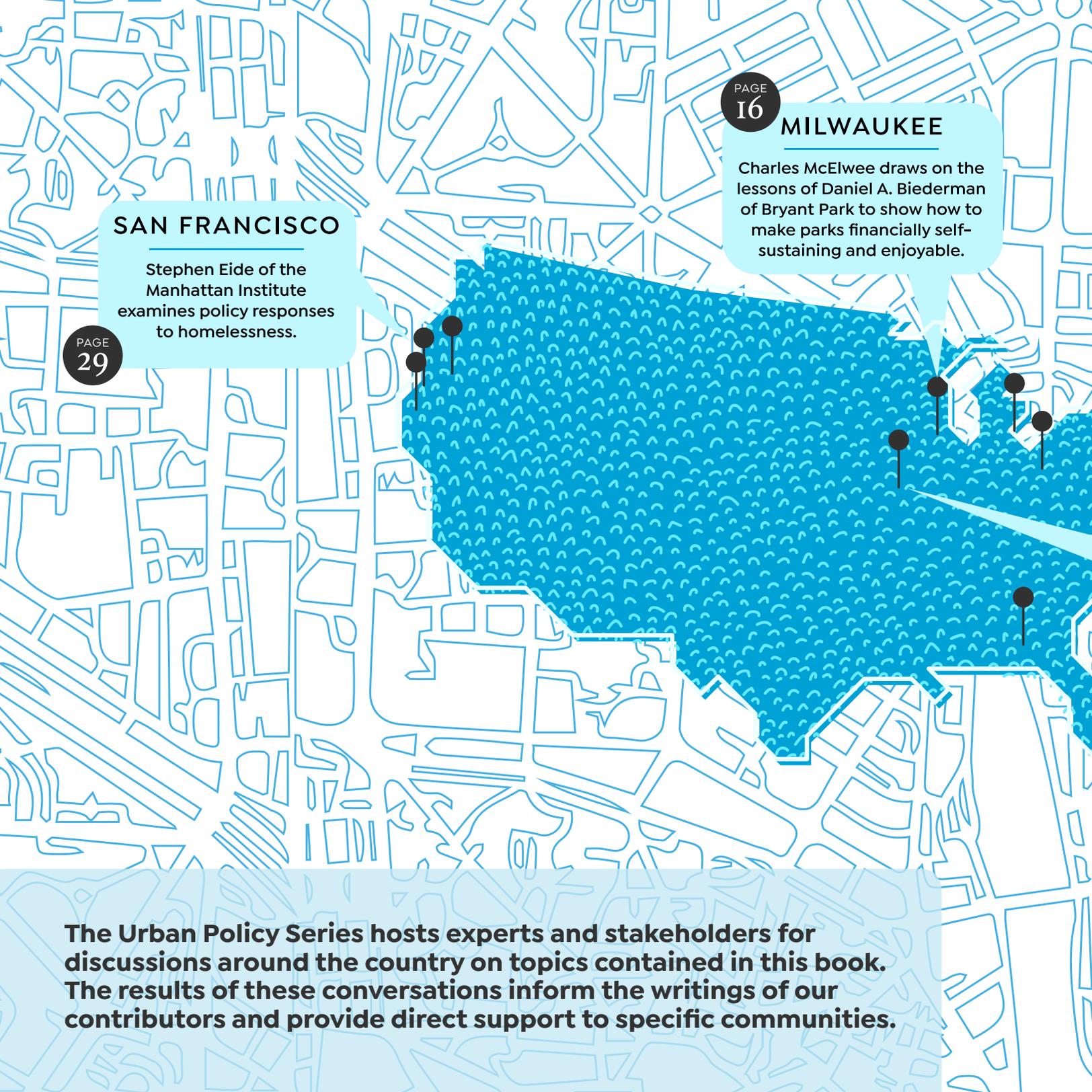
The background of the entire page is a dark blue map of Manhattan, with white lines representing the street grid. The map is centered and covers the entire area.

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EXPERTS ADDRESS PUBLIC PARKS, CRIME, AND HOMELESSNESS



SAN FRANCISCO

Stephen Eide of the Manhattan Institute examines policy responses to homelessness.

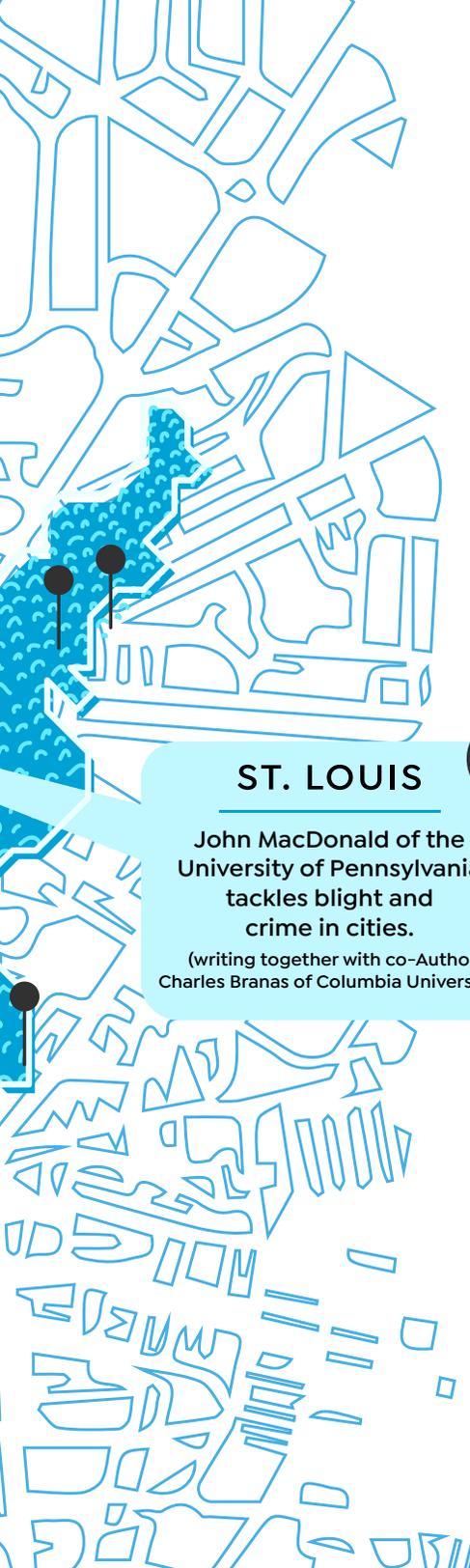
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MILWAUKEE

Charles McElwee draws on the lessons of Daniel A. Biederman of Bryant Park to show how to make parks financially self-sustaining and enjoyable.

The Urban Policy Series hosts experts and stakeholders for discussions around the country on topics contained in this book. The results of these conversations inform the writings of our contributors and provide direct support to specific communities.



Foreword

The fate of cities depends on the quality of their public spaces. And those public spaces, in turn, depend on how well they serve the people of a city. Parks, streets, and sidewalks are not merely to be well kempt physical places, but should strengthen and shape the interactions that form our vital social infrastructure.

We once knew this: William H. Whyte argued in 1979 that the point of New York City’s Bryant Park should be to “promote the widest possible use and enjoyment by people.” Frederick Law Olmsted before him, as the designer of Central Park, argued that streets were an “outer park.”

