# Public Safety, Quality of Life and Crime

A semi-retired attorney, I recently moved back to Chico after 40 years away, having lived during those years in Santa Cruz and San Francisco. Shortly after I moved in to my new home, my back gate was broken into and a bike was stolen.

I began voicing my concerns with friends and neighbors, asking them about the frequency of crimes in my neighborhood, and just how defensive I should be. I was introduced to Chico Community Watch by a friend, and started attending some of their meetings. I also signed onto Nextdoor for my neighborhood, and saw a similar sentiment being expressed there. I have learned that many citizens are increasingly alarmed by a declining sense of public safety and quality of life in Chico, and from my years living in San Francisco and Santa Cruz, I knew Chico is not unique to this problem.

When asked about the worsening conditions compared to years past, many also identified the “homeless”, or “transients”, “tweakers” and “drug addicts” as a primary source of the problems. I decided to learn what I could about what was going on, and started reading reports, talking to others, and looking for additional information.

I spoke to someone at the Chico Police Department, told them what I was researching, and the polite and helpful person on the phone assured me that my concerns were not new to the CPD. I had reviewed their available crime reports, and asked about the availability of data on other than the most serious crimes, i.e. petty crimes, especially as it relates to enforcement against the homeless and drug users. I was referred to a recent study that was a joint project between CPD and Chico State. I contacted the principle author of the study and obtained a copy of the report.

The authors titled the paper, *Impacts of Chico’s Public Safety Approach to Homelessness: Initial Analyses*. [[1]](#endnote-1) Among other things, the CSUC scholars conducted a survey in cooperation with the Downtown Chico Business Association “regarding behaviors of concern to downtown business owners”. They reported that those surveyed “...perceived this behavior [to be] the result of people who seemed to be homeless, transients, and/or panhandlers”. When asked who should help manage the consequences of the behavior, about three quarters of those surveyed said “the police and the City”.

The list of their complaints included: “People sleep outside their business”, “...have to clean the area outside your business”, “dog or human waste outside your business...”, etc. The initial survey was done in 2012, and a follow up in 2016, with very little change, except perhaps that the problems had gotten worse.

In 2013, the City council passed the “Sit-Lie” ordinance[[2]](#endnote-2), and in 2015, several other codes were “...added or expanded to enhance the existing law enforcement tools to address the homeless population.” These included prohibitions on blocking entrances[[3]](#endnote-3), regulating camping and the “storage of public property in public places”[[4]](#endnote-4), and protection of and camping in waterways[[5]](#endnote-5).

The study goes on to explain that ordinances such as these are part of a growing effort by cities who are “...using public safety laws to mitigate the effects of a growing homeless population.” While conceding that “...in fact ordinances were rarely used...”, the authors go on to speculate that “it is possible that passage of sit-lie had indirect effects on the policing of the homeless community, so that... general policing of the homeless population increased.”

Because citations for violating these new ordinances are rarely used, and those that are issued do not capture data about housing status, the researchers resorted to looking at arrest data instead, and concluded that “[t]he data indeed suggest in increase in arrests of homeless individuals relative to housed individuals over the period of review.”

Arrest data pertains to criminal offenses serious enough to result in actual arrests. Even when used, the ordinances themselves are never cause for arrest, so the actual relationship between arrests and the existence of the rarely used sit-lie ordinance is at best indirect and unexplored by the study. There may be many other factors which contribute to an increase of arrests of this specific demographic, including a higher incidence of crimes, but these questions remain unasked by the researchers.

Nonetheless, the analysis of arrest data leads the authors to conclude that the costs of enforcing the laws against those who are homeless is a use of scarce police resources that might better be directed elsewhere. That is quite a leap of logic.

**False Premise**

Unfortunately, this study, as do others, conflates the use of public safety laws and other quality of life ordinances with “a punitive approach to homelessness”. By comparing the number of arrests of homeless before and after the adoption of the sit-lie ordinance, the study show a slight increase after adoption, and draws the conclusion that the passage of the ordinance is the cause of this increase.

A fundamental rule of science is that “correlation is not causation”. This error in reasoning, that the purpose of public safety laws is not really to protect public safety, but an attack the conditions of homelessness, conflates distinct issues, and often prevents or impairs the honest analysis and dialogue about crime.

In another example, the BerkeleyLaw Policy Advocacy Clinic recently updated a study originally done in 2015[[6]](#endnote-6), in which they assert that a growing number of California cities are responding to the homeless problem by enacting “anti-homeless laws” consisting of “municipal codes that target or disproportionately impact people experiencing homelessness.” If more “homeless” individuals commit crimes, we would expect more arrests within that group. But again, that particular question goes unexplored by these researchers.

What are these “anti-homeless laws”? “(1) Standing, sitting and resting in public places; (2) Sleeping, camping and lodging in public places, including in vehicles; (3) begging and panhandling; and (4) food sharing with people who are homeless.” These are very similar to the Chico ordinances that are the focus of the Wilking study.

Among the key conclusions of the BerkeleyLaw paper is that “...cities appear to be arresting people increasingly based on their homeless status as opposed to any concrete unlawful behavior.” The implication is that there is too much attention being given to the enforcement of crimes against those who are also homeless.

We are encouraged by the authors to believe that public safety and quality of life laws are not really directed at conduct of individuals, but instead is a mean-spirited and unconstitutional attack on the homeless population. To drive this point home, the authors equate these “anti-homeless” ordinances with Jim Crow laws, enacted beginning in the 1880 by the Southern states after the Civil War legalizing segregation between blacks and whites, and the “anti-Okie” laws passed during the dust bowl migrations in the 1930’s, targeting vagrancy. Thus the title of the paper: “*California’s New Vagrancy Laws*”.

