

Criminalisation of homelessness in Australia: A national study

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Acknowledgement of **Country**

The University of Queensland (UQ) acknowledges the Traditional Owners and their custodianship of the lands on which we meet.

We pay our respects to their Ancestors and their descendants, who continue cultural and spiritual connections to Country.

We recognise their valuable contributions to Australian and global society.



What is the ‘criminalisation of homelessness’?

- Imposing criminal law sanctions on people experiencing homelessness for reasons associated with their homelessness (or poverty):
 - trespass
 - begging
 - ‘public nuisance’
- Imposing criminal law sanctions on people experiencing homelessness for reasons associated with their visibility/presence in public space:
 - public drinking (drunk and disorderly)
 - public urination
- Police interference in the lives of people experiencing homelessness that does not (necessarily) result in arrest or charge:
 - move on powers
 - banning notices
 - ‘welfare checks’
 - searches; seizure of possessions
- Charging people experiencing homelessness with offences against justice procedures that are associated with their homelessness:
 - failure to appear
 - breach of bail / parole / supervised orders
 - fine default

The study

Research questions:

- What is the lived experience of criminalisation for people who are homeless?
- What are criminal justice system actors' views on criminalisation of homelessness?
- What are each group's recommendations for reform?

4 academic partners from four different universities:

University of Queensland; University of Technology, Sydney; University of New South Wales; University of Wollongong

10 partner organisations, all community legal centres:

Justice Connect; Canberra Community Law; LawRight; Public Interest Advocacy Centre; Townsville Community Law; Street Law (WA); Hobart Community Legal Service; Illawarra Legal Centre; Darwin Community Legal Centre, Welfare Rights Centre (SA) (since de-funded).

The study

Interviews:

- With 4 different cohorts: people experiencing homelessness; lawyers; judicial officers; police officers; corrections officers
- In ten different locations:
 - All of the state/territory capitals: Adelaide, Brisbane, Canberra, Darwin, Hobart, Melbourne, Perth, Sydney
 - Two regional centres: Townsville, Wollongong
- Conducted by academic team members and representatives from community legal centre partner organisations.
- Some individual, some group interviews.



Location	People experiencing homelessness	Lawyers	Judicial officers	Police officers and corrective services officers
Adelaide	10	3	5	-
Brisbane	17	3	5	-
Canberra	20	4	1	5 (PO)
Darwin	20	7	4	5 (CSO)
Hobart	10	3	-	5 (PO)
Melbourne	20	4	-	-
Perth	13	2	6	-
Sydney	20	6	5	-
Townsville	14	2	1	-
Wollongong	20	4	4	-
TOTAL	164	38	31	15

The web of criminalisation

Extends beyond criminal justice actors to include:

- local government officers – park rangers; parking officers
- security guards – especially in shopping centres/CBD
- transit officers
- probation and parole services
- welfare and support services
- public housing officers



Why are people experiencing homelessness criminalised?

- 'Reclaiming' of inner-city public spaces for the middle class.
- Community members feel threatened or annoyed – public pressure, police call-outs.
- Visible presence of homelessness creates cognitive dissonance.
- Lack of therapeutic alternatives, or knowledge about them.
- Care-oriented interventions.

What does this mean for them?

- Lack of access to services.
- Accumulation of fines.
- Loss of possessions.
- Indignity – 'we're just shit on the bottom of their shoes'
- Prison – but this is often experienced as 'respite', 'a holiday', 'a break', 'safe'

Lawyers

- Overlapping adverse events: ‘what we’re really talking about is the criminalisation of mental illness’; domestic violence; drug use; trauma
- How to respond?
 - ‘Perhaps instead of fining them, what we need to do is get a mental health assessment’
 - ‘get them the perfect medical attention that might be needed’
 - drug diversion programs
- Human rights issues:
 - Higher thresholds for search powers
 - Discrimination – race, class
- Police training
- Co-responder units