Yet many cities today struggle to maintain their parks and streets and sidewalks. Public spaces are deteriorating for want of care, sensible management, and diverse funding. Vacant lots are breeding disorder and crime in distressed cities. Homelessness is harming the health and safety of sheltered and unsheltered people alike.

In our latest Urban Policy Series, Manhattan Institute invited authors to speak to the state of America’s public spaces, equipping urban leaders with the ideas and tools they need to lead. As they considered these issues, they sat down with local experts from across the country—including cities in California, Missouri, and Wisconsin—to learn how to implement them practically.

ST. LOUIS

John MacDonald of the University of Pennsylvania tackles blight and crime in cities.

(writing together with co-Author Charles Branas of Columbia University)

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Crime

John M. MacDonald and Charles C. Branas draw on their years-long study of the Philadelphia LandCare program to show how cleaning and greening vacant lots can dramatically deter crime. Since crime is highly concentrated in neighborhoods, small, targeted investments in remediating blighted properties can have large-scale benefits across an entire city.



Howard Husock, John MacDonald, and Michael Hendrix in North St. Louis.

CLEANING UP VACANT LOTS CAN CURB URBAN CRIME

John M. MacDonald

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Crime Prevention Through Environmental Design

Scholars who study urban problems are well aware of the powerful role that “place” has in shaping crime; they understand that the two are tightly coupled.¹ In the 19th century, André-Michel Guerry and Adolphe Quetelet found that crime in France was concentrated in the same places, and remained remarkably stable in those same areas, year after year. A century later, University of Chicago sociologists Clifford Shaw and Henry McKay noted that the crime was highly concentrated by place in Boston, Chicago, Cincinnati, Cleveland, Philadelphia, and Richmond, Virginia.² Even today, we continue to see a small number of particular locations in every major city generate the majority of serious crime.³

Hebrew University criminologist David Weisburd has referred to this empirical reality as the “law of crime concentration.”⁴ In Philadelphia, for example, 5% of addresses where a crime was reported from January 2006 to December 2017 accounted for 50% of all

crime in the city.⁵ Given this reality, it makes sense to think about what changes we can make to curb these pockets of crime that exist in every major city.

The concentration of poverty, dilapidated homes, and vacant and abandoned spaces is endemic in urban pockets of crime.⁶ Targeted community economic development would seem to be a natural solution. But there are few examples of policies that cities can enact in the short term to reduce poverty and decades of neglect in certain neighborhoods or communities, while at the same time protecting against sudden out-migration by long-term and multigenerational residents. In fact, the history of place-based economic development is not entirely encouraging. Harvard economist Edward Glaeser notes that state and federally funded urban economic development initiatives that target places have generally failed to generate benefits that exceed their costs.⁷

By contrast, cities can abate vacant lots and abandoned spaces and address proximal causes for why crime centers in specific places. Focusing on abatement

also avoids the “causal fallacy” problem⁸ of thinking that the only way to reduce crime is by addressing “root causes” like poverty. Evidence from social science suggests that patterns of crime change in step with the human-built environment, where higher crime areas devolve from single-family and multi-unit dwellings into places of blight and abandonment.⁹ This spiral of decay is often just that: a process that feeds upon itself—from crime to abandonment to more crime, and so on. When people abandon a home or business, trash accumulates, graffiti multiplies, properties turn to ruin, and crime and disorder fester, triggering a cycle in which more people abandon their homes and businesses.

Crime prevention through environmental design and situational crime-prevention theories explain why vacant and abandoned spaces invite crime.¹⁰ Poor visibility on streets attracts criminal offenders.¹¹ Overgrown shrubs, weeds, and trees on abandoned properties and vacant lots reduce the visibility of criminal activities on the streets¹² and discourage residents from walking down them.¹³ Motivated offenders notice that they can avoid detection from bystanders and apprehension by the police when there are easy places to hide, and hiding

makes it easier to surprise a potential victim. Wilson and Kelling’s “broken windows” theory also explains that signs of blight and disorder signal that an area is “fair game ... for fun and plunder.”¹⁴ Visible signs of disorder signal that no one cares and that community norms around civility are no longer obligatory. Physical signs of disorder like trash on the streets and abandoned and unkempt properties spread fear, lead to more abandonment, and signal to criminals that crime goes unabated. Decisions about how and where cities invest resources in the abatement of vacant lots could have a greater influence on reducing crime than many realize.

John Snow’s work on the causes of cholera in contaminated drinking water in the United Kingdom in the 19th century provides a historical example of how changes to a place can be transformative. Snow mapped cholera deaths in the Soho section of Westminster and showed that they clustered around the Broad Street water pump. After he petitioned local politicians to remove the handle of the water pump, cholera deaths waned. The simple act of removing a source of the epidemic vastly improved the health of an entire community and prevented cholera from reemerging in Soho.¹⁵

Philadelphia LandCare (PLC): A Case Study

Today’s cities can curb the incidence of crime by abating blighted vacant land. The benefits are clear, and a useful strategy is to give priority to programs that are simple to implement, are scalable to large populations, and are not expensive to sustain.¹⁶ While addressing blighted vacant land has been advocated as a crime-prevention policy for decades, there are now examples of successful programs that cities can inexpensively replicate to reduce crime and encourage residents to remain in their neighborhoods for decades to come.

Philadelphia is one such example. Vacant and abandoned urban spaces are an effect of the 1960s and 1970s shift from an industrial to a service-based economy, the movement of people to the suburbs, rising crime, urban riots, and “block-busting,” all of which led to the spiral of urban decay.¹⁷ Cities such as Boston, New York, San Francisco, and Seattle have been able to successfully rebound from the deindustrialization of the U.S. economy by attracting technology and finance industries. But Philadelphia, like Baltimore, Cleveland,

12,000

VACANT LOTS
TRANSFORMED

18M

SQUARE FEET

28%

OF ALL
VACANT LOTS

and St. Louis, has a legacy of blight and abandonment that had come to full scale by the 1990s.

In the later years of that decade, residents of the Kensington neighborhood in Philadelphia grew tired of the eyesore of vacant lots, the drug dealing, and other vices taking place in these areas around their homes. They teamed up with the Pennsylvania Horticultural Society and created a revitalization effort called “land and care,” now referred to as the Philadelphia LandCare (PLC) program.

PLC is simple and was designed to be applied across the neighborhood. Trash and debris are removed from a vacant lot. The land is then graded, and grass and a few trees are planted. A low wooden post-and-rail fence is installed with openings to permit residents access to the newly greened spaces. The fence prevents illegal dumping of garbage and construction debris; it is also a visual sign that someone is maintaining the property. The result is a small “pocket park.” The rehabilitation of such lots takes less than a week to clean and green. The lots are maintained through twice-monthly cleaning, weeding, and mowing during the growing season (April through October). The cost to clean and green a typical lot is roughly \$1,000–\$1,300,

along with \$150 per year to stabilize the lot through biweekly cleaning and mowing.¹⁸

Since its inception in 1996, the Kensington neighborhood’s PLC program has expanded through partnerships with local contractors and city agencies to the entire city, transforming more than 12,000 vacant lots and over 18 million square feet of land. Funds to support PLC are made possible by local community groups, the city, and private philanthropy. Philadelphia’s Department of License and Inspection (L&I) provides the legal mechanism for the PLC cleaning and greening abatement. Once a property is deemed to be in violation of city ordinances about vacancy, L&I contacts the owner of record. If the owner does not respond, L&I affords PLC the right to enter the property and green the vacant lot.