This entire line of argument is false, misleading, and is designed to cloud the straight forward and practical problem being identified by our citizens and business owners in Chico and elsewhere: the rise of petty and other crimes.

**A brief history of vagrancy laws:**

It might be helpful to briefly review the history of vagrancy laws. Most agree this class of laws began with the 1824 Vagrancy Act in England that made “sleeping rough” or “begging” illegal.[[7]](#endnote-7) This legal concept of criminalizing “undesirables” found its expression in US vagrancy law through Jim Crow laws[[8]](#endnote-8) passed after the Civil War, and in during the Great Depression era of the 1930’s with the so-called “anti-Okie” laws. California’s Anti-Okie Law was passed in 1937 to make it a misdemeanor to “bring or assist in bringing any indigent person into the state” [[9]](#endnote-9). These legal approaches gradually evolved into what are now called the vagrancy laws.

The purpose of Jim Crow law was to create differential enforcement rules based on the status of race, while vagrancy laws focused on financial status of indigents and other undesirables. By defining vagrancy as those having “no visible means of support”, or being engaged in suspicious and anti-social behaviors such as “loitering, prostitution, drunkenness, or criminal association”, the line between criminal and legal conduct was blurred, resulting in almost unlimited police power to arrest anyone they suspected of potential future criminal conduct or degrading the quality of life for law-abiding citizens.

Beginning in the 1960’s, most of these laws were either overturned or repealed on a constitutionality basis. The courts ruled that such vagrancy laws were a violation of the due process clause of the Fourteenth Amendment because laws cannot be enforced against a status or appearance, and they must not contain wording so vague that one cannot clearly identify what conduct is illegal. Being homeless, poor or unemployed is not illegal, nor should it be.

This is now a fundamental principle of our legal system: laws must define clearly and unambiguously the conduct that is illegal, and this conduct must not be of a class of conduct protected by the US Constitution, such as freedom of speech or assembly. The fundamental purpose of all laws is to preserve the constitutionally protected rights and safety of citizens to enjoy their own life, property and quality of life.

**Public Safety and Quality of Life Laws**

If you visit the Chico City Ordinances[[10]](#endnote-10), you will find the Sit/Lie ordinance under Title 9, “PUBLIC PEACE, SAFETY AND MORALS”, and under “DIVSION III. PUBLIC HEALTH AND SAFETY OFFENSES AND REGULATIONS”. This may explain why the authors of the two studies mentioned above, attempt to conflate this class of laws with a “public safety approach to homelessness”. This is an error of logic, at its worse demagoguery, and serves only to misinforms us as to the real issues of concern.

If you read the complaints expressed by downtown business owners,[[11]](#endnote-11) they are clearly identifying conduct, not status, notwithstanding that when pressed by the surveyors to come up with a causal link, they identified the “homeless” as the probable offenders. But they have no idea how many of the individuals sleeping and defecating around their establishments are actually homeless or even transients, though we can all understand how such an assumption might be drawn from experience and common sense.

That said, whether the conduct we are discussing comes from the homeless or elsewhere (and likely some combination) it is wrong to assert, based on this unscientific public perception of the possible connection between the offensive conduct and the status of the offender, that any call for enforcement against these behaviors is an attack on “homelessness”.

Public safety laws are a reasonable response to a growing incidence of petty crimes and other anti-social conduct. It is the offensive conduct that is the subject of these complaints and the call for action from the police and city government, not a cry to eliminate homelessness by making homelessness illegal.

Sidewalks are designed and constructed to facilitate pedestrian traffic in a safe and sanitary manner. This is especially important to business owners and their customers, because when customers attempt to patronize a business and have to step over or around someone sitting on the sidewalk or blocking the entry, you are not likely to enjoy your shopping experience, and may feel, and may actually be unsafe. Businesses with these problems loose customers.

When dogs and people urinate and defecate on sidewalks, in doorways and parking lots, those who step around it or in it are correct to complain about the public health and quality of life that is diminished as a result. Add to this being approached by someone who is aggressively and persistently asking for handouts from every potential customer who passes by and business owner and citizen complaints justifiably rise. The public are perfectly correct to expect their police and city representatives to enforce infringements on their own rights to health, safety and quality of life.

Likewise, citizens who have their cars stolen or broken in to, have their property stolen or vandalized, see public places they once were able to enjoy freely and openly filled with trash, make-shift camps, hazardous waste and defaced with graffiti and other vandalism, have a perfect right to complain. What is more, they have a right to expect and demand that their appointed representatives, the police and the city council, effectively combat these obvious problems.

Easier said than done, of course, but to portray those legitimately complaining about the very real impacts of this conduct, or to try to make the police out to be more motivated to act against homelessness rather than crime, is dishonest, manipulative, and counterproductive.

**Another look at the law**

When someone is stopped for suspicion of DUI, we don’t inquire if they were abused as a child, have a history of drug abuse, are unemployed, can pay their bills on time, or are homeless, all potential explanations they may give for why they are driving drunk. We expect the police to determine if in fact they are impaired, by the legal standards of intoxication, and if so to remove them from the streets. The aim of DUI laws is not to make the use of alcohol illegal, but to make it illegal to use it to excess and then get in a car and drive on public streets. Their primary purpose is to increase public safety for the rest of us; driving a vehicle while intoxicated places innocent citizens in danger. We do not make exceptions based on offender’s personal reasons, motives or status.

Besides the obvious health issues, encountering human and animal waste on public sidewalks, doorways and parking lots, or seeing public spaces otherwise abused, diminishes quality of life for everyone else using those public spaces, most of which would prefer them to be clean and sanitary. Protecting public safety and quality of life is the primary purpose and justification all legitimate city, state and federal public safety laws.

