



House the  
Homeless, Inc.

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April 10, 2015

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Marc Ott  
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Police Chief  
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Austin, TX 78701

Public Safety Commissioner  
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C/O Jennifer Heatly, Administrative Assistant  
Office of the Fire Chief  
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Sara Clark-Chair  
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C/O Jonathan.Babiak@austintexas.gov

Dear City Manager Ott, Chief Acevedo, Commissioner Rossmo and Commissioner Clark,

Recently we sent you a copy of our 2015 survey. The survey, entitled, *Protect and Serve*, explored the police actions regarding their enforcement of laws toward people experiencing homelessness in Austin, Texas.

On January 1, 2015, House the Homeless, Inc conducted this annual survey at our 14<sup>th</sup> annual Thermal Underwear Party. Each year, the event follows the Homeless Memorial Sunrise Service when we read the names of the men, women, and children who have lost their lives while living on the streets of Austin during the previous year. This was the 23rd year of the Memorial on Auditorium Shores at which we read the names of 147 more people in 2014 alone. Obviously living life on the streets is extremely hard. This is a very vulnerable population with half of them (49%) so disabled that they are unable to work.

With only a little over 600 emergency shelter beds in Austin for every woman, man, and child, the concept behind the thermal underwear event is to clothe and protect as many people experiencing homelessness from the elements as possible.

Almost 600 people attended the 2015 event with 277 people participating in the survey. The survey, entitled *Protect and Serve*, explored interaction between the police and people experiencing homelessness. The results while disturbing, were not totally surprising. People experiencing homelessness have long suffered inequitable application of laws such as the no camping ordinance, which is constantly levied against homeless people but not U.T. students camping out for Star Wars tickets or iPads, or parents camping out in hopes of attaining school transfers or everyday folks sleeping at Barton Springs, or travelers at the bus station.

Regardless of any justification that may be offered, these are not recognized exceptions under the law. That makes the sanctioning of these justifications illegal, and the actions of the officers applying the law, in an uneven manner, are therefore also unlawful.

In this survey, we expose a distinct, repeated pattern of similar police actions that are perpetrated against people who have lost everything and are now living on our streets.

The purpose of this letter is to explore very specific issues raised by the survey and offer simple, pragmatic solutions that will convert local police actions and foster *protect and serve* sympathies while returning to the letter of the law, including the Americans with Disabilities Act.

It is the intention to reissue an identical survey next January 1<sup>st</sup> 2016. We hope and expect dramatic changes in the results. Failing that, we will explore serious options to more directly achieve these needed improvements.

### **Survey Questions:**

- 1. Has a Police Officer ever given you a ticket for sitting or lying down even though you told them you were disabled or too sick to move?**

**Yes: 120 No: 140 No response: 17**

Note. This is in violation of the City of Austin, TX, law. Once City Council passes a law (in this case changes to the No Sit/No Lie Ordinance), the Police Department must promulgate "Police Procedures" regarding that law. Police officers are then trained in the carrying out of that law before the enactment of that law. Obviously, this is a very logical, practical approach to enactment and enforcement because the police training is viewed to have appropriately "charged" each officer with proper enforcement of the law. This training basically shifts the proper enforcement responsibility to the individual officer.

The fact that almost half of those surveyed said that the officers issuing them tickets were in violation of the Americans with Disabilities Act (Federal Law) in this instance, indicates one of two things; either

the police training is terribly flawed or a significant number of individual police officers are out of the control of the police chief and others in charge.

**Recommendation:** All related training practices to the No Sit/No Lie ordinance be reviewed and retraining occur for all Austin police officers.

2. **As a Disabled person, did you always get a 30 minute warning period, before being ticketed for sitting or lying down?**

**Yes: 29 No: 156\* N/A: 92** (or no response)

In 2009, I saw people in line outside of the Salvation Army receiving tickets for sitting and lying down. It turned out that these people were sick and in line for a health clinic and had been there for hours. As a result, that year, our survey focused on health issues with 501 people responding. We listed several disabling conditions and asked if anyone had experienced these health concerns or others. The response based on “other” revealed such life-threatening concerns such as- congestive heart failure, COPD, seizures, traumatic brain injuries, etc. In fact 49% of the people surveyed indicated that they were so disabled as to be unable to work. As a result, after a year’s negotiation with House the Homeless, Inc. and all “stakeholders,” the Austin City Council crafted changes to the No Sit/No Lie Ordinance that paid deference to these disabling conditions and brought the Austin No Sit/No Lie Ordinance into compliance with the Americans with Disabilities Act.

The Police Department then crafted police procedures on how to enforce the changes and House the Homeless has since published and distributed 20,000 laminated information cards outlining the procedures in English and 5,000 in Spanish.

However, 156 people out of the 277 surveyed declared that they had been issued a ticket for sitting or lying down with no regard for their stated disability. The law is clearly not being properly enforced.

**Recommendation:** Immediate revised, improved training of all police officers needs to occur regarding proper enforcement of the No Sit/ No Lie Ordinance.

3. **Have you ever had your ID taken by police and not returned?**

**Yes: 92 No: 183** No response: 2

Approximately 1/3 of all people surveyed had their identification permanently taken from them by the police. Note. Replacing photo ID costs time and money. These people are homeless and without money. **All** social services in Austin require photo identification. To be left without photo identification only acts as an additional barrier to escaping homelessness.