PLC cleaning and greening offers a unique opportunity to document what happens when abandoned and overgrown lots are rehabilitated. In our first study, we examined the effect of PLC remediation on crime between 1999 and 2008. In these years, PLC cleaned and greened roughly 8% of Philadelphia’s vacant lots (nearly 7.8 million square feet). We compared changes in crime around cleaned and greened PLC lots with those

1



**Remove trash and
debris from vacant lots**

2



**Grade the land
and grass; plant a
few trees**

3



**Install small, wooden
post fence with open
access at the corners**

=



John MacDonald in a vacant lot in Philadelphia





of nearby vacant lots that remained blighted and were otherwise similar (e.g., lots with similar square footage, age of abandonment, and in neighborhoods with similar economic conditions). We found that crime had dropped by a statistically significant amount after the PLC cleaning and greening. In particular, assaults and assaults with guns dropped by a statistically significant amount (decreases of about 4% and 9%) around vacant lots after they had been remediated.¹⁹ We did our best to address selection effects in this study, or the concern that PLC may have selected vacant lots to remediate that were somehow different from lots that remained blighted.

To provide stronger evidence that the PLC program was truly effective at reducing crime, we conducted a citywide, controlled experiment of the cleaning and greening program. With research funding provided by the National Institutes of Health and the Centers for Disease Control, we randomly assigned more than 500 blighted vacant lots to either receive PLC cleaning, greening, and maintenance or to remain in the usual state of blight. We found a significant reduction in crime around PLC-treated lots relative to lots that remained blighted. In particular, we

found significant reductions in shootings (8%), assaults with guns (4.5%), and nuisance crimes (7%) such as public drinking and illegal dumping. The effects were even larger for neighborhoods below the poverty line, with the PLC treatment leading to a 29% reduction in gun assaults and a 28% reduction in nuisance crimes.²⁰ This evidence was consistent with our earlier study but is more convincing because the experiment ensured that treated lots were identical to the lots that remained blighted, controlling for anything we could measure that existed beforehand (e.g., crime and unemployment nearby).

A survey of residents living in the areas that were part of the experiment showed that those living near greened and cleaned lots reported significantly fewer concerns about their personal safety and an increase in the use of outside space for relaxing and socializing, compared with residents living near lots that remained blighted. Collaborators of ours, who inspected hundreds of PLC-remediated lots, noted the presence of tables and chairs, gardens, barbecues, and swings.²¹ The PLC program provides clear evidence that remediating vacant lots reduces crime and improves what NYU sociologist Eric Klinenberg calls

the “social infrastructure”: basic needs inherent in all city neighborhoods.²²

If remediating vacant lots simply displaced crime to nearby places, there would be no citywide benefit. When we examined areas at farther distances from the vacant lots that had been cleaned and greened, we did not see evidence of rising crime. This was not surprising, as a review of studies of place-based interventions finds that they are about as likely to find a diffusion of crime reductions to nearby places, as they are to find displacement.²³ The opportunity to engage in crime facilitated by vacant lots may not easily be transferred to nearby places after lots have been cleaned and greened.

Beyond the reduction of crime and fear, the PLC program provides economic opportunities. PLC relies on a network of 18 community organizations that hire local landscape contractors to perform the work; these contractors hire individuals from the same communities to clean, green, and maintain the properties. As it has grown from a pilot project in the Kensington neighborhood to a citywide effort, the program has brought jobs and future career opportunities in landscape management to individuals in some of Philadelphia’s most economically

disadvantaged communities. This has helped PLC expand to every area in need in Philadelphia, and it allows the resources devoted to vacant-lot abatement and maintenance to be spent in the affected communities.

To remediate the remaining 30,000 vacant lots in Philadelphia would cost \$34–\$45 million and about \$5 million to maintain. The money spent doing the work would stay in the community, employing individuals with a decent wage and a semiskilled occupation that can spur economic self-sufficiency and entrepreneurship. The economic benefits of reduced crime are also clear. The results from our research imply that one can invest about \$15,000 in the PLC program to avert a shooting. Our overall calculations suggest that \$1 invested in the PLC program returns \$26 in net benefits to taxpayers from reductions in gun violence, and as much as \$333 in general costs to society, such as pain and suffering costs associated with a gun assault.²⁴

Remediation Spreads

Programs similar to PLC are under way in Youngstown, Ohio, and Flint,

Michigan, and are now being launched in New Orleans and Chicago. In Youngstown, a city that has experienced a 30% population loss between 1990 and 2010 and has a notable number of abandoned spaces, local residents and community groups apply to the Youngstown Neighborhood Development Corporation (YNDC) to remediate vacant

The money spent doing the work would stay in the community, employing individuals with a decent wage and a semiskilled occupation that can spur economic self-sufficiency and entrepreneurship.

lots. The applicants determine the type of remediation—typically, community gardens, but also urban farms or orchards, native plantings, athletic fields, and green spaces. Applicants who receive the funds are responsible for the upkeep. Results from an evaluation of nearly 250 vacant lots in Youngstown that were remediated compared with nearly a thousand vacant lots (in similar “neighborhoods”

that remained blighted) found that the program reduced violent and property crime offenses in the nearby areas.²⁵

In Flint, the local land bank, Genesee County Land Bank Authority (Clean & Green, or C & G), which has ownership over some 15,000 vacant properties, has funding to support neighborhood groups that submit a proposal to remediate and maintain vacant lots. Like Philadelphia’s PLC, the C & G program in Flint requires neighborhood groups that receive funding to clean and mow the lot once every three weeks and perform additional maintenance if they desire. A study compared streets in the year before and after the C & G program was implemented with streets that had un-remediated vacant parcels of land. It found significant reductions in violent crimes after the program had been implemented: roughly a 39% reduction in assaults.²⁶

The results from the studies of vacant-lot remediation programs in Philadelphia, Youngstown, and Flint show that these programs can be designed to be scalable to entire cities and replicable across different settings. City governments like Baltimore and Chicago have also begun

partnerships with community groups and local residents to clean and green blighted and abandoned lots.

Today, a growing body of high-quality studies demonstrates that abating vacant land in an urban neighborhood can dramatically reduce crime. The changes do not require large-scale structural investments from taxpayers. Rather, they require local partnerships between landscape workers, contractors, and municipal organizations to simply and quickly clean up blighted blocks—opportunities that local residents often welcome, if not outright request.

Given that crime and related problems are highly concentrated in the same places, this means that strategic planning can have large-scale population benefits. Imagine a likely scenario where a hundred blocks in a city are responsible for 20% of all serious crime. Addressing blight on these blocks alone could translate into a 5%–10% reduction in crime for the entire city. As a means of reducing crime and the fear that it creates in urban neighborhoods, changing places is often easier than changing people.

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Public Parks

Charles F. McElwee distills the lessons from Bryant Park into principles for leveraging private dollars for public spaces. All too many parks nationwide are underfunded, underused, and underappreciated. McElwee shows how avoiding public support and implementing better management can help parks be beautiful and self-sustaining for generations to come.







