

Supreme Court: Are bans on homeless camps 'cruel and unusual' punishment?

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Over [half a million](#) people are estimated to be homeless in the United States on any given night, and a case before the nation's high court could grant states the authority to criminalize sleeping outdoors by individuals with no other place to go.

The case, ["City of Grants Pass v. Johnson"](#), has far-reaching implications, particularly for California, where major cities like Los Angeles, San Diego and San Francisco have garnered national attention due to their increasing homeless populations.

USC experts warn that regardless of the verdict, the case won't solve the real problem fueling [rising rates](#) of homelessness in California and beyond: a lack of affordable [housing](#) and support services.

"Policing might help you clear a street corner or an alleyway, but it inevitably leads to people obtaining arrest records and facing additional barriers to securing housing, a reality the system is well aware of. It isn't a long-term solution," said Benjamin Henwood, the Frances L. and Albert G. Feldman Professor of Social Policy and Health and director of the Center for Homelessness, Housing and Health Equity Research (H3E) at the USC Suzanne Dworak-Peck School of Social Work.

City of Grants Pass v. Johnson won't address realities, root causes of homelessness

City of Grants Pass v. Johnson originated in a small Oregon city with a single homeless [shelter](#). The city began enforcing a local anti-camping law against individuals sleeping outside and on public property, even when no indoor shelter was available.

The case raises important questions about the constitutional ban on "cruel and unusual punishment" and the limits of a city's power to penalize people for circumstances that they cannot avoid. A decision is expected later this month.

"Unfortunately, with this court case, it just feels like it's kicking the can down the road. Even if the justices decide in favor of the plaintiffs and

permit cities to criminalize homelessness, it doesn't give people a place to go," Henwood said. "They'll get arrested and cited, maybe jailed and released, but then where do they go?"

Earlier this year, Henwood co-signed an amicus brief to the Supreme Court. The brief cited [research](#) conducted at the H3E Research Center, showing that street sweeps are common and disruptive to the stability of unhoused individuals. The study found that these sweeps have limited to no impact on resolving homelessness, with most people ending up back where they started after being swept.

"Several decades of research show that if you actually provide people with easy, immediate access to housing, they will take that option. It's just that we don't facilitate that," said Henwood, who has collaborated with the Los Angeles Homeless Services Authority (LAHSA) on the annual [Greater Los Angeles Homeless Count](#) since 2017.

"We know Housing First works. We know that most people don't want to be out on the streets, that they'd prefer a different arrangement, and they simply don't have access to anything that seems like a better situation than they're in," he said.

He explained that people often refuse alternative shelter options for valid reasons. Shelters are typically communal, have strict curfews and don't allow individuals to stay with their families or pets. In some instances, shelters are places where people have been victimized and had their possessions stolen.

"Ironically, in the Grants Pass case, the only shelter offered comes with work requirements and religious affiliation that you have to sign on to," Henwood said.

"The case itself is an unusual one because even if you believe people

shouldn't sleep on the streets and need to access shelter, the options available in Grants Pass come with additional requirements that most people wouldn't think you have to sign on to in order to get basic shelter."

Criminalizing homelessness could deepen disparities

Experts warn that a decision allowing cities to criminalize sleeping outdoors could deepen existing racial and economic divides, hitting communities of color and low-income families especially hard.

"Homelessness in the U.S. is a function of poverty, not criminality, and is [strongly correlated with racial inequality](#)," wrote Clare Pastore, professor of the practice of law at the USC Gould School of Law, in a recent [analysis](#) of City of Grants Pass v. Johnson published in *The Conversation*.

In her analysis, Pastore cites the U.S. Department of Housing and Urban Development's [2023 Annual Homelessness Assessment Report](#), which found that Black individuals represent 13% of the total U.S. population and 21% of those living in poverty, but make up 37% of the homeless population and 50% of homeless families with children.

People who identify as Asian or Asian American experienced the greatest percentage increase in homelessness among all racial groups. Between 2022 and 2023, the number of homeless individuals in this group increased by 40%.

"In my view, if cities get a green light to continue criminalizing inevitable behaviors, these disparities can only increase," she said.

Other experts agree.

"Housing systems reflect preexisting economic, gender and racial inequalities in terms of who struggles to afford shelter, can access shelter, who is seen as deserving of shelter, who is holding or protecting assets and wealth," said Ann Owens, professor of sociology, [public policy](#) and spatial sciences at the USC Dornsife College of Letters, Arts and Sciences and the USC Price School of Public Policy.

"We need to massively increase housing production, we need to increase eviction protection, we need to expand our subsidized housing programs. We need to prioritize housing because in the long run, this will benefit society as a whole and reduce persistent inequalities," she said.

Provided by University of Southern California

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