

# Denver's Crackdown on Being Homeless

By Rebecca Nathanson

**T**he temperature in Denver's River North Art District has topped ninety degrees on a blistering July afternoon, but Jerry Burton keeps sweeping the sidewalk in front of a fenced-in lot. It's something he's good at; during his two years of homelessness, he kept his spot on the street tidy.

Burton, fifty-five, a tall man dressed in a light brown shirt and matching pants, was born in Alabama and arrived in Colorado twenty-six years ago. He's lived mostly in nearby Aurora—best known as the site of a mass shooting during a 2012 screening of *The Dark Knight Rises*—but personal issues and rent hikes pushed him out onto the streets of the state capital in November of 2014.

At first he stayed in the Samaritan

House homeless shelter in downtown Denver, where he also worked as a cook. But then he made the curious decision to leave the shelter and live on the street.

"I'd seen this police officer taking away people's blankets outside," he explains. "It was cold as hell. And that kind of hurt. I said a prayer. Me and the Lord talked. I talked to him and I was about ready to quit anyway and come out here and live on the street

to bring attention to it."

Burton lived on the street in two locations until February, when he received an apartment from the Department of Veterans Affairs.

Denver ranks in the nation's top ten major cities in its numbers of homeless families with children, unaccompanied homeless youth, and homeless veterans. But this is happening amidst an economic boom. Both Colorado and the Denver metro

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area have record-low unemployment rates of about 2.4 percent. Boosted by its proximity to the Rocky Mountains, Denver frequently finds itself near the top of “Best Places to Live” lists. But that acclaim and popularity have driven up housing prices so high that many people can no longer afford a place to live.

On one Monday night in January, there were more than 5,100 homeless people counted in the Denver metro area. About 18 percent were unsheltered, with the rest staying in emergency shelters or transitional housing. Almost one-fifth would be considered “newly homeless,” meaning they are in the first year of their first episode of homelessness; more than 1,000 were deemed “chronically homeless.”

In 2012, the same year that the Colorado state legislature legalized marijuana, Denver’s city government passed a law trying to address the city’s ever-more visible homeless population. This increased the number of people using—being pushed into—shelters. It also spurred a federal class-action lawsuit and a trial, bringing local fame to Jerry Burton.

**C**ities across the country have passed laws meant to crack down not on homelessness but on its visibility.

“Cities are under a lot of pressure to ‘do something’ about homelessness and visible poverty in their midst, and they have responded through a misguided attempt to simply outlaw the presence of visibly poor people,” says Maria Foscarinis, executive director of the National Law Center on Homelessness and Poverty.

Out of 187 cities surveyed by the law center last year, half prohibit camping in certain public spaces and one-third do so in public spaces citywide. Since 2006, laws prohibiting camping on public land citywide have increased 69 percent in those communities. That



Jerry Burton has lived on the street and fought the city's ban on urban “camping.”

same report specifically names three cities to its “Hall of Shame,” recognizing their “particularly bad laws or practices.” Denver is one of them.

In 2005, the City of Denver forbade sitting or lying on any public right-of-way in the downtown business district from 7 a.m. to 9 p.m. An ordinance passed in 2012 went further, banning “unauthorized camping” on public or private property. “Camping” is defined broadly: “to reside or dwell temporarily in a place, with shelter.” “Shelter” is defined as “any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing.” And to “reside or dwell” has its own generous

explanation, including eating, sleeping, or storing personal possessions.

The bill’s lead sponsor was Albus Brooks, then just one year into his first term on the city council. He framed it as a matter of public safety and said the goal was not to put violators in jail but to connect them with “effective, long-term and, hopefully, life-changing assistance.”

Despite opposition from some Denver activists and homeless advocacy organizations, the ban passed the city council on a 9-4 vote in May 2012. That was just eight months after Occupy Wall Street had taken root in New York City and spread across the country. Occupy Denver was going strong that spring, and Brooks believes its vocal presence politicized the camping ban unnecessarily.

“This issue, it’s the ideological issue that folks like to fight about as ‘some people are welcome, some people are not,’ ” he says in a recent interview in the City and County Building that houses his office. “Really, there are a certain amount of individuals who have hijacked this conversation.”

Now president of the city council, Brooks says he understands why some people believe the ordinance criminalizes homelessness, but stresses that it allows police to ticket violators only as a last resort. Instead, they are instructed to offer to take people to shelters and connect them with social services. “It’s really hard to get a citation on it,” he says. “You literally have to be protesting.”