Daniel A. Biederman of Biederman Redevelopment Ventures visiting Milwaukee

HOW PRIVATE DOLLARS CAN MANAGE PUBLIC SPACES

Charles F. McElwee

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The parks in America's towns and cities are accessible locations for people to visit and congregate. If these public spaces are managed and designed correctly, they draw pedestrians, foster activity, generate revenue, and increase real-estate values.¹ They become desired destinations, invigorating neighborhoods and enhancing a community's brand. There are 22,764 parks in the nation's most populous cities.² To manage these parks and park systems, three models currently prevail.

Purely Public Operation

This is the traditional option. In this model, a park is incorporated into a city government, typically as part of a parks and recreation department. Public employees manage all the components, from sanitation and security to landscaping and amenities. The department's budget funds all costs associated with public management. Any revenue generated by the park, such as special events, is funneled into an annual general fund.

This model is still the most common, but it presents challenges, since park

departments typically manage numerous public spaces. It may ultimately become difficult to focus on the endless details that go into presenting a good public space. Urban park departments tend to pay above-market wages. They also ignore numerous opportunities to earn nontax income.

Hybrid Public/Private Operation

Here, a city government funds a park while contracting certain park operations to private management. While the city government generates revenue—via events or other forms of programming—private contractors oversee park maintenance, from landscaping to facilities maintenance. The proportion of public funding can also determine public control of the space.

The Central Park Conservancy, for example, operates New York City's 843-acre Central Park while still receiving funding from the city government. The Golden Gate National Parks Conservancy, meanwhile, is a nonprofit cooperative association and a partner to the National

Park Service and the Presidio Trust, which collectively manage 80,000 acres of national parkland around the San Francisco Bay Area. The conservancy generates park support through private philanthropic dollars, cooperative agreements, and earned income from visitor services such as tours, books, interpretive products, and food and beverage operations. This model reduces a city government's exposure to escalating operating costs. Of course, this model still sometimes subjects parks to higher labor contractor costs because of government-mandated, above-market salaries.

Purely Private Operation

In a pure privatization model, a private, nonprofit organization oversees *all* the park's operations, including sanitation, programming, horticulture, security, and maintenance. In addition, the organization generates all the revenue to support the public space. A private model commonly involves an agreement between a nonprofit and a city, with the municipal government granting the organization control over the revenue generated in the space. When self-sustaining, a privately run park benefits public tax rolls. According to one study a few years ago, the success

of the Bryant Park Corporation raises the value of the park's immediately abutting buildings, resulting in an additional \$33 million annually in real-estate taxes.³

Purely private parks can offer a favorable path for public spaces, especially those with high pedestrian traffic in metropolitan regions. Occasionally, a private, nonprofit organization is able to gain control of a park's budget, operations, and revenue generation without restrictions imposed by a city. This is a particularly helpful approach for city parks that confront challenges due to deferred maintenance. Wisconsin's Milwaukee County, for example, has several parks that have suffered from this problem. But this trend is not unique to Milwaukee County—mismanagement has afflicted many public spaces.⁴

A purely private park, when geographical and socioeconomic factors permit, shows that a public space does not always require the financial stewardship of a city hall or county courthouse. New York City's Bryant Park Corporation (BPC) and Dallas's Klyde Warren Park have diverse revenue streams: sponsorships, concessions, philanthropy, and programming.

Parks Done Right

Bryant Park has been transformed from a magnet for crime to a vibrant public space.⁵ This was not the result of geographical serendipity. Midtown Manhattan in the early 1990s was still associated with urban disorder. Moreover, the park's layout, while notably improved, still retained its basic structural elements incorporated decades earlier. It was through proper management—backed by innovative funding, smart design, programming, and unconventional thinking—that Bryant Park became financially self-sustaining and pleasant for future generations. The lessons from Bryant Park are applicable to other parks and park systems, many of which remain underfunded, underused, and underappreciated in U.S. cities.

City governments contemplating privatization should keep some important principles and considerations in mind, as outlined below.

Avoid Public Dollars and Understand How Market Prices Work

When managing a public park, it is best to use private revenue sources for

maintaining open and vibrant spaces. Responding to current public disinvestment, parks and park systems should seek alternative private monies that can offset a government's revenue shortfall. Private resources are preferable—public dollars burden taxpayers and arrive with strings attached. The announcement of a federal, state, or local grant may help finance a project for a public space, but the grantee must continually navigate cumbersome requirements. These requirements typically translate into added costs, as well as time, whether it is spent meeting archaic work rules or filing repetitious reports.

Expending private dollars also contributes to better managerial decisions and avoids inefficiencies. Too often, city governments systematically underprice on the revenue side and overspend on the expense side. For example, a manager will hire expensive designers who require massive public and private funding for the park's design and execution, all with the hope that people will follow. There is no sense of urgency to seek earned revenue to support expensive or new design, even if it does get built.

Chicago's Millennium Park, completed in 2004, cost \$475 million, with the city's

bill alone accounting for \$270 million.⁶ When projects reach such costly levels, managers—private or public—often make decisions that only escalate their expense budgets. They forgo opportunities to collect revenue from sources like food carts, public events, or user fees. On the expense side, a city government may sign a deal with a labor union that explodes the park's costs. The outcome is perverse: city hall ignores what the market is signaling, both on the expense and revenue sides. Unfortunately, too many public space projects, particularly in the Northeast and California, have pursued this costly and foolish way for completing a park turnaround.

This approach contrasts with that of Klyde Warren Park, a public space on a deck over a highway in downtown Dallas. Operated by the Woodall Rodgers Park Foundation, the 5.2-acre park and deck cost \$110 million. The privately operated nonprofit relies on sponsorships, rentals, and revenue from an affiliated park improvement district for most of its operating budget and raised over half of its construction costs from private philanthropy. Klyde Warren, which is undergoing another expansion, has attracted \$2 billion in economic

development and more than 6 million visitors since it opened in 2012.⁷

BPC, which manages Bryant Park, has not accepted public dollars since 1997. Several inventive revenue sources, along with years of patiently working the property's profit-and-loss statement, have made this approach possible. These revenue sources include sponsorships of park programs, rents paid by kiosks and restaurants, and support by a business improvement district created and run by BPC.

Review Revenue Options

Multiple revenue sources can expand budgets that are adequate to maintain parks. Sponsorships help generate revenue by underwriting features, activities, and events. By securing corporate partners, parks may finance physical improvements or spearhead new initiatives that ultimately attract more people. In Boston Common, the nation's oldest public space, corporate outings and holiday parties support the park's Frog Pond, a year-round destination.⁸ In Green Bay's Titledown, a new park adjacent to Lambeau Field, the Packers have partnered with Microsoft to establish an entrepreneurial incubator.⁹ In selected cases, parks can also benefit



Daniel A. Biederman and Howard Husock in downtown Milwaukee



DANGER
NO
ENTRY

from advertising. For instance, if a public park agency owns excess land along a heavily trafficked highway, setting up a private billboard—with advertising—could generate real money. Licensing goods that visitors would buy as souvenirs is also effective in larger cities.

When considering sponsors, public space managers should explore their regional networks, determining which companies will embrace, and fund, projects and programs. Promoting sponsors in a restrained manner is always preferable. Bryant Park, for instance, credits companies with small signs in flower beds or on umbrellas with understated logos.

