Society of Toronto (2010) *Homeless and Jailed: Jailed and Homeless*, Toronto.
- Keepers of the Circle (2022) *Homeless on Homelands: Upholding Housing as a Human Right for Indigenous Women, Girls, Two-Spirit, and Gender-Diverse People*. Submission to the Federal Housing Advocate on behalf of the National Indigenous Feminist Housing Working Group. Retrieved from <https://womenshomelessness.ca/wp-content/uploads/Indigenous-Housing-Claim-June-14-2022.pdf>
- Kouyoumdjian, Fiona G., Ri Wang, Cilia Mejia-Lancheros, Akwasi Owusu-Bempah, Rosane Nisenbaum, Patricia O'Campo, Vicky Stergiopoulos & Stephen W. Hwang (2019) "Interactions Between Police and Persons Who Experience Homelessness and

- Mental Illness in Toronto, Canada: Findings from a Prospective Study”, *Canadian Journal of Psychiatry*, 64(10): 718–725.
- Malakieh, Jamil (2020) “Adult and Youth Correctional Statistics in Canada, 2018/2019”, *Juristat*.
- Martino, Natasha, Carrie. B. Sanders & Erin Dej (2023) “The ‘regulatory grey zone’ of Bylaw Enforcement: Governing People Experiencing Homelessness by Regulating Space”, *Policing & Society*, Online First: 1–16.
- Mathieu, Emily (2019) “‘The only crime... Was being homeless’: Thousands of Toronto panhandlers have been ticketed under the Safe Streets Act—Some of them more than 100 times each, data shows”, *Toronto Star* – July 8. Retrieved from <https://search-proquest-com.libproxy.wlu.ca/docview/2253119185/fulltext/2456BE9EFB9D4AE0PQ/2?accountid=15090>
- Myers, Nicole Marie (2017) “Eroding the Presumption of Innocence: Pre-trial Detention and the Use of Conditional Release on Bail”, *British Journal of Criminology*, 57(3): 664-683.
- Novac, Sylvia, Joe Hermer, Emily Paradis & Amber Kellen (2009) “A Revolving Door? Homeless People and the Justice System in Toronto”, J. David Hulchanski, Philippa Campsie, Shirley B.Y. Chau, Stephen H. Hwang & Emily Paradis (eds.), *Finding Home: Policy Options for Addressing Homelessness in Canada*, Toronto: Canadian Homelessness Research Network, pp. 7.2.
- O’Grady, Bill, Stephen Gaetz & Kristy Buccieri (2011) *Can I See Your ID? The Policing of Youth Homelessness in Toronto*, Toronto: JFCY & Canadian Observatory on Homelessness Press.
- Ormond, Aiyanas (2014) “Jaywalking to Jail: Capitalism, Mass Incarceration and Social Control on the Streets of Vancouver”, *Radical Criminology*, 3: 101-112.
- Paradis, Emily (2014) “‘I would like us to unite and fight for our rights together because we haven’t been able to do it alone’: Women’s Homelessness, Disenfranchisement, and Self-determination”, in Jennifer M. Kilty (ed.), *Within the Confines: Women and the Law in Canada*, Toronto: Women’s Press, pp. 52-75.
- Roebuck, Benjamin, Sydney Chapados, Erin Dej, Carmen Hust, Sue-Ann MacDonald, Diana McGlinchey, Dennim Groke, Krista Luzzi & Jordan Wark (2023) “A Turning Point? Responses to COVID-19 within the Homelessness Industrial Complex”, *International Journal on Homelessness*, 3(1): 83–101.
- Rountree, Janey, Nathan Hess & Austin Lyke (2019) *Health Conditions Among Unsheltered Adults in the U.S.*, Los Angeles and Berkeley: California Policy Lab.
- Rumboldt, Jessica (2022) *Endaamnaan: Homes for all Nations*, Toronto: Canadian Observatory on Homelessness Press.
- Speer, Jessie (2019) “Urban Makeovers, Homeless Encampments, and the Aesthetics of Displacement”, *Social & Cultural Geography*, 20(4): 575-595.
- Sylvestre, Marie-Ève (2010) “Policing the Homeless in Montreal: Is This Really What the Population Wants?”, *Policing and Society*, 20(4): 432-458.
- Sylvestre, Marie-Ève, Nicholas Blomley & Céline Bellot (2019) *Red Zones: Criminal Law and the Territorial Governance of Marginalized People*, Cambridge: Cambridge University Press.
- Thistle, Jessie (2017) *Definition of Indigenous Homelessness in Canada*, Toronto: Canadian Observatory on Homelessness Press.

- To, Matthew J., Anita Palepu, Flora I. Matheson, John Ecker, Susan Farrell, Stephen W. Hwang & Dan Werb (2016) "The Effect of Incarceration on Housing Stability Among Homeless and Vulnerably Housed Individuals in Three Canadian Cities: A Prospective Cohort Study", *Canadian Journal of Public Health*, 107(6): 550-555.
- Wacquant, Loïc (2009) *Prisons of Poverty*, Minneapolis: University of Minnesota Press.
- Ware, Syrus Marcus & Giselle Dias (Niigaanii Zhaawshko Giizhigokwe) (2020) "Revolution and Resurgence: Dismantling the Prison Industrial Complex through Black and Indigenous Solidarity", in Rodney Diverlus, Sandy Hudson & Syrus M. Ware (eds), *Until We Are Free: Reflections on Black Lives Matter in Canada*, Regina: University of Regina Press, pp. 32-56.
- Walby, Kevin & Randy Lippert (2011) "Spatial Regulation, Dispersal, and the Aesthetics of the City: Conservation Officer Policing of Homeless People in Ottawa, Canada", *Antipode*, 44(3): 1015-1033.

ABOUT THE SPECIAL ISSUE EDITORS

Dr. Erin Dej is Associate Professor in the Department of Criminology at Wilfrid Laurier University. She brings fifteen years of research and advocacy experience on homelessness, having been led by the lived experts she works with. Her focus is on the social exclusion of unhoused people, including the criminalization of homelessness, as well as the promotion of homelessness prevention and meaningful social inclusion.

Dr. Dale Spencer is the Faculty of Public Affairs Research Excellence Chair and is Professor in the Department of Law and Legal Studies at Carleton University. His main interests are violence, victimization, policing, youth, and conceptions of homelessness, domicile, and the law.