**What is the real issue?**

The issue is crime. Public safety violations and petty crime are on a continuum with more serious crimes against persons and property. If a particular type of conduct endangers the health and safety of citizens, ordinances and laws are created to give notice to all citizens exactly what is prohibited. As new issues arise, new laws are sometimes needed to authorize enforcement efforts.

All crimes have a public safety and quality of life impact. Most citizens agree that defecating on another’s property, littering, dumping, and/or squatting on public and private lands, etc. diminish safety and quality of life for everyone. There is no doubt that more serious crimes against persons and property do the same.

Common sense informs us that while not every petty criminal goes on to commit more serious crimes, those who commit more serious crimes seem more likely to be disrespectful of minor laws as well. But the fact is, given the rate of serious crimes and the limited resources available for policing, petty crime enforcement is simply not a top policing priority at this time. But it is fair to ask, is it possible that more attention on petty crime enforcement might have a positive impact on reducing all crime?

**Successful Policing Policy**

Policing of petty crimes as an approach to reducing all crimes has a demonstrated history of success in municipalities that have implemented the so-called “Broken Window” approach to crime enforcement. This approach holds that “allowing a neighborhood to become overrun by graffiti, liter, public drunkenness and other forms of disorder breeds more crime by signaling that social order in the area has collapsed.”[[12]](#endnote-12) It follows that removing Graffiti, liter, and other forms of disorder would breed less crime.

This type of policing policy, first implemented in New York in 1994 under Mayor Rudolph Giuliani by his police commissioner, William Bratton, had a significant impact on all crime. “Crime in New York dropped 12% in the first year... and 16% the next year, while crime rates in the rest of the country were virtually flat. The New York crime rout became national news, spurring other police departments to adopt similar data-intensive, proactive tactics. Over the next two decades, crime would fall 50 percent nationwide, revitalizing cities across the country. The biggest beneficiaries of that crime decline were the law-abiding residents of minority neighborhoods. Senior citizens could go out to shop without fear of getting mugged. Businesses moved in to formerly desolate areas. Children no longer had to sleep in bathtubs to avoid getting hit by stray bullets. And tens of thousands of individuals were spared premature death by homicide.”[[13]](#endnote-13)

A big part of this policy included pedestrian stops and Broken Window policing. We might expect that these policies would result in an increase in the prison population, but between 2000 and 2009, the New York prison population actually dropped by 17 percent, while the rest of the country’s prison population continued to rise.[[14]](#endnote-14)

**Chico crime data**

According to the 2012 Chico Police Department crime reports[[15]](#endnote-15), the most serious “Part 1” crimes (Homicide, Rape, Robbery, Assault (against Persons), Burglary, Larceny, and Auto Theft (Property crimes)) were relatively flat from 2004 to 2009, and started to decline slightly in 2010. In 2012, the date of the report, there was a small increase (7.4%) from the prior year. Between 2012 and 2014, however, these crimes jumped 58.8%, driven primarily by a near doubling of the incidence of larceny (non-violent thefts, excepting vehicle theft, robbery and burglary). Larceny crimes have continued to increase by another 2% through 2015. Based on projections for the 2016 year, we are likely to see a modest decrease in overall crimes from 2015 of around 14%,[[16]](#endnote-16) but still well above the prior peak 2004 levels of total crimes, and larceny will still be a major contributor to the overall numbers.

According to a website that offers crime statistics compared to state and national averages,[[17]](#endnote-17) Chico ranks nearly twice the property crime rates of California and the nation, while violent crimes are slightly less than both. Consistent with the Wilking study, the two most crime-ridden neighborhoods are reportedly in north Chico; E. Lassen Ave/Cohasset Rd. and Laburnum Ave/E. Lindo. It is noteworthy that one of the lower crime areas is Chapmantown.

It seems likely that individuals committing petty crimes and the more serious Part 1 crimes do not fit into a pattern of clear cut rules, and probably range from one-time petty criminals to across the board chronic offenders. No crimes are solved or even reported 100% of the time. According to the Bureau of Justice Statistics, more than half of the nations violent crimes, or nearly 3.4 million victimizations per year went unreported between 2006 and 2010. [[18]](#endnote-18) A similar relationship is likely to be present with other crimes, especially lessor crimes. When reporting a crime seems pointless, victims are less likely to do so.

With the appropriate focus by law enforcement on Part 1 crimes, resources needed to respond to petty crime complaints and patrolling active areas are understandably lacking. This reality is reflected by often stated citizen perceptions about their experiences with being victims of and reporting petty crimes to the police. Many say that they are merely directed to the CPD web page to fill out an online report, and that is the end of it.

The crime of larceny often involves clandestine thieves who sneak onto private property during the night to steal bicycles and tools and other property, and who usually operate at night to avoid witnesses. Auto theft, which is also often carried out clandestinely, has increased steadily since 2010, though currently about half of what it was at the peak in 2004.[[19]](#endnote-19) Burglary, which involves breaking in, is often prevented when the burglar is confronted by occupants, implying that the criminal might choose to burglarize only houses that are unoccupied, so they can get in and out unnoticed. These types of crimes are hard to solve, and only the most serious crimes, like homicides and robbery, warrant the necessary investigative resources needed to track down the perpetrators.

However, the increased attention to all crime in the downtown area, even infractions, appears to be having a positive impact. According to the Wilking study, the geographic center of the highest numbers of arrests has moved steadily from downtown northward.[[20]](#endnote-20) The incidence of arrests of those identified as homeless appears to be trending slightly upwards.[[21]](#endnote-21) One theory, which the authors of this and other studies seem to support, is that police are disproportionately targeting the homeless.