Philanthropy can also help. Park conservancies, which work in partnership with local governments, often employ a donation-based approach to managing public spaces. The Golden Gate National Parks Conservancy, for example, raises philanthropic dollars for programming, maintenance, and educational initiatives. Of course, there is always uncertainty in annual funding streams that rely on voluntary donations. But fund-raising can still contribute to the revenue needed to operate and maintain a public space.

Programming Saves Money

Park programming typically offers the best financial deliverables, drawing people in at a relatively minimal cost and raising dollars without government assistance. Packing city parks with programming is important, since urban public spaces commonly lack the scenery of national parks. (Yosemite National Park, with its natural beauty,

When a park offers programming, it mitigates nuisance or criminal behavior, attracts people who live and work nearby, and increases the real-estate value of the surrounding neighborhood's properties.

does not require special events to entice crowds.) When exploring programming opportunities, park managers should engage their community by building relationships with prospective event partners and matching amenities with local demographics.

A park can present everyday features, like Ping-Pong tables or reading rooms;

offer core programs, like yoga and art classes; and promote monthly or weekly events like film screenings and concerts. Public spaces should apply wide-ranging programming options, from children's events to fitness and games. Eclectic options, from bird watching to swing dancing lessons, also can enliven a public space. In Bryant Park, square dancing has attracted more than 1,000 people. Such programming, when it draws attendees, creates revenue, especially when pricing an event that exceeds its actual cost. In 2016, Klyde Warren Park brought in \$326,135 in event revenue.¹⁰ Programming commonly thrives in parks that complete physical improvements. In 2011, Philadelphia's University City District, a private partnership, completed a pedestrian plaza outside 30th Street Station, the metropolitan region's central transportation hub. Once a drab intersection with congested traffic, the plaza became a popular destination for pedestrians, from commuters to college students. This public space now features active programming, including musical performances and a farmers' market.¹¹

Understand How Operations Work

Unforeseen developments occur in public spaces—sewer lines get clogged, stone pavements break, storms damage trees. That is why public spaces require reliable revenue streams. In Bryant Park, the operating and construction budget is partially drawn from rent paid by the Bryant Park Grill and Café, along with food kiosks. Such funding sources are then deployed to maintenance costs.

Managing a successful and active public space entails enhanced services, proper sanitation, safety, and excellent horticulture. A park must plant seasonal flora, mow lawns, collect garbage, and clean restrooms to keep its environs safe and beautiful. The alternative risks a hazardous environment, one that attracts criminals and deters visitors.

Maintenance is difficult, especially in the management of restrooms. It is critical to aim for the seemingly unattainable in order to deter nuisance behavior. A park's restroom, for example, can feature mosaics, recessed lighting, flowers, and even music. This means that an office worker, when using the park, can use the restroom, without concern, instead of running back to the office. During

lunchtime, or in a rush, this same worker should know that the public space offers free Wi-Fi. By providing ample electrical outlets and proper seating, a park can attract office workers and students, throughout a long daytime schedule.

Uniformed park workers and security have to constantly monitor public spaces. Trained employees should create a sense of safety, immediately attend to any litter or vandalism, monitor restrooms, and ensure the operation of proper lighting to deter nighttime predators. With a sufficient horticulture budget, employees can also tend to gardens, flowerpots, shrubs, and trees.

Embrace Unconventional Thinking

Modern parks can benefit from unconventional thinking and inexhaustible attention to small details. In Bryant Park, BPC applied the thinking of William H. Whyte on what creates energized, crowded spaces.¹² One small, yet consequential, detail is the movable chair. Scattered throughout the park are 5,000 movable pieces of furniture, uniformly painted green. They create a sense of control for visitors, creating flexibility when conversing, working, or lounging.

A public space can also transform its existing, and overlooked, physical features, as Newark's Military Park learned with an old monument. That park features the Wars of America, a monument designed in 1926 by Gutzon Borglum, renowned for his creation of Mount Rushmore. The monument includes bronze figures in honor of past wars, and once contained a reflecting pool. The pool was later abandoned, sitting empty for years. In 2010, the Military Park Partnership was created to revitalize and operate the park, which had fallen into disrepair. Today, the former reflecting pool features floral displays. In Pittsburgh, meanwhile, the city's parks conservancy repurposed a parking lot. At Schenley Plaza, the conservancy created an active lawn with gardens, dining kiosks, and free, family-oriented programming.¹³

Public spaces should also continually upgrade existing infrastructure or reinvigorate historic sites. In 2017, Houston's Levy Park reopened after a \$15 million revamp that turned the once-underutilized space into a vibrant destination with gardens, playscapes, and programming. In Buffalo, meantime, the Erie Canal Harbor Development Corporation reclaimed the Erie Canal

Harbor, originally built in 1825 and once considered America’s “Gateway to the West.” Today, the area is known as Canalside, a 23-acre redeveloped public space at the canal’s historic terminus. Canalside now benefits from an adjacent mixed-use district, including offices, hotels, and retail.¹⁴

Parks can find advantages in their climate. In Green Bay’s Titledown, a 45-foot-tall hill, incorporated into a physical structure, offers snow tubing in the winter and becomes an attractive greenspace during the summer. In Bryant Park, an annual Winter Village, reminiscent of those in Germany, includes retail vendors, a food hall, and free-admission skating. Attention to every detail, including lighting, results in an elegant space.

Other unconventional moves can highlight a park’s details. For instance, parks habitually turn off fountains in the winter, fearing liabilities or damaged pipes. But a frozen fountain, with its majestic icicles, draws attention, as in Bryant Park. People, armed with their smartphones, will take pictures of this scene, resulting in free marketing on social media platforms or coverage in local news.

Finding inspiration for detailed features requires travel. In an age when the cost of airfare has significantly declined, it is helpful to travel to different regions, observing what other parks or park systems have adopted. Employer-sponsored conferences usually create these opportunities. By visiting other public spaces, a park manager can develop a model, discover new ideas, and learn what does or does not work.

Conclusion

Whether it is a park or park system, public spaces can improve greatly through private management and private dollars. Maintaining them, however, requires constant attention to security, sanitation, design, lighting, and programming.

A vibrant public space not only draws visitors—it also increases real-estate values and plays a pivotal role in revitalizing its urban surroundings. The project will never be “done,” but by avoiding public dollars, building diverse revenue streams, understanding how operations work, and embracing unconventional thinking, a public space can have a positive impact on a city’s economic development.

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Homelessness

Stephen Eide shows how law enforcement can address homelessness hand-in-hand with social services. Maintaining the quality of life in public spaces and ensuring public health are among the most essential functions of local government; without these, the costs to society and those most in need, including the severely mentally ill, may grow intolerable.



