

# Summary of master's research project: Homeless individuals' experiences of being policed in Cape Town



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## Context of the research project

This project took place to fulfil the requirements of my Master of Philosophy in Criminology, Law and Society at the University of Cape Town.

The minor dissertation was originally roughly 25 000 words in length, so this is a short summary of the project. I collaborated with Streetscapes to conduct focus groups with people who had experienced homelessness in their interactions with law enforcement when they lived on the streets. Only clients who were housed by Streetscapes at the time of the project were considered to take part. I conducted four focus groups with 29 participants in total between August and October 2022.

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## What do we already know?

### Homelessness is complex

Although it was not the focus of my research, it was important for me to read about the complexity of the phenomenon of homelessness, including the reasons why people become and stay homeless, the crisis in housing provision in the Western Cape, the history of spatial apartheid, and the campaigns and interventions that have been created to address homelessness by the government, NGOs and other stakeholders in Cape Town.<sup>1</sup> I learnt that the homeless dislike many of the shelters in Cape Town for reasons related to cost, food, and freedom of movement among others. Furthermore, there are simply

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<sup>1</sup> These included the Street People Policy (Policy Number 12398B) of 2013, Cape Town's Social Development Strategy (2013), and the 'Give Dignity' and 'Show you care (formerly 'Give Responsibly') campaigns.

not enough beds in shelters in Cape Town to accommodate the number of homeless people who live in the city.<sup>2</sup> I also learnt that homelessness cannot be solved only by providing people with housing, as the homeless also tend to face challenges like a lack of community, difficulty accessing work opportunities, addiction to substances, and health issues. Understanding these problems gives one an appreciation for how unjust it is to address homelessness by criminalising it.

## **Criminalising (and excluding) the homeless takes many forms**

Criminalising homelessness and poverty is a topical issue spoken about all over the world. Behaviours like sleeping in the street, begging, and informal trading are illegal in many African countries because of a history of colonial laws (CDPS, 2023). The South African literature on the topic focuses on the need to change municipal by-laws, as these usually form the legal justification for displacing and punishing the homeless (Ballard et al., 2021; Killander, 2019). However, overseas literature (particularly from developed countries) considers factors *in addition to the law* that influence how the homeless experience being policed and how they make sense of why they are policed. These include factors such as interpersonal dynamics between the unhoused and law enforcement groups or individual officers, and the social identities of the homeless that may make them more or less likely to receive kind treatment from law enforcement (for example, being a mother seemed to improve treatment according to one study [Stuart, 2015]). How the homeless made sense of why they were policed in one study showed that they thought it is because of *society's* dislike for them and not officers' dislike for them (Kyprianides et al., 2021). One study showed that in Montreal, Canada, the local government and businesses did not need to use the law to displace the homeless, and instead did so through architectural design and introducing stricter regulations in public spaces (Sylvestre, 2010). The same study concluded that if there is private and government interest in excluding the homeless from urban spaces, this can be achieved without the direct use of the law.

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## **Where do I fit in?**

My study aimed to understand if similar factors that fall outside of the scope of the law should be considered in the context of Cape Town when examining the experiences of the homeless of being policed.

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<sup>2</sup> There are roughly 14 000 homeless people living on the streets in Cape Town compared to 2 100 shelter beds! (Hopkins et al., 2020).

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## My findings

### By-laws are important, but are not the whole picture

After asking participants in broad terms to describe their experiences with law enforcement<sup>3</sup>, I found that some of the participants' experiences of law enforcement can be explained by officers' enforcement of by-laws: participants reported being fined, arrested, and having their property destroyed, raided or confiscated. However, many of the experiences they told me about, both positive and negative, cannot be explained by the enforcement of by-laws. Such experiences were

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*One participant said that law enforcement practices 'people enforcement' rather than enforcement of the law*

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overwhelmingly negative, and included exposure to physical violence (being kicked, slapped, or beaten) and the threat of violence. Participants also gave accounts of humiliating treatment – such as being forced to drink to the point of inebriation in the back of a van that started and braked suddenly to splash the alcohol on the participant. They told me about corrupt policing practices – such as arresting participants for purchasing drugs but not drug dealers for dealing them – which affected their ability to survive on the streets. They also spoke about deceitful practices, such as collecting personal information under the guise of helping the homeless when in fact it was to dole out fines. They emphasised that they found some officers' behaviour unprofessional and in conflict with participants' understandings of the

law, in particular how readily law enforcement uses violence. One participant said that law enforcement practices 'people enforcement' rather than enforcement of the law, and another played with the syllables of 'enforcement' to imply that 'force' is the only part of the word that officers understand.