But Wilking’s own numbers for before and after adoption of Sit/Lie, show that the vast majority of arrests were of the “not-homeless”, (78.4% vs. 21.6% and 65.6% vs. 34.4% respectively)[[22]](#endnote-22). Given the relative size of the housed and homeless populations (~571 homeless of ~90,000 total residents)[[23]](#endnote-23), it seems reasonable to conclude that the crimes/capita of the two groups is much higher within the homeless group (e.g. about half a percentage of the population makes up a third all arrests), and many have been arrested multiple times. To understand this better, we would need to sort out the issues of multiple arrests and multiple charges per arrest for the individuals arrested, taking into consideration their homeless status.

The Wilkins study attempts to look at this, but their analysis of this issue appears to have some serious technical errors[[24]](#endnote-24). Nonetheless, having reached the conclusions that “First, given the findings that the public safety approach has increased the policing of the homeless population...” the authors are ready to move on to two other questions: who is most frequently arrested and for what crimes?

According to the arrest data reported in this study, looking at a period of 6.5 years, “...the 25 individuals with the most arrests in the dataset were homeless...” ranging from “83 to 29 arrests”.[[25]](#endnote-25) But a closer look at the data raises some interesting observations. The largest number of arrests in this dataset was actually 100, not 83, and that person had a total of 160 separate charges! Also, when looking at the data over time, these individuals show a wide range of historical patterns: Some were housed for a period of time before reverting back to homelessness, but all seemed to be homeless more than not. Also, several of those 25 had a large number of arrests and charges even when housed. Some showed large gaps in arrests over time, though it is not clear if they were residing in Chico throughout the period reviewed.

The author offers an analogy to help explain these findings by observing that certain homeless individuals also “frequently access emergency medical services”[[26]](#endnote-26). But going to the hospital is not a crime, and we certainly don’t encourage people to commit crimes, as we do with obtaining health services. Also the authors concluded that the police are specifically targeting the homeless, yet many of these individuals were arrested when both housed and homeless, and many more non-homeless are arrested each year.

The analysis presented does not support a conclusion that police arrest more homeless individuals because they are homeless. It is a preposterous to suggest that police first determine the status of an individual, and only when they learn they are homeless, do they engage in their duty to enforce the laws. This would mean, given a finite amount of police resources, they forego arresting sheltered individuals so they can arrest more of the homeless. If that is your theory, your data and analysis had better be very persuasive. The authors have not met that burden.

The narrative that the police are targeting the homeless instead of focusing on the real crime problem is the same rhetoric at work when claims are made that police are specifically targeting certain racial classes for contact, while leaving unasked questions about possible correlations between race, citizen complaints and crime rates in a particular neighborhood. Mindful of Occam’s Razor[[27]](#endnote-27), the simpler explanation is that police are simply responding to crimes where they are reported and/or observed, and the demographics of status and race are not the determinate factor behind the numbers.

If there is a correlation between homelessness, drug use, mental illness, or any other characteristic that predicts higher crime rates, it might be helpful to know. If such connections were known, then it follows that perhaps there should be more, not less attention paid by police to those who can be identified as such. Being fair does not mean we have to be blind. All crimes should be subject to enforcement, notwithstanding that petty crimes are necessarily a lower priority for police resources. But this is an opportunity to try to do more with less.

Justice is supposed to be blind to status and condition, something we all should both expect and demand. Therefore, the status and condition of the individual, rich or poor, sheltered or homeless, black or white, should be irrelevant to law enforcement efforts. What is relevant is the principle that criminal conduct, petty crimes, public safety and health infractions must be effectively enforced and deterred if we are going to live together in peace.

Having laws on the books is not the same as effective enforcement of those laws, or of criminal deterrence, especially when they are rarely used. Common sense informs us that a lack of enforcement leads to an increased incidence of offenses. If this is true, then increased enforcement should help to lower crime rates. In fact, there is strong evidence that this is exactly the case.

**Examples of success**

The Broken Window policing policy has already been mentioned as having shown itself to be effective in reducing the overall crime rate. Can the impacts of these policies be effective in Chico? I think there is already some evidence that the answer is yes.

One place to look for this evidence is downtown. Business owners, city officials and police have been working together to improve the atmosphere and sense of safety in the downtown area. One approach has been to schedule public events, such as Thursday Night Market, Slice of Chico, Friday Night Concerts, and Farmers Market. While we might expect an increase in crime given the concentration of potential victims, this has not been the case. In addition to the increased security with the many witnesses and cameras that comes with crowds, the City and CPD have engaged a private, armed security detail to walk the beat and be visible during these activities. This firm also patrols lower Bidwell park. The Volunteer In Police Services volunteer patrol organization, V.I.P.S., a part of CPD, also conducts regular patrols downtown and in neighborhoods where asked to do so. Future researchers are invited to study whether the effects of all of this has been positive, but anecdotal indications are that it has.

The recently established downtown Property Based Business Improvement District, a self-assessment district approved by a supermajority of downtown property owners, provides an additional example of what can be done by concerned citizens. The program details are still in the planning stage, but it is clear that they intend to have an impact on issues that they feel need improvement, which likely includes the conduct referred to in the Wilking study. What is significant is that people most affected by difficult problems are increasingly working together and adding private resources to public sources, all to make a difference for the better.

In my recent experiences attending some of the events downtown, petty crime and other threats to the peace seemed to be absent. One Thursday, I witnessed two uniformed private security personnel give a friendly warning to a citizen smoking in a prohibited area. Though the exchange was friendly on both sides and no citations were issued, the smokers readily complied with the warning. It seems reasonable to guess that potential criminals see this patrol presence as well, and decide to go where they are less likely to be noticed and/or caught in the act. This idea gets further support from the anecdotal evidence that those in otherwise “quiet neighborhoods” have seen an increase in petty crimes and suspicious behaviors, especially north of downtown, where such enforcement efforts are lacking.[[28]](#endnote-28) Wilking’s study seems to confirm that the incidence of arrests has in fact moved northward over the past few years.

