Policy Analysis of Los Angeles City Ordinance 41.18

A graduate project submitted in partial fulfillment of the requirements
For the degree of Master of Social Work

By
Julia Osborne

May 2020
The graduate project of Julia Osborne is approved:

_______________________________________  __________
Dr. Wendy Ashley                          Date

_______________________________________  __________
Dr. David McCarty-Caplan                   Date

_______________________________________  __________
Dr. Lauren Willner, Chair                  Date

California State University, Northridge
Dedication

This is dedicated to the community members in California that go without housing or whom have insecure housing. It is also dedicated to those fighting for these community members.
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature Page</td>
<td>ii</td>
</tr>
<tr>
<td>Dedication</td>
<td>iii</td>
</tr>
<tr>
<td>Abstract</td>
<td>v</td>
</tr>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Literature Review</td>
<td>2</td>
</tr>
<tr>
<td>Critical Race Theory Framework</td>
<td>4</td>
</tr>
<tr>
<td>Policy Description</td>
<td>5</td>
</tr>
<tr>
<td>Policy Analysis</td>
<td>8</td>
</tr>
<tr>
<td>Limitations</td>
<td>13</td>
</tr>
<tr>
<td>Conclusion</td>
<td>14</td>
</tr>
<tr>
<td>References</td>
<td>15</td>
</tr>
</tbody>
</table>
Purpose: The purpose of this graduate studies project is to analyze Los Angeles City Ordinance 41.18 through a critical race theory lens.

Methods: This graduate studies project utilizes critical race theory to explore the topics of Los Angeles City Ordinance 41.18, homelessness, and critical race theory. The five principles of critical race theory are discussed and applied to Los Angeles City Ordinance 41.18.

Discussion and Implications: The homelessness rate in Los Angeles is the second-highest in the United States (Leins, 2019), and it has been shown to disproportionately affect people of color. Through a critical race theory lens, this policy analysis explores Los Angeles City Ordinance 41.18 and the effects it has on the homeless population in the area.

Keywords: homelessness, Los Angeles, critical race theory, city ordinance
Introduction

Homelessness is an issue that is particularly prevalent in the city of Los Angeles because the most recent homeless count found 36,