The data backs him up: Through July, only twenty-eight citations for violations of the camping ordinance were issued in five years, Denver Police Department records show. Meanwhile, in just the first half of 2017, a city-funded group of outreach teams

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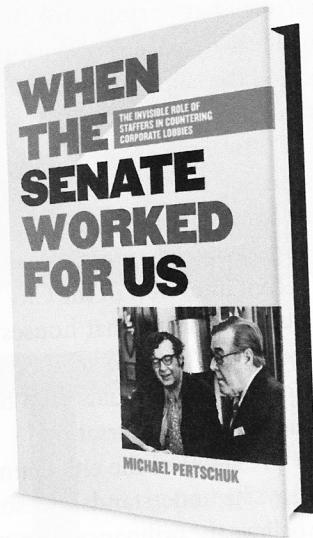
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referred almost 1,400 people to physical- and mental-health resources, provided employment assistance to about 450 people, and connected about 100 people to housing, according to Julie Smith, spokeswoman for Denver Human Services.

"As the citation data clearly indicates, the Denver Police Department has consistently used citations and arrests for unauthorized camping as a last resort," explains the department's media relations unit in a statement. "Last year, the department's approach evolved to include social workers working jointly with officers to contact individuals, assess their needs and help to connect them with services." Officers also carry pocket-sized guides to shelters and other resources.

But these numbers don't tell the whole story. Homeless people say most officers simply tell them to "move along" from their current resting spot. From June 2012 to August 2016, when barely anyone was ticketed, officers "contacted" more than 8,500 people because of the ordinance. The result is few citations but many little disturbances, sometimes forcing people into better hidden—and oftentimes more dangerous—resting places to limit police interactions.

Opposition to the ban is led by Denver Homeless Out Loud, an activist group comprised largely of homeless or formerly homeless individuals. Member Benjamin Dunning, who was homeless for about five years after the 2008 stock market crash, recalls that the group conducted a survey of homeless people.

"We asked them several questions: Do you feel safer? Is it easier to get into shelters? Are you getting more sleep or less? Are you having more police contact or less?" Nearly to a person, Dunning says, the answers reflected the "worst-case scenario."

Ray Lyall, fifty-eight, another group

member who sleeps in a church that acts as a sanctuary, says he's tried in the past to get police to give him a ticket "so we could fight it in court, but they wouldn't give it to us."

That changed on November 28, 2016. Burton, along with another homeless man named Randy Russell, was cited for refusing to vacate his usual sleeping spot, where he had a tent to protect him from the elements. After the two men were ticketed, they decided to sleep in front of the City and County Building, partially in protest, partially in the hope that they'd be allowed some rest. There they were joined by Denver Homeless Out Loud organizer Terese Howard, who is not herself homeless.

All three were issued citations for violating the law. In April they were found guilty of violating the camping ordinance and given community service and probation. "Bringing our 'survival ban' tickets to trial was our way of saying no, we're not guilty of camping," explains Howard with a laugh. "We weren't camping. We were surviving."

**T**he Denver Rescue Mission, a non-denominational Christian homeless services nonprofit, houses up to 315 men at its Lawrence Street Shelter. The shelter's sidewalks have become a home to others who survive outside its walls, winding around the block. The mission also runs the city's emergency overflow shelter.

Denver's shelters play a key role in the camping ordinance debate. Their capacity, their safety, their living conditions—all lead people to argue either that there's no reason for someone to choose to live on the streets or that the streets are the most logical option. The mission provided 91,600 shelter nights from July 2010 to June 2011. The most recent data from July 2016 to this past June shows a jump up to about 189,900 shelter nights, according to a Denver

## Rescue Mission chart.

On a Monday afternoon in July, Mark Collins is in the upstairs dorm room, where he has his own bunk and storage locker—benefits of the shelter's programs, along with case management and life-skills training. Collins, a bulky man with tattoo-covered arms who will turn thirty-eight in mid-October, moved to Denver in October 2016. Three months later, he was robbed and left homeless. He says sleeping outside was never an option: "I watch some of the people outside and how dirty they are and some of the stuff that they do, and I'm just like, no, there's no way in hell I would do that."

Other homeless people prefer the street for a multitude of reasons: Some shelters don't allow pets. Some restrict how many belongings one can bring inside. Some require sobriety. Some people just think the shelters are dirty and dangerous.

"When I originally went homeless, I used the shelter system, but it took a lot of time and a lot of effort just to get in there," recalls Dunning. "So after about a year or so, I arranged my life differently and slept outside. Got my time back and my life started to get better."

Even Brooks acknowledges the need for shelter improvements. "We need to make sure that our shelter system is safe," he says, noting the shelters are run by nonprofit groups, not the city. "We've been hearing that they're not clean and we need to improve them."

Crossroads, a shelter run by the local Salvation Army, deals constantly with this reality. From 9 p.m. to 1 a.m., its four-person search-and-rescue team scours the streets. Team leader Anthony Williams says about one person per night agrees to come back to the shelter. Many others have no interest—it's for them that Williams keeps blankets, coats, and water at his disposal.