In another example, Chico Community Watch has organized local volunteer teams, sometimes with the cooperation of park and city resources, to clean up areas heavily impacted by camping, dumping and other forms of public safety violations, often using their own personal funds to buy paint and pay dump fees. They report that since they have been identifying, cleaning, and then monitoring problem areas, the problem conduct has diminished significantly. It seems reasonable that the increased visibility of, and negative consequences for the actors (having “their stuff” hauled to the dump) makes them less likely to continue the offensive conduct where they know citizens are watching.

**What is the current situation?**

Unfortunately, these problems have not gone away. Perhaps the incidence of crime has simply moved to a less visible locations, or where neighborhoods are not yet organized to respond. Also, maybe the problems are becoming more dispersed throughout the city as individuals find new territories to operate in, or increase their criminal sophistication.

What we do know is that law enforcement has had a limited role in preventing and solving this type of low-level crime. The CPD focuses primarily on serious crimes, yet that battle too is far from over. For every successful arrest and prosecution, several times as many crimes occur without arrest. Of those arrested, a few individuals known to the police are responsible for a disproportionate percentage of total arrests and re-arrests. Clearly simply arrest alone is not a sufficient deterrent for some.

As Wilking notes, only 25 homeless individuals were responsible for over 1,000 arrests and nearly 1,700 separate offenses over a 6.5 year period. [[29]](#endnote-29) We do not know how many crimes were committed by these same individuals that did not result in arrest. Anyone arrested 100 times has a serious problem. But given that the first 50 arrests did little to deter the next 50, it is hard to imagine how the 101st is going to be any more effective. The study goes on to estimate the costs of these arrests, generously assuming only one charge per arrest. Using her numbers, this most-arrested individual cost $11,597 just to be arrested and returned to the streets. This number does not account for the costs of incarceration and court costs.

In comparing the types of charges most common among housed and homeless arrestees, the top two charges for both groups was “Disorderly Conduct-Under the influence” and “Bench Warrant-Misdemeanor”. This is much more significant than just being in the “top ten” as the authors report.[[30]](#endnote-30) Despite these common offenses for both housed and homeless persons, the authors think it is relevant to “note that the fourth [actually only the 6th] most common offense, disorderly conduct-lodging without permission of owners, likely stems directly from living without shelter.”[[31]](#endnote-31) While it is puzzling to try to imagine why a housed person would seek to lodge on someone else’s property instead of their own, still for this particular offense, we should expect to see disproportionate enforcement against the homeless. Trespassing, after all, is a crime and civil offense.

Also inexplicably there are no arrests listed here among the homeless for petty theft, while for the housed this represents 3.2% of their total arrests.[[32]](#endnote-32) It cannot be determined from this analysis if this is an omission in the data, or if it is correct that petty crime accounts for less than 1.8% of arrests for those homeless at the time, or perhaps the worst offenders focus on more serious crimes, etc.

Does all of this mean we should stop arresting criminals because we think it is a waste of money or is ineffective or inefficient in deterring crime? The authors do seem to advocate for the position that enforcing public safety laws is a waste of time and money that could better utilized elsewhere to the benefit of the homeless population.

So despite these problems with the data and analysis, the authors ask, “...how could police time be used more effectively to move homeless individuals into supportive services.” Huh? It seems the question should be “how can police and other agencies, in cooperation with citizens, make a more effective impact on the incidence of crimes and other offenses?”.

The authors then resort to an appeal to authority by pointing out that “...after making statements against public safety laws as a means to reduce homelessness, HUD has begun asking Continuums of Care to ‘describe how they are reducing criminalization of homelessness’, indicating that there may be a reduction in points on funding requests for communities who utilize these strategies.”[[33]](#endnote-33) Continuums of Care are responsible for allocating available Federal funds to local groups who are trying to address the housing shortages, including support for the currently homeless. We are informed by Wilking that “Butte County benefits from approximately $500,000 of funding from HUD each year.”

Point taken, threat received, but the Feds have it wrong here too. As I have argued, public safety laws are not equivalent to “criminalizing homelessness”. To imply otherwise, and even threaten to reduce funding intended to address housing, is ludicrous.

In truth, homelessness does not occur for a single reason. In some cases, it happens to otherwise good people after a string of bad luck. It is also true that homelessness is a condition that can be caused by individual life-style choices, including long-term drug use, mental illness, or all of the above. While resources are definitely limited, for those homeless individuals who surrender themselves to the charity of others, avail themselves of what resources are available (and there are many supportive services that are available), exhibit a sincere desire to take a hand up to improve their status and make better choices, chances are good that dramatic quality of life improvements are possible.

Many of us stand ready to do our part to give a hand up, but are wary of the fairness and effectiveness of simply a hand out. But it is not at all clear how this is relevant to the issues of reducing petty and other crimes. Some believe that so-called “homeless encampments” serve as a home base from which certain individuals operate to “scrounge” desirable goods and engage in a variety of illegal conduct. Until we have evidence to the contrary, this theory cannot be dismissed as simply false and prejudicial to the homeless. Just as laws cannot be enforced based on status or condition, status or condition is not an excuse for lawlessness of any kind.

**Problem Solving**

We have a crime problem that is affecting us all in one way or another, none of them good. It has been persistent and appears complex. But crime in Chico needs to be dramatically reduced. To accomplish this, good intentions and mutual support are not enough. We need a strategy and a plan. The processes we have employed to protect the general public safety and quality of life in Chico have proven to be largely ineffective, though we have also experienced some successes. What methodologies can we apply to this seemingly intractable set of problems? How can we make meaningful improvements to the system?