RESPONSES TO HOMELESSNESS: THE LAW-ENFORCEMENT DIMENSION

Stephen Eide

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Homelessness-related public disorder is one of the leading policy challenges in major U.S. cities. Widespread concern about homelessness has been registered in surveys of the public.¹ Almost daily, it seems, newspapers and government agencies are issuing reports about the many public health dangers now arising from the continued expansion of the unsheltered homeless.²

Most would agree that any policy response requires both social-welfare and law-enforcement dimensions. On the social-welfare front, several major cities have increased their spending on homeless services. In fiscal year 2019, New York spent more than \$3 billion,³ San Francisco about \$360 million,⁴ and Los Angeles city and county governments combined more than \$600 million.⁵ Spending has risen in all three jurisdictions, thanks to a combination of voter approvals for new taxes for homeless services⁶ and healthy local economies. Between 2013 and 2018, the number of permanent supportive housing units in New York City, Los Angeles County, and San Francisco increased by 50%, 44%, and 62%, respectively.⁷

Cities have been more ambivalent about law enforcement. In the 1980s, when there was a concurrent rise in violent crime and homelessness, many thought the two were related. More recently, though, homelessness has continued to increase but murder and other serious offenses have declined, resulting in lower levels of support for using the criminal-justice system to address homelessness.

This chapter will discuss some common misconceptions about the law-enforcement response to homelessness, including the legality of regulating sleeping in public, panhandling, and civil commitment. It will conclude by laying out a list of principles to guide a law-enforcement response to homelessness.

Common Misconceptions About “Criminalization”

The debate around a law-enforcement response to homelessness is often framed as a debate over the “criminalization of homelessness.” However, that characterization, which has been used not only by homeless advocates⁸ but also the Trump administration,⁹ is misleading.

Laws that regulate panhandling and sleeping in public punish people based on their conduct, not their status as homeless. Advocates claim that this is a distinction without a difference because certain behaviors, such as sleeping in public, are simply derivative of status—and thus to punish the behavior is to punish the category of people. But this claim is far from a settled matter in the eyes of courts.

The language of “criminalization” further misleads by suggesting that the homeless always face criminal penalties for violations of quality-of-life ordinances. By contrast, these cases often result in civil penalties such as fines, or in simple dismissals. Even progressive scholars, if not progressive politicians, have conceded that the “criminalization” of homelessness does not contribute to “mass incarceration.”¹⁰

Homeless advocates have suggested that efforts to “criminalize” homelessness are on the rise.¹¹ In truth, cities’ authority to regulate low-level public disorder is at or near a historical low. Before the 1970s, there existed in the U.S. what scholars have called the “vagrancy law regime,” which allowed for “status crimes,” meaning that

someone could be arrested for simply having been identified as a vagrant by a patrol officer.¹² A series of Supreme Court decisions culminating in *Papachristou v. City of Jacksonville* (1972) dismantled the vagrancy law regime. During the early 1980s, homelessness surged and cities developed new laws and policies to address public disorder. Thus, while many municipal ordinances targeting behaviors such as panhandling and sleeping in public may date back only to the 1990s or later, that should not be taken as evidence that broad tolerance for unsheltered homelessness persisted prior to their passage. If anything, intolerance was the norm. Nor are ordinances that target behaviors somehow “rooted” in vagrancy laws.¹³ The most influential intellectual leaders of the quality-of-life movement long ago made clear their opposition to the traditional vagrancy law approach, and there is no serious movement under way to resurrect it.¹⁴

The number of quality-of-life ordinances on the books tells us little about the extent of “criminalization” of homelessness, because these laws are often not enforced as a matter of public policy or prosecutorial discretion.

District attorneys in Manhattan, Brooklyn, and the Bronx have adopted “decline to prosecute” policies for low-level offenses such as farebeating and marijuana possession.¹⁵ Los Angeles, New York, and San Francisco all launched major quality-of-life public safety pushes during the 1990s or 2000s, but all have since adopted a more lenient attitude toward low-level offenses even as their homelessness crises have escalated.¹⁶ The former general manager of the Bay Area Rapid Transit recently recommended a ban on panhandling as part of a plan to make the system safer, but the board has declined to act, with the board president claiming: “Polarizing people about nonaggressive panhandling does not help BART succeed with our biggest problems.”¹⁷ The number of quality-of-life summonses issued by the New York Police Department has declined by three-fourths over the past 15 years.¹⁸ Between 2010 and 2018, annual misdemeanor adult arrests in New York City fell by 49% (250,299 to 128,194).¹⁹ From 2010 to 2017, annual adult misdemeanor arrests fell 21% in Los Angeles County (211,639 to 167,261) and 25% in San Francisco (10,460 to 7,831).²⁰

Sleeping in Public

Efforts to regulate homelessness-related sources of public disorder commonly target sleeping in public. The many homelessness-related public health controversies noted above are more directly related to people sleeping in public than, say, panhandling. Some communities in California have seen encampments grow to hundreds of inhabitants. Because encampments create serious public health risks and make public spaces feel unaccommodating, cities face significant pressure to address them.

However, a recent high-profile court case threatens to undermine cities' abilities to deal with this issue. In *Martin v. City of Boise*, the Court of Appeals for the Ninth Circuit struck down Boise's "Camping and Disorderly Conduct Ordinances" on grounds that they constituted "cruel and unusual punishment." The court explained: "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they

had a choice in the matter."²¹ Boise has petitioned the U.S. Supreme Court to review the Ninth Circuit's decision.²²

The Ninth Circuit ruling applies to the nine western states over which that court has jurisdiction. Within that jurisdiction, and California in particular, the ruling has already had significant consequences. Earlier this year, Orange County, after being sued by two homeless-advocacy groups, was forced to enter into a settlement

New York City, which has a "right to shelter," spends over \$3 billion on homeless services—more than on the fire department, libraries, and parks combined.

preventing them from enforcing many of their public-order regulations against the homeless. Some Los Angeles city councilmembers have threatened to sue neighboring localities for not being in compliance with the ruling.²³

The ruling in *Martin* will be a burden for many localities, as Judge Milan Smith explained in a dissent from the

Ninth Circuit's denial for a rehearing of the case.²⁴ Shelter can be very expensive, and not all cities can afford it for all homeless individuals within their boundaries. New York City, which has a "right to shelter," spends over \$3 billion on homeless services—more than on the fire department, libraries, and parks combined.²⁵ If the choice is between funding shelter at the level of New York or allowing people to sleep in public, many communities will likely have to accept the latter option.

Judges are not well positioned to assess the quantity and quality of local homeless-services systems. While many homeless really do not have any realistic options other than sleeping in public, some do.²⁶ A city cannot realistically be expected to offer shelter to those with options. Without knowing precisely what portion of the homeless have other options—provided by the city or elsewhere—a judge cannot assess whether a community's shelter system has adequate capacity. Whether shelter is "practically available" to the homeless—the standard adopted by the Court in *Martin*—plainly does not come down to just the number of beds.

In Boise, two of the three shelters were operated by faith-based organizations, which, in the court's view, rendered them practically unavailable because of the potential violation of religious liberty.²⁷

Other judges, following *Martin's* logic, will likely consider levels of safety and sanitation in local shelters to determine whether they constitute a viable alternative to the streets. This was precisely the experience of New York City during the decades of litigation over the enforcement of its "right to shelter."²⁸ What would judges accept as a good-faith effort to offer the homeless an alternative to sleeping on the streets? Through its Homeward Bound program, San Francisco offered homeless people a bus ticket home instead of a shelter bed. The program has reduced the city's homeless population by thousands over recent years—but at least some of the Homeward Bound clients wind up homeless again at their destination city.²⁹ What about moral hazard? Due to their enforcement policies, social programs, and culture, some places are more accommodating to the homeless than others. Even if one leaves aside whether homelessness itself is always completely involuntary, homeless

individuals still exercise choices about where to go and when.³⁰ The homeless, like everyone else, respond to incentives, including the availability of temporary or permanent housing benefits.³¹ Warm-weather climates have higher rates of unsheltered homelessness than cold-weather climates.³² During the winter, New York City's unsheltered population concentrates heavily on the E train because it stays underground for nearly an hour straight.³³ Well-designed service systems minimize moral hazard while moving the maximum number of beneficiaries and clients out of homelessness.