## Crackdowns on Homeless Take Many Forms

The ban on unauthorized camping employed in Denver is just one tactic used by cities to fight the rise of visible homelessness. Here are some other approaches drawn from a 2016 survey of 187 U.S. cities by the National Law Center on Homelessness and Poverty.

**Sleeping in cars** Seventy-three cities have restrictions on living in cars, about 143 percent more than in 2006. These include Atlanta, Detroit, Miami, Oakland, Phoenix, and San Francisco. Like many laws criminalizing homelessness, restrictions on living in cars can drive people onto streets or into the shelter system.

**Food sharing** A handful of cities have banned the sharing of free food, either citywide or in particular public places, claiming that this encourages people to remain homeless. These bans, in places like Dallas, Las Vegas, Indianapolis, and several Florida cities, force people to find food in unsanitary places and criminalize the efforts of faith-based and nonprofit groups to feed them.

**Begging** Around 164 of the cities surveyed prohibit begging in some form, making this the most heavily used tactic. These bans are often limited to high-traffic areas, like downtowns. While begging is considered a nuisance to passersby, criminalizing panhandling robs people without income or employment prospects of their best chance to afford food and other necessities.

**Loitering and vagrancy** Another common anti-homeless tool, in place in 160 cities, is to ban loitering, loafing, or vagrancy citywide or in specific locations. Major cities like Boston, Dallas, Philadelphia, Los Angeles, Miami, New Orleans, and New York all have variations of these bans, granting police broad discretion to evict visibly poor and homeless people from public spaces.

**Sleeping in public spaces** More than one-quarter of the surveyed cities ban sleeping in particular public locations, and almost one-fifth do so citywide. The most visible sign of homelessness, sleeping in public is a necessity for many people. Dallas represents an extreme example of this form of criminalization: From January 2012 to November 2015, it issued more than 11,000 citations for sleeping in public.

**Sitting or lying in public spaces** In eighty-eight cities, ranging from Anchorage, Alaska, to Asheville, North Carolina, people are forbidden to sit or lie in certain public spaces. Particularly during daytime hours when most shelter doors are closed, homeless people are increasingly finding that merely sitting or lying in public is a crime. In the past ten years, these bans have increased by more than 50 percent.

—Rebecca Nathanson

In Denver, Jerry Burton is now a recognizable name. "Everybody in America knows you, Jerry," jokes a friend sitting nearby on that summer afternoon as Burton sweeps. He is known for this spring's trial about the camping ban citations, as well as a viral video of police officers taking his blankets on the November night when he first received those citations. Since then, he has been featured in numerous reports by the local CBS station and local print media.

In 2016, Denver police started taking down homeless encampments along sidewalks and confiscating people's personal property if they refused to pack up. According to the Denver Police Department, these sweeps involve multiple agencies and occur only after weeks or months of attempts to connect the homeless individuals to services and shelters. It says a careful determination is made "regarding what items are catalogued and stored or are disposed of."

On November 28, after Burton, Russell, and Howard had moved to the City and County Building sidewalk, officers began carrying stacks of their blankets away. The video of this happening is now evidence in a federal class-action lawsuit against the City of Denver, claiming that the city violated the Fourth and Fourteenth Amendment rights of its homeless residents during the sweeps.

The idea for the suit originated back in August 2016. Jason Flores-Williams, a local attorney, was on his way out to dinner one night when he saw a homeless woman and her son surrounded by police officers. "The City of Denver,"

he says, "was simply trashing human beings in the name of getting these people out of the way so that their ideal professional worker type with resources could come in and remake the place."

Flores-Williams organized a meeting at the public library, seeking to get homeless people to join in a class-ac-



Tiny houses are being offered to homeless people as an intermediary solution.

tember 2016, it also created its first dedicated affordable housing fund. Brooks has been a leading voice on this issue.

Denver Homeless Out Loud, too, has ideas about how to get from homeless to housed. One of them is a Homeless Bill of Rights that would, among other things, ensure the right to sleep without being woken up and told to move along. The Colorado state legislature has also considered a similar Right to Rest bill, but it has been voted down three years in a row.

Denver Homeless Out Loud has yet another idea, one more tangible than legislative efforts. That July day when Jerry Burton stood sweeping in front of a wooden fence, he was tidying the entrance to a new village of tiny houses. Inside the fence, eleven 8x12 structures stood empty, ready for people to move in within the week. They have since been occupied.

Supported by the city government, the tiny houses are a six-month pilot program to house a handful of homeless individuals. Each home has heating and electricity; communal bathrooms and food-preparation space also stand on the lot. No one thinks these are a grand solution to Denver's homeless problem, but they provide an intermediary between streets or shelters and housing.

For Burton, the tiny houses are yet another part of his effort to bring attention to the treatment of homeless people.

"We've been through thick and thin," he says, clutching his broom. "Still going through thick and thin." ♦