Some of you may be familiar or have heard of the problem solving method called Lean Six Sigma[[34]](#endnote-34). Suffice to say it is a data-driven process improvement methodology that was first applied to complex manufacturing. Now it is being applied in many other contexts. The goals of this discipline are two: reducing defects and eliminating waste.[[35]](#endnote-35) Such an approach might be helpful in addressing the many issues and complexities associated with crime rates and enforcement challenges.

To reduce the crime rates, we need to effectively and efficiently reduce all crimes. That will take focus, consistency and patience. While we are already making a positive difference at the margins, to make a comprehensive impact we need to think this through. Here are some ideas I would like you to consider:

**Language matters**

First, we need to break down political divisions. We can all understand that crime and homelessness are two distinct yet interconnected issues. For those who advocate for the homeless, let’s not vilify victims of crime or other concerned and worried citizens by using rhetoric like “being homeless is not a crime,” or “people are not illegal.” Of course, but no one enjoys being unfairly accused of believing this, and this approach only serves to shut down dialogue. Some of the homeless are victims themselves, while others make conscious choices to live a homeless, transient lifestyle. The reasons people conduct themselves as they do are matters of the individual, and so cannot be attributed solely to any single cause, including the availability of affordable housing. But on the other hand strong evidence or correlations should be honestly explored.

For advocates of increased public safety enforcement, it would be helpful to refer to the real problem, crime, and refrain from making a direct reference to “homeless, transients, tweakers, meth heads” and similar groups as the primary cause. What we are really concerned with is crime, not singling out the homeless or others as the primary source of that crime.

But we have to take an honest look at the facts. Conflating distinct issues on either side of the debate only perpetuates the false argument that public safety enforcement is an attack only on the homeless. Such arguments miss the point, are divisive and counterproductive.

Many on the public safety side have compassion and empathy for victims of homelessness. Many that work with the homeless, giving their time and resources to improve their living conditions, also have an interest in reducing crime.

One area of cooperation might be to learn more about this relationship by looking honestly at the data we have, indentifying data we would find useful if we had it, and work together to fill in the gaps in our understanding.

In an article in the Enterprise Record[[36]](#endnote-36), a story is recounted about how the Chico Police started with a sit/lie contact, which led to an arrest for meth possession and subsequent discovery of an outstanding warrant for violations of the terms of a sex offense release in another state. While the subject was in fact homeless, we should all be able to agree that this is a positive story of crime prevention in our community.

In that same article, the CPD had produced a map that indicated where the homeless with police contact had come from. The map showed that the Chico homeless come from every part of the country. Chico has a reputation that is attractive to many. But that does not mean that we must tolerate bad behavior by those who come here. Part of the reputation that Chico deserves is for its values and quality of life. Intolerance for lawlessness can become a stronger part of our reputation, too.

In the absence of sufficient evidence about connections between homelessness, drug use, mental illness and crime, postponing judgments about cause and effect would go a long way towards fostering ongoing cooperation and dialogue. If someone espouses a theory you disagree with, withholding moral judgment would help encourage ongoing dialogue, which is the process by which we all learn.

**Increased enforcement**

Second, enforcement should be increased, not decreased. Innocent citizens have an absolute right to live in peace, and each of us has a duty and obligation to be respectful of the rights of others. Those who will not or cannot be respectful of the property or safety of others need to be removed, with attendant consequences that are meaningful.

Resources are a problem, but waste is also a problem. We need to stop doing things that don’t help, and do more of those things that do. Where we run into resource limitations, we need to find ways to solve the problem. The efforts of Chico Community Watch, the Downtown Chico Business Association, the new Business Improvement District, V.I.P.S., the use of private security by the CPD and the City of Chico, have all shown us effective examples of how this can be done.

**Meaningful consequences for offenders**

Third, if we are all working together to enforce existing laws, then we come to the question of what happens to the offenders. Too often, the threshold to get into the system (arrest) and the lack of meaningful consequences work to perpetuate the crime problems. Many feel they are doing their part, but that the rest of the system is failing. Nowhere is this more true than the justice system, especially when it comes to dealing with crime, chronic drug addiction and mental illness. I believe we are capable of dealing with this more effectively, but I can’t say I’m sure all of what a comprehensive approach would entail. One problem is the various agency interdependence and complex jurisdictional issues associated with these issues. This adds to our sense of paralysis.

One approach, hinted at by the Wilking study, is to make a connection between increased enforcement efforts and alternative support services, something that many are working hard to establish. But incarceration cannot be taken off the table. A good start would be to get more petty crime and public safety offenders into the system, either voluntarily or through criminal booking procedures. At a minimum this would serve to identify and gather information on individuals who draw police contact. Information about living conditions, employability, health, addictions and other information might then be collected and used by other agencies to direct individuals to appropriate support services. Many of these services cannot exist solely on public funds, so alternatives must be developed and supported.

To use an overused phrase, we need to think outside of the box. One extreme example of this kind of thinking comes from Richmond, CA[[37]](#endnote-37). In 2007, it was known as one of the most violent cities in America. The police knew the identities of those, mostly teenagers, who were suspected of committing most of the violent crimes, but authorities didn’t have enough evidence to file charges.

A program was instituted, Operation Peacemaker, that offered a stipend of up to $1,000 per month if the teens made a pledge to put their guns away for a more peaceful life, and as part of the program worked with reformed criminals-turned-city-workers to receive advice, guidance and support to get jobs. Six months of good behavior earned them the stipend. It produced a dramatic reduction in violent crime, and improved the quality of life for these teens.

Richmond and Chico are very different places, so it is not at all clear that such a program is needed here, but it is a good example of how trying something unconventional can sometimes help solve a problem. The primary insight that led to this program was recognition that a very few individuals were responsible for a preponderance of the violent crime, and that became the focus of Richmond’s efforts.