Courts have generally held that cities have less authority to regulate behavior in "traditional public forums" such as parks, streets, and sidewalks than in places with a more specific function, such as libraries and transit systems. In the latter, cities have wider latitude to prohibit panhandling, sitting and lying down, disruptive behavior, and even, in the case of libraries, body odor.³⁴ Though transit and library system rules may not be enforced to the fullest possible extent, that is a question of policy and not law.³⁵

In an influential law review article from the 1990s, Robert Ellickson proposed a

"Red Zone" approach to public disorder: designate, formally or informally, an area in the city where the homeless could sleep, lie, sit, and camp, and so on, in public, but also provide a concentration of social services.³⁶ However, other scholars have raised concerns about the long-term practicality of such an approach.³⁷ Los Angeles created a "Red Zone" in its Skid Row neighborhood,³⁸ but this has not contained the problem: Skid Row is host to only 5%–10% of the total homeless population in Los Angeles County.³⁹ Los Angeles faces the same persistent concerns regarding disorder, public health, and under- or over-policing as do cities that attempt to disperse the homeless. Concentrating homelessness, by informal or formal means, is, at best, a stopgap solution.

Panhandling

There is good reason to regulate panhandling in public. Charitable groups often provide the homeless with necessities, such as food and clothing, at no charge. Thus, it is reasonable to suspect that cash handouts to the homeless, who have high rates of substance-abuse disorders, will be used to feed drug and alcohol addictions. In

addition, many people feel intimidated when confronted by panhandlers, especially at night or in a confined space.⁴⁰

Attempts to regulate panhandling in U.S. cities date back at least as far as the 19th century.⁴¹ However, since the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* (2015), dozens of local panhandling ordinances have been either struck down or are no longer enforced.⁴² *Reed* itself did not concern panhandling or homelessness-related disorder, but it established a very stringent standard for regulations on signage in public. According to the National Law Center on Homelessness and Poverty, every challenge to a panhandling ban since 2014 has succeeded.⁴³ The Supreme Court itself clearly understands the ruling to apply to panhandling. In 2015, it remanded *Thayer v. Worcester*, which upheld a panhandling ordinance, back to the lower court for reconsideration in light of *Reed*. The ordinance was subsequently struck down.

Homeless regulations can bring into conflict cherished values of religious liberty and standards of public order. Faith-based organizations often devote

considerable resources to helping the homeless, occasionally in ways that local authorities believe enables the problem.⁴⁴ But attempts to regulate these organizations have been struck down by courts on religious-freedom grounds.⁴⁵ At the same time, as noted earlier, one reason that the Ninth Circuit held that Boise's homeless-services system was inadequate was because two out of its three shelter providers were associated with faith-based organizations. Whether cities have an obligation to provide thoroughly secular shelter program alternatives to the homeless, and whether the homeless have a right to object to sobriety or program participation requirements in exchange for shelter, are unresolved questions.⁴⁶

Civil Commitment

Another legal mechanism available to cities in the attempt to combat homelessness is civil commitment. This is an option only for the seriously mentally ill, not for the homeless per se, but untreated serious mental illness is one of the most distinguishing features of the challenge of modern homelessness. Though not a majority of the homeless population overall, the

seriously mentally ill are more likely to be “service-resistant”—unwilling to accept help to get off the streets. The conditions under which someone can be forced to accept treatment vary from state to state;⁴⁷ typically, the standard is whether one is “gravely disabled” and a “threat to self or others.” However, even within the same state, standards can be applied differently by different judges.⁴⁸ Legal barriers, while significant, are not the only obstacle to increased civil commitment. Quality inpatient mental health care is extremely expensive: in 2015, the average cost per patient in a state psychiatric hospital was \$664 per day, or over \$242,000 per year.⁴⁹ Fiscal concerns have been a significant driver of the recent reduction in inpatient psychiatric capacity across the nation. Between 2008 and 2019, San Francisco General Hospital lost half its acute inpatient psychiatric beds.⁵⁰ Last year, the federal Department of Health and Human Services offered states waivers from the so-called IMD Exclusion, which limits the use of Medicaid funds for long-term treatment in an institution that specializes in psychiatric care.⁵¹ However, no states have pursued this waiver authority thus far.

In the near term, outpatient commitment is a more promising means of addressing homelessness. New York has made active use of outpatient civil commitment via its “Kendra’s Law” program, which authorizes courts to order a treatment program for mentally ill individuals with a history of incarceration and/or violence, and noncompliance with voluntary treatment. From 1999 to the present, the rate of homelessness for those committed under Kendra’s Law declined from 28% (before entering the program) to 12% (while in the program), and incarceration declined from 28% to 8%.⁵² Despite its demonstrated success in reducing homelessness, Kendra’s Law has not been used much outside New York. California has an equivalent of Kendra’s Law, known as “Laura’s Law,” but it is rarely used. Currently, about 1,300 people in New York City are under court order, compared with about 30 in San Francisco and 135 in Los Angeles County.⁵³

Another form of outpatient commitment can be pursued through a mental health conservatorship. Whereas assisted outpatient treatment commits an individual to complying

with a specific treatment plan, a court-appointed conservator possesses broad powers over a mentally ill individual’s care, treatment, and personal affairs. A robust conservatorship program could ultimately prove as effective as assisted outpatient treatment, but in California, where it is an option, stringent requirements have kept usage levels even lower than under Laura’s Law thus far.⁵⁴ From 2013 to 2019, mental health conservatorships in San Francisco fell by 13%.⁵⁵ However, last year, California enacted SB 1045, which gave San Francisco, Los Angeles, and San Diego the option to expand conservatorships for people with severe behavioral health disorders. Discussions are under way at the state level to revise SB 1045 to facilitate still-broader use of conservatorships.⁵⁶

Principles for Reform

Homeless advocates present cities with a choice: either allow the homeless to live and sleep anywhere in public—and accept all the corresponding public disorder and public health concerns—or spend massive amounts of money on subsidized housing for all the homeless, even when they have other options.

Local officials should not accept this choice as legitimate. They should act to regulate homelessness-related disorder, particularly if prompted to do so by the public. The following five principles may provide guidance in crafting a law-enforcement response to homelessness-related public disorder.