It is hard to contemplate any legitimate/lawful reason for which identification is taken by a police officer and not returned to its rightful owner. Is the failure to return this crucial piece of identification simply an oversight or an intentional act designed to cause harm, create an additional financial barrier to escaping

homelessness for the owner, or simply to cause the individual stress and punish them for their condition of being homeless?

**Recommendation:** If failure to return identification is accidental, then let's devise a wrist holder that hopefully will force the officer to view the unreturned card until it is returned. Alternatively, a helpful end of shift policy can be enacted, ensuring officers empty all pockets in front of the shift sergeant at the end of rotation to ensure that there is no accidental retention of this personal property.

Regardless of which approach or combination of approaches is taken, proper training underscoring the return of this property is critical. Somehow, driver's licenses are returned during traffic stops.

**4. Have you ever had your things taken by police without giving you a receipt and the name of a contact person to get your things back?**

**Yes: 125 No: 152** Almost half the people answering the question reported improper impounding practices conducted by officers of the Austin Police Department.

**Recommendation:** Officers can simple carry preprinted cards with lines on one side where items can be listed and the name and phone number of the contact person to retrieve their belongings on the other along with the name and badge number of the officer who collected the items.

**5. Did you ever get a ticket, go to court, then be told your ticket is not in the system yet and you would have to return?**

**Yes: 123 No: 118 N/A: 36** (including 2 no Response)

Half the people receiving tickets found the Community Court system, which in part is designed to aid people; in this instance, actually hinders their ability to change their condition of being homeless. We have been told that people have often had to return to the court multiple times before a ticket is reported to the court. If a person is unable to coordinate their response with the submittal of the ticket, then it will "go to warrant." This will result in the arrest of the individual for what was otherwise only a class C ticket equivalent to a parking ticket.

**Recommendations:** This would seem to require a basic fix that will make a dramatic difference in the lives of people experiencing homelessness. Require that all police officers turn in their ticket books to the court and have them logged in within no more than seven (7) days of issuance. In this fashion, all "notices of appearance" written on the tickets will have validity.

**6. Do you feel that the police are there to help you or control you?**

**Help: 47 Control: 190 Both: 38 (write in) No response: 2**

By 4 to 1, people felt that the police were not helping them, but rather controlling them. At the same time, 38 people voluntarily wrote in that the police were both helping and controlling.

**Combined Survey Questions: (6 and 7)**

**7. Have you ever been told to move along by police without giving you an opportunity to comment?**

**Yes: 170 No: 88 No response: 11**

People were denied an opportunity to comment before being moved along at a rate of about 2:1.

These last two questions come under the heading of Dignity, Fairness and Tone Setting. Make no mistake; even people experiencing homelessness who have lost their jobs and their homes remain Texas taxpayers in good standing. Every time they purchase a sandwich, a backpack, or a pair of socks, they are paying taxes as this is a sales tax state. As such, as human beings, and as everyday citizens, they are due the respect and the right to be treated as equal, deserving Austinites. Delivering respect for all of our citizens begins at the very top of the chain of command and reverberates like ripples in a pond right through the shift sergeant to the patrol officer. Negative tone setting places officers on a slippery slope.

Similarly, the racial tensions felt and expressed by Austin's African Americans experiencing homelessness, need to be addressed now.

**Unsolicited Comments:**

**Additional Comments for Question #6:**

“Control...if you are black.”

“Control Black people.”

According to the National Law Center on Homelessness and Poverty, and a U.S. Conference of Mayors Report, 61% of people experiencing homelessness are people of color. 42% are African American; 13% are Hispanic; 4% are Native American; and 2% are Asian. This also reflects our findings in Austin.

**Note-** African Americans comprise only 13% of the general U.S. population. This means that people of color, and African Americans specifically, are over- represented in the pool of people experiencing homelessness.

Austin is not Ferguson, Missouri, nor is it North Charleston, S.C.; however, for people experiencing homelessness, given their racial make-up and the way they have their belongings and identification taken and not returned, their civil rights violated under the Americans with Disability Act, and the punishing practices of the court system toward this population, etc., there is every indication that there are similarities.

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Mr. Marc Ott  
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**Combined Recommendation:** Expand Community Policing. Community Policing requires adequate funding, but a healthy vibrant community such as Austin deserves a healthy police force that has *sufficient capacity* to fully engage in community policing. With a fully adequate level of funding, police officers can begin to get out of their vehicles, engage citizens, forge relationships, build rapport that can lead to trust, and create a sense of fairness.

Additionally, just as police receive mental health sensitivity training, they need to add to their arsenal of tools, health sensitivity and compassion training. With 49% of all people experiencing homelessness being too disabled to work a full time job, police officers need to develop a better understanding of each of these disabling conditions and develop a new level of understanding and compassion so they can become better protectors and servers.

Again, we are considering the 2015 survey as a statistically significant, **base-line** survey and look to 2016 for great improvement. Please do everything in your power to help correct this situation, whether you were directed on this correspondence or copied on it to ensure improvement. Thank you.

Sincerely,

Richard R. Troxell  
President/CEO

CC: Mayor Bill Adler  
Mayor Pro Tem Kathie Tovo  
All City of Austin Council Members  
All Public Safety Commissioners  
Office of the City Monitor  
Community Court Judge Michael Coffey  
Community Court Administrator  
COA Police Association  
National Coalition for the Homeless  
Gary Bledsoe- Texas NAACP  
Nelson Linder- Austin NAACP  
Texas Rio Grande Legal Aid  
Texas Civil Rights Project

Enclosure- No Sit/ No Lie Plastic Pocket Guide