Law enforcement – police and corrective services

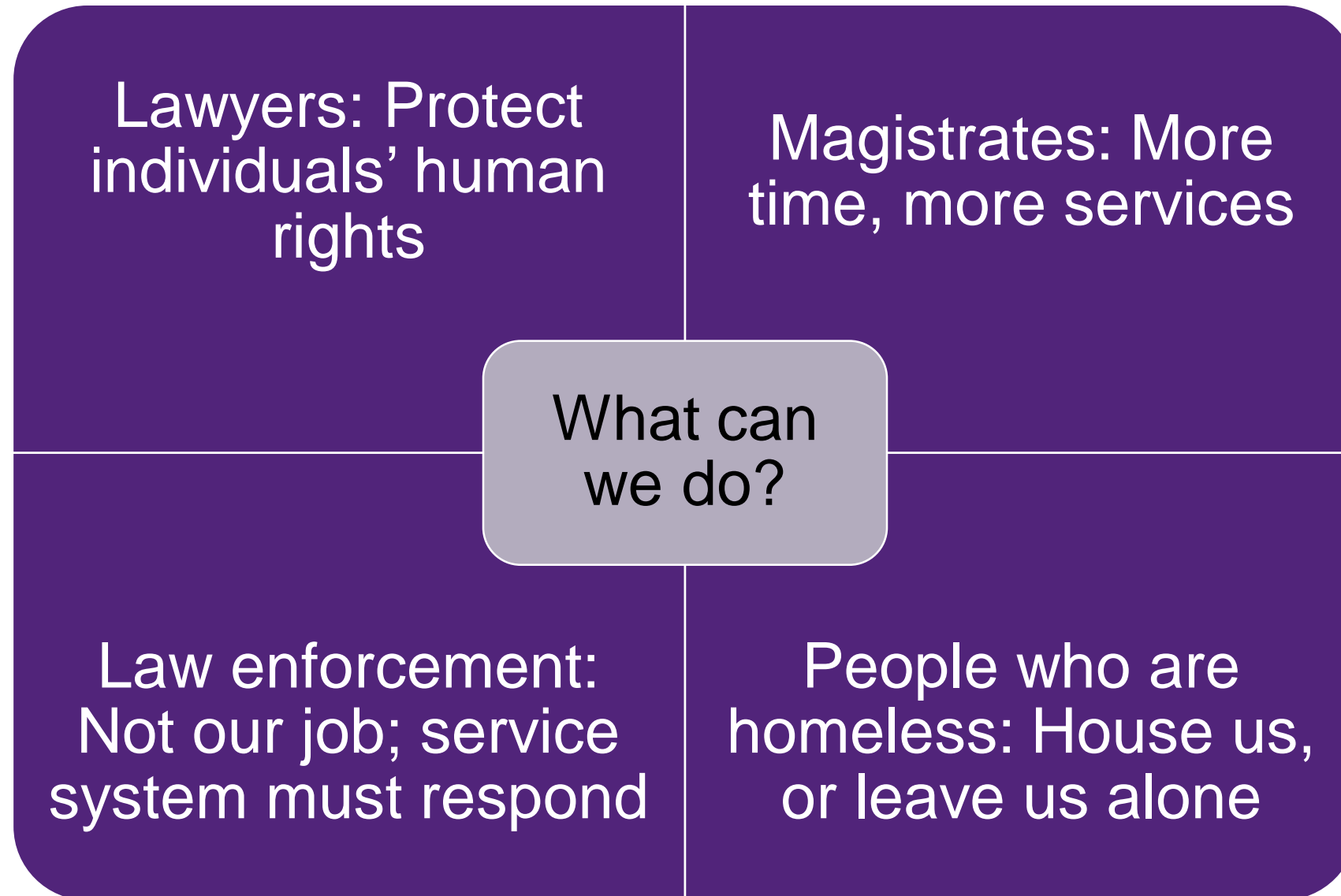
- This is a welfare issue, not a criminal law issue
 - Mental illness – cause or contributor
 - Reliance on other service providers
- Expectations of the community and parliament:
 - ‘We still have a job to do’
 - ‘once a person reaches a threshold, it then transfers into the criminal space’
 - ‘the general public have an expectation that the enforcers will keep us- tidy that up’

Magistrates

- Survival-related crime
- The private is made public – intoxication; ‘mental health crisis’
- Violence is alcohol or drug affected
- Reforming police practices:
 - ‘I would have thought that there is a lot of room for more compassionate policing’
 - ‘they could have some notice system or card system which everyone would understand’
 - ‘Police should be trained to identify people who need those resources [and] take people to places where they can get shelter’
 - ‘refer them to a local service provider who could help them with the practical issues that are leading to their offending’
- Criminal law as a ‘blunt instrument’:
 - ‘We’re not qualified’
 - ‘that’s not my job. That’s not my problem – I can’t fix it.’

People experiencing homelessness

- 'Just to stay away, just leave us alone'
- 'Stop seeing us as a problem. See us as people'
- 'Why don't go out to look for the real criminals instead of us'
- 'what are the courts going to do unless you know - there's nowhere for them to live or anything'
- 'It's so important to have housing just to be able to sleep, have your things locked up when you leave, stability. You get to have routine back.'
- 'That's the first main step that you need, to have a home for everything else to go, right?'



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Visit the UQ Deaths in Custody Project:
deaths-in-custody.project.uq.edu.au

And the UQ/Caxton Human Rights Case
Law Project:
law.uq.edu.au/research/human-rights/case-notes