First, the maintenance of order in public spaces is one of the most vital functions of municipal government. Widespread homelessness is correlated with crime and is a threat to quality of life. San Francisco’s Tenderloin neighborhood is home to 40% of the city’s unsheltered homeless population and 56% of drug arrests.⁵⁷ A number of public transit systems, including those in New York City and San Francisco, have declining ridership and decreased customer satisfaction, likely due in part to increased homelessness.⁵⁸ In New York, subway delays caused by homelessness-related disturbances increased over 50% between 2014 and 2018.⁵⁹ In surveys, “addressing homelessness” ranks at the top of the list of concerns for commuters on the Bay Area Rapid Transit.⁶⁰

The public expects municipal government to manage disorder in low-income and high-income neighborhoods

alike.⁶¹ In the words of legal scholar Nicole Stelle Garnett: “[O]rder-maintenance policies might ‘work’ even if they do not reduce serious crime. Importantly, order-maintenance policies may mitigate the negative effects of the fear of crime, including reduced levels of collective efficacy and residential stability. These things matter intensely to cities and their neighborhoods; crime rates tell only part of a city’s story.”⁶²

The goal of using law enforcement to address homelessness is not to “arrest your way out of homelessness” or even to end homelessness. It is simply to increase order in public—which citizens desperately want. For judges to deny citizens the ability to petition their government to pass quality-of-life ordinances is to deny them the right of self-governance.

Second, the broader societal costs of public disorder are many and various. Too many libraries, parks, and other public spaces have ceased to feel fully public. Instead, they have come to resemble the private accommodations of the homeless.⁶³ Park benches, plazas, and library carrels are public property and should be *shared*—meaning that they should be used temporarily, not occupied for hours on end.

Small-business owners are among the most vocal advocates of a more robust law-enforcement response to homelessness, which threatens the already-struggling brick-and-mortar retail industry.⁶⁴ In a 2019 report, New York’s Metropolitan Transportation Authority specifically cited “the continuing challenge of the homeless population” as part of the reason for a recent drop in sales at New York City’s Grand Central Terminal, where, in each of the last three years, January Point-in-Time surveys have found more than 200 unsheltered individuals.⁶⁵ The “retail apocalypse” is rooted in broader global trends unrelated to homelessness, but addressing public disorder is one measure within the scope of a local government to take.

Third, “diversion” programs that direct offenders into social services instead of punishment have limits. Diversion programs, which offer alternatives to traditional criminal penalties for some crimes, can be life-changing interventions for some. As such, some are tempted to use these programs as part of a strategy for dealing with homelessness. In June 2019, the de Blasio administration launched an initiative to re-divert homeless individuals caught

violating public transit regulations into services instead of issuing summonses.⁶⁶

But diversion programs have their limits. The most effective diversion programs do more than just offer leniency; they impose a specific and consistently enforced system of rewards and punishments. Those who commit minor quality-of-life offenses do not face incarceration, and thus the criminal-justice system often has little leverage over them. One of the major conundrums of homelessness, as it intersects with the criminal-justice system, is that cities are dealing with individuals who have very serious behavioral health problems but who do not commit serious offenses. They are thus often not the ideal clients for a diversion program.⁶⁷

Fourth, judicial rulings mandating spending on homelessness can be profoundly inequalitarian. The two cohorts most likely to be harmed by disorderly public places are small-business owners with brick-and-mortar establishments and residents of low-income neighborhoods. Massive global corporations’ bottom lines aren’t threatened by public disorder, and the wealthy don’t have to take the subway or use the public park.⁶⁸ As explained earlier, New York City can afford a “right

to shelter,” but many cities cannot.⁶⁹ Requiring a poor city to provide housing for all its homeless or allow them to languish on the streets is tantamount to decreeing that that city is too poor to enjoy self-government.

*Fifth, cities are capable of restoring public order.*⁷⁰ This point is worth emphasizing, since advocates regularly insist that quality-of-life laws and regulations are counterproductive.⁷¹ New York’s Central Park has faced challenges with vagrancy throughout its history, including the “Hooverilles” erected during the Great Depression.⁷² Central Park would not now be the source of civic pride and international admiration that it is, had New York not dealt effectively with those challenges. Not every public disorder challenge requires making more arrests,⁷³ but sometimes arrests are necessary. During 1980–2013, New York City’s misdemeanor arrest rate increased by nearly 200%.⁷⁴ It is widely held that New York experienced an increase in levels of public orderliness during 1980–2013. Certainly, the recent decline in enforcement of quality-of-life regulations in San Francisco, Los Angeles, and New York has not served to increase perceptions of public order.

In sum, city officials dealing with the homelessness issue should realize that they are not required to allow intolerable levels of disorder to persist on sidewalks and in parks and other public spaces, thanks to the presence of homeless individuals and encampments. Moreover, officials have strong reasons to take actions against such disturbances. At the same time, there are recognized ways to assist the homeless, especially those suffering from behavioral health issues. These include not only referral to shelters but the use of legal conservatorships and outpatient treatment. We must not allow the complications posed by homelessness and its intersection with constitutional rights to paralyze cities and prevent the response that the public wants and has the right to expect.

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12. See Risa Goluboff, *Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s* (New York: Oxford University Press, 2017).
13. Javier Ortiz, Matthew Dick, and Sara Rankin, “The Wrong Side of History: A Comparison of Modern and Historical Criminalization Laws,” Seattle University of Law Homeless Rights Advocacy Project, May 2015.
14. George Kelling and Catherine Coles, *Fixing Broken Windows* (New York: Free Press, 1998), 64: “We support fully the movement by the courts away from allowing persons to be penalized for their status. We have no wish to return to vagrancy laws, which are unjust and inappropriate in a democratic society”; Robert Tier, “Restoring Order in Urban Public Spaces,” *Texas Review of Law and Politics* 2, no. 2 (Spring 1998), 260: “With a combination of proper legislation, fair-minded law enforcement, and a ‘tough love’ approach by social service providers for the homeless, urban communities are reclaiming their public spaces as both safe and civil, where residents and visitors alike will voluntarily spend their time. These communities have decided to cease tolerating everything that any deviant wants to do. They want to re-establish order without a return to the discrimination and arbitrariness of the past, and they are doing so while respecting the constitutional rights Americans hold dear.”
15. “Subway Fare Evasion Prosecutions Down 96% in First Year of New Policy,” Office of Cyrus Vance, Feb. 1, 2019; “Bronx District Attorney Darcel D. Clark Statement to City Council Committees on Public Safety,” Office of the Bronx County District Attorney, Feb. 27, 2019; “Low-Level Marijuana Prosecutions in Brooklyn Plunged by over 91% This Year as District Attorney’s Office Expanded Declination Policy,” Office of Brooklyn District Attorney, July 27, 2018; “Brooklyn District Attorney Eric Gonzalez Moves to Erase Past Convictions and Outstanding Warrants for Low-Level Marijuana Possession,” Office of Brooklyn District Attorney, Dec. 19, 2018; “Brooklyn District Attorney Announces New Program to Erase Misdemeanor Marijuana Convictions,” Office of Brooklyn District Attorney, Sept. 7, 2018.
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Out, and Under Arrest. Even the city of Berkeley enacted anti-panhandling legislation in the 1990s, described by one scholar as “one of the most far-reaching panhandling control ordinances in the country”; Robert C. Ellickson, “Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning,” *Yale Law Journal* 105, no. 5 (1996): 1172; Tier, “Restoring Order in Urban Public Spaces,” 286. In June 2016, the New York City Council passed the “Criminal Justice Reform Act,” legislation that decriminalized a range of low-level offenses, including public urination. See Greg Berman and Julian Adler, “Toward Misdemeanor Justice: Lessons from New York City,” *Boston University Law Review* 98, no. 3 (May 2018): 981–97.

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