### Positive experiences unrelated to by-law enforcement

Although participants had overwhelmingly negative experiences, they also had some positive ones. This also cannot be explained by the enforcement of by-laws. Instead, they speak to the kindness and fairness of certain officers (and certain residents who call upon their services). The variation in experiences sometimes had to do with which law enforcement group they interacted with: participants

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<sup>3</sup> 'Law Enforcement' was capitalised in my paper where it referred specifically to the subsidiary group of the Metropolitan Police who are involved in by-law enforcement in Cape Town. Where the term was not capitalised, it referred generally to groups who enforce the law, whether they represent public, private or hybrid institutions.

found the SAPS to be the least problematic and grouped Metro Police and private security in the same category of problematic law enforcement. This was expected as the SAPS are not mandated to deal with petty offences, as are Metro Police. However, some of the positive experiences related to groups other than the SAPS. Some participants said they received advice and assistance, such as being told about shelter services and even being accompanied to the shelter by officers. Although they were critical of shelters, the participants acknowledged that this was kind of the officers, and one participant said that the officers who accompanied him even told the shelter that it was an emergency so that they would take him in. Another story that came up was how some officers were willing to negotiate matters before destroying structures and warned the homeless about raids to come. Similarly, participants mentioned residents who had been kind to them: one participant mentioned a group of residents with whom they had an agreement that they would speak directly to the homeless to ask them to keep their noise levels under control before calling upon law enforcement, and other participants said the residents were sometimes generous with donations to the homeless.

## **Making sense of why and how they were policed**

How participants made sense of why they were policed was interesting too. Many did not blame the individual officers, but rather blamed the City of Cape Town for issuing instructions. One participant said he felt that law enforcement simply did not understand the homeless and that this could be fixed if they sat down together and chatted. Other participants blamed residents for calling upon the services of law enforcement. One person said that law enforcement has 'nothing better to do' than to harass them and do so in part to displace the homeless for the sake of tourists. Others blamed the Department of Social Development for not helping the homeless in the first place, and some even questioned whether there was corruption in the department that accounted for its incompetency. Overall, participants found it very unfair that they had so much contact with law enforcement as they were aware that psycho-social intervention is a more appropriate and effective response, and that this should come first and foremost from government.

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## **Conclusion and recommendations**

The main conclusion of this study was that while previous research is correct to call for a review of by-laws, other factors need to be considered if the homeless are to be treated fairly by law enforcement

and the law and society at large. My findings show that many stakeholders do not believe in or value fair treatment of the homeless. So even if by-laws are amended, this disregard for the rights of the homeless might be achieved in other ways, whether that be through stricter regulations (unrelated to the law) of public spaces or perhaps by amping up policing drug possession with a focus on homeless people. In other words, if residents, law enforcement or government wish to punish or exclude the homeless from certain spaces, they may find ways to do so that are not related to enforcing by-laws.

## MY RECOMMENDATIONS ARE THEREFORE :

- To stop seeing homelessness as a safety and security problem to be addressed by law enforcement. It is a problem that requires housing, health, psychological, social and economic intervention.
- For government, residents, business owners, law enforcement, and the homeless to challenge themselves and one another on misconceptions they have about the homeless so that they can better respect and help them. They should be careful not to conflate homelessness with criminality, and careful of criticising the homeless for not using shelters when there are many issues with the shelter system. We need more empirical research into the effectiveness of the shelter system, especially when compared to NGOs such as Streetscapes that offer an alternative form of intervention: holistic support. We also need more research into the views and misconceptions held by citizens, government and law enforcement about the homeless.
- To introduce sensitivity training of law enforcement officers on how to understand and engage with homeless people.
- To be more willing to make exceptions for the homeless in policy and law because their living conditions are exceptional.
- And finally...

To listen to the homeless about what works for them! Their voices should be heard as they are the ultimate judges of what interventions are effective or not.

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