As a general rule, when a solution for a complex problem is unclear, a good place to start is to collect more data in order to better define the problem.

**The importance of honesty**

Fourth, we have to be willing to look honestly at the facts and discuss our views openly with others, while being respectful of competing views. We have to accept the fact that some souls are lost no matter what efforts we make to save them. Yet being firm in our principles is not the same as a lack of compassion.

Any parent struggling with a drug addicted child knows the score. These parents learn that the first step in responsible parenting is to stop enabling the dangerous conduct, and to protect themselves from harm. The second step is to make a way out of the cycle possible and apparent. Third is to consistently and absolutely enforce rules of conduct, with clear consequences for failure; no exceptions. It is up to the individual to realize they need to make difficult choices to change outcomes. If they can’t or won’t do it, law enforcement and the justice system must step up and do its job.

The downward cycle of addiction may be the cause, in some cases, of mental illness and/or chronic health problems, both of which can result in persistent unemployment and subsequent homelessness. Being homeless, addicted and unemployable may well lead one to choose a path of petty or more serious crimes, just to get by. Through inaction, to simply enable this cycle to continue is anything but compassionate.

Yet not all homeless are criminals, and not all criminal are homeless. As I have argued, these are distinct but interrelated issues. Solving crime is not an attack on the homeless, and compassion for the homeless is not to say that petty crimes should be decriminalized.

**Arrest, incarceration and consequences**

Fifth, we need to think more critically about arrest, incarceration and beyond. While we can all recognize that otherwise good people can make poor choices that have a negative impact on the innocents, whether family, friends or community, illegal conduct must be sanctioned by a civil society.

Alternatives to jail should be considered, but in the meantime, innocent citizens have a right to peace and safety. Therefore, those who cannot or will not conform to established social norms have to be removed, at least temporarily.

To where and for how long is a fair question, but the answer must be “somewhere” and for an “appropriate time”. There is strong evidence that consistency and immediate, meaningful consequences are both essential ingredients of behavior change. Even with all of this, we will never reach a state of perfection, and there will always be a need for police and jails. We cannot be reluctant to use these tools simply because other essential parts of the system are not functioning efficiently. We will have to improve them.

It seems to me that the most obvious place to start is the intersection between petty crimes and law enforcement. If we do an honest and thorough job in this area, the other weak links in the system will become apparent. While maintaining enforcement efforts, we will then need to turn our attention to these weak links.

As observed by Wilking, “...law enforcement contacts clearly lead to additional interaction with the criminal justice system (e.g. bench warrants, outside warrants, violation of probation and misdemeanors).”[[38]](#endnote-38) As pointed out earlier in the study, the subject public safety laws are rarely used, and when they are, even with multiple citations, offenders are almost never arrested, much less incarcerated, for such infractions. Yet in the case of both housed and homeless arrests, being arrested under the influence of drugs or alcohol are the number one and two most common offenses, respectively.[[39]](#endnote-39) Clearly there is a relationship between excessive drug and alcohol use and likelihood of arrest. But if arrest carries no meaningful consequences, it cannot be an effective deterrent.

Even if an individual’s conduct results in probation, the probation departments are often hopelessly understaffed and ineffective. In contrast, a program that has demonstrated startling results based on what is known as the “Swift and Certain” movement, (SAC), called HOPE (Hawaii’s Opportunity Probation with Enforcement), was developed by a judge there who presided over parole violation hearings.

The SAC argument is that one way to keep people out of prison while also constraining crime is “tight supervision in the community, accompanied by modest but guaranteed sanctions for slipping up.”[[40]](#endnote-40) By imposing modest, swift and certain consequences for each and every violation, including failing drug tests performed with much shorter and regular frequency, increased parole monitoring, and enforcing even minor parole violations, half of the HOPE probationers stopped testing positive for meth ever again. If nothing else, this program served as a sorting mechanism to determine who could stop using on their own from those who could not. While true the initial cost of the program was higher than the costs prior to, over time the crime rate was reduced and needed resources were reduced.

**Conclusion:**

Focusing on reducing petty and other crimes is not an attempt to criminalize homelessness. It is an attempt to reduce the incidence and impact of crime. The purpose of public safety, health and quality of life laws is to safeguard the rights of innocent citizens to life, liberty and property.

Homelessness, transience, drug addition, alcohol abuse, unemployment, mental illness, and poverty are attributes of status and condition of individuals, and properly fall outside the scope of law enforcement efforts. It is only when conduct related to these behaviors impact the peace and safety of others that the police are called upon to sanction the individuals responsible for harm or threat of harm.

Though there are clearly relationships between and among these distinct issues, and these relationships tend to engender perceptions in the public about cause and effect, it is not the responsibility of the public to solve these issues in order to avail themselves of the rights and protections guaranteed by those laws and programs intended to insure the quiet enjoyment of those fundamental rights of a just, civil society.

While no action by itself is going to permanently solve these serious social problems, without the fair and consistent enforcement of law and order, citizens experience a direct loss of the safety, health, and quality of life guaranteed to them by both the U.S and California Constitutions.

When we are honest, respectful and cooperative with each other, we can solve any problem fairly and justly, and with compassion. It is time to change the narrative about crime and homelessness, and focus on defining problems and inventing better solutions to reducing crime.

1. Jennifer Wilking, Department of Political Science, CSU Chico, Susan Roll, School of Social Work, CSU Chico, David Philhour, Department of Psychology, College of BSS, CSU, Chico, Peter Hansen, Department of Geography, Geographic Information Center, CSU, Chico, Holly Nevarez, Department of Health and Community Services, CSU, Chico *Impacts of Chico’s Public Safety Approach to Homelessness: Initial Analysis*, [↑](#endnote-ref-1)
2. Chico Municipal Code 9.44.015 [↑](#endnote-ref-2)
3. *ibid.* 9.44.018 [↑](#endnote-ref-3)
4. *ibid.* 9.20.050 [↑](#endnote-ref-4)
5. *ibid.* 9.50, 9.50.030 [↑](#endnote-ref-5)
6. Fisher, Marina and Miller, Nathaniel and Walter, Lindsay and Selbin, Jeffrey, *California's New Vagrancy Laws: The Growing Enactment and Enforcement of Anti-Homeless Laws in the Golden State* (February 12, 2015). Available at SSRN: <https://ssrn.com/abstract=2558944> or <http://dx.doi.org/10.2139/ssrn.2558944> [↑](#endnote-ref-6)
7. UK Vagrancy Act of 1824; see: <https://en.wikipedia.org/wiki/Vagrancy_Act_1824> [↑](#endnote-ref-7)
8. Jim Crow Laws of 1830; see: <https://en.wikipedia.org/wiki/Jim_Crow_laws> [↑](#endnote-ref-8)
9. Oklahoma Historical Society, *Okie*; see <http://www.okhistory.org/publications/enc/entry.php?entry=OK007> [↑](#endnote-ref-9)
10. Chico Municipal Codes, <http://www.amlegal.com/codes/client/chico_ca/> [↑](#endnote-ref-10)
11. Wilking, op.cit. Appendix: Description of Downtown Business Survey [↑](#endnote-ref-11)
12. Heather Mac Donald, (2016) *The War On Cops: How The New Attack On Law And Order Makes Everyone Less Safe, pg 2-3* [↑](#endnote-ref-12)
13. *ibid.* pages 226-229 [↑](#endnote-ref-13)
14. *ibid*. page 231 [↑](#endnote-ref-14)
15. Chico Police Department *2012 Crime Report for the City of Chico*; see <http://www.chico.ca.us/police/crime_analysis/documents/2012PartICrimesAnnual.pdf> [↑](#endnote-ref-15)
16. Chico Police Department, *2015 Annual Report* (April 2016); see <http://www.chico.ca.us/police/documents/2015AnnualReport.pdf> [↑](#endnote-ref-16)
17. NeighborhoodScout, <http://www.neighborhoodscout.com/ca/chico/crime> [↑](#endnote-ref-17)
18. Bureau of Justice Statistics. See <https://www.bjs.gov/content/pub/press/vnrp0610pr.cfm> [↑](#endnote-ref-18)
19. Chico Police Department, op. cit. data compiled from 2012 and more recent reports [↑](#endnote-ref-19)
20. Wilking, op. cit. Figure 5 [↑](#endnote-ref-20)
21. *ibid*. Unnumbered graph: Percent of Total Arrests, page 24 [↑](#endnote-ref-21)
22. *ibid*. Table 1 [↑](#endnote-ref-22)
23. *ibid*. Figure 3 [↑](#endnote-ref-23)
24. Figure 4 is referred to as “Figure 3”; also it is purported to look at housed and homeless arrests by the charges/arrest, but this does not comport with the scale at the x axes, so it is unclear how to interpret the trends in arrests in Figure 4. [↑](#endnote-ref-24)
25. *ibid*. Figure 6 [↑](#endnote-ref-25)
26. i*bid*. page 15 below Figure 6 [↑](#endnote-ref-26)
27. Occam’s razor; summarized as “given two theories to explain the data, the simpler is most likely.” see <https://en.wikipedia.org/wiki/Occam%27s_razor> [↑](#endnote-ref-27)
28. Chico Community Watch <https://www.facebook.com/groups/1340987912687703/> and Nextdoor [www.nextdoor.com](file:///C:\Users\Rob\Documents\Law%20Library\Vagrancy%20Laws\www.nextdoor.com) are two websites where citizens recount neighborhood issues [↑](#endnote-ref-28)
29. Wilking, op. cit. caption to Figure 6 [↑](#endnote-ref-29)
30. *ibid*. Table 6 [↑](#endnote-ref-30)
31. *ibid*. Page 16 [↑](#endnote-ref-31)
32. *ibid*. Table 6 [↑](#endnote-ref-32)
33. *ibid*. Page 17 [↑](#endnote-ref-33)
34. See: <https://en.wikipedia.org/wiki/Lean_Six_Sigma> [↑](#endnote-ref-34)
35. Imagine a five step manufacturing process that produces products with a high number of defects. You measure the defects produced during each step and start with the one creating the biggest number of defects. Using statistics and experimentation, you gradually produce improvements in the defect rates. Then you monitor that step while changing your focus to the second largest offender. When you have gone through all five steps, you continually monitor defect rates at each step, and jump in at the first sign of trouble. That’s the method in a nut shell.

    Notice that you don’t stop performing the most defective step. You improve it, only to move on to another part of the manufacturing chain. In theory you can keep reducing defects to zero, but for practical purposes, the ideal rate is 3.4 defects per million, know as six sigma. For more information, see <https://en.wikipedia.org/wiki/Lean_Six_Sigma> [↑](#endnote-ref-35)
36. *Chico police map points to Chico as destination for homeless* <http://www.chicoer.com/article/NA/20150102/NEWS/150109993> [↑](#endnote-ref-36)
37. CNN: *Paying kids not to kill.* See <http://www.cnn.com/2016/05/19/health/cash-for-criminals-richmond-california/index.ht> [↑](#endnote-ref-37)
38. Wilking, op. cit. Page 16 below Table 6 [↑](#endnote-ref-38)
39. ibid. Table 6 [↑](#endnote-ref-39)
40. Mac Donald, op. cit. page 226 [↑](#endnote-ref-40)