

'MEAN SWEEPS' FROM SEA TO SHINING SEA

From coast-to-coast, cities enact anti-homeless laws in a cruel race to the bottom

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These new anti-homeless "laws" might better be described as "crimes against humanity," to use the Nuremberg phraseology.

by Becky Johnson and Robert Norse

What is happening in America? If we as a society abhor murder, burglary, rape, assault, and fraud, what are we doing putting people in jail for sleeping at night, sitting down, or putting a backpack on the sidewalk?

In January, 1997, in Glendale, California, it became illegal to sleep at night if you are homeless; having a sleeping bag, backpack, suitcase, or, God forbid, a shopping cart has now become a crime. In March, San Jose, the largest city in northern California (population 850,000), passed a sitting ban downtown that mandated jail for the first offense and gave cops the power to charge homeless people with a misdemeanor after a first warning. The possible penalty is six months in jail and/or a \$1000 fine.

In late April, liberal Palo Alto passed its own Sit/Lie Ban on University Avenue, in spite of overwhelmingly negative testimony before the City Council from Stanford Homeless Action Coalition students, the Palo Alto Human Relations Commission, many social service providers, dozens of thoughtful and intelligent members of the public, and homeless people. Shortly thereafter, nearby Mountain View made it illegal to panhandle from a public median strip or in public parking lots.

In southern California, Thousand Oaks passed a sweeping camping ordinance, which, if it follows the pattern of camping bans enacted in San Francisco and Santa Cruz, will only impact homeless people. Santa Barbara also passed a main street anti-sitting law by unanimous vote of the City Council in April.

City Attorney Ariel Calonne advised the Palo Alto City Council that defending the Sit/Lie Ban against prospective ACLU challenges would cost a minimum of \$30,000. The ban was hyped as a defense for "trip and fall" dangers to pedestrians dazzled or distracted by unseen sitters. Everyone was subsequently amused to hear Calonne note that the City would not be liable for any such injuries anyway.

In San Jose, the bigotry of merchants and their legislative supporters was more blatant. Councilmembers and shop owners raised the specter of business blight and public urination, harping on false stereotypes to pass a law that would forbid homeless people from sitting down anywhere within a 66-block downtown area (except at bus stops and parks open only in the day). Yet San Jose Mayor Susan Hammer insisted this "Sit Down/Go to Jail" law was not anti-homeless.

MEAN SWEEPS ON THE MEAN STREETS

Mean Sweeps is the latest report issued on the criminalization of the poor by the National Law Center on Homelessness and Poverty (NLCHP) in Washington, D.C. It provides the most comprehensive record yet of the development of anti-homeless laws and their implementation, along with a reasoned thesis on why these laws make bad public policy.

Mean Sweeps is a needed update of NLCHP's 1994 report, *No Homeless People Allowed*, on the national surge of anti-homeless laws. The title refers to police crackdowns on homeless people, a

practice reported in 54% of cities surveyed. Some cities have taken a particularly tough stance against their homeless residents and stand out as having the meanest streets. The top "winners" in this ugly contest of thuggery-as-social-policy were San Francisco, San Diego, Atlanta, Dallas, and New York.

Naming the five top "winners" with the meanest streets has proven to be an effective tactic. A direct result of the report's Meanest Metropolis box score has been wide media coverage of the offending cities. The nasty controversy graced newspapers and lit phone lines at radio talk shows across the nation. Indeed, the NLCHP's report proved prophetic in accurately identifying an ominous trend in city governments to socially and economically cleanse public areas of the presence of poor and homeless people.

Attorneys Maria Foscarinis and Catherine Bendor working with NLCHP staff give us a plausible explanation of the motives behind this series of increasingly oppressive laws.

THE 'BROKEN WINDOWS' PRETEXT

In 1982, criminologists George Kelling and James Q. Wilson wrote a classic article for the *Atlantic Monthly* called "Broken Windows." Wilson and Kelling claimed that allowing visible indications of disorder, such as a broken window, to remain unrepaired, demonstrates and encourages a loss of public order. In their

analysis, such apathy breeds further, and more serious, criminal activity in the neighborhood. Cities like San Jose have been using the Kelling-Wilson hypothesis as a respectable rationale for blatantly anti-homeless public policies. Hence, even in the absence of real criminal behavior, anti-sitting laws are touted as crime prevention measures that deter crime-generating "broken windows" — the unchecked panhandler being the first "broken window."

In a thoughtful, well-researched narrative, *Mean Sweeps* defines the dynamics of "quality of life" crimes and their rela-

tionship with homelessness. The report itemizes the new plague of anti-homeless laws across the country. It examines proposed justifications, public health and safety issues, prevention of crime, economic issues, aesthetic and quality-of-life concerns. The report concludes convincingly that such laws are ineffective, counterproductive, and inhumane.

The authors write: "The adoption of laws and policies that attack homeless people rather than attacking the problem of homelessness is an inevitably ineffective strategy. All of the proposed justifications for criminalizing homelessness generally neglect to address the fact that penalizing people for engaging in behaviors such as sleeping in public, sitting on public sidewalks, or begging, will not reduce the incidence of such behaviors, or keep public places clear of homeless people, when people are doing so because they have no alternative place to sleep or sit, or no other means of subsistence. These policies are usually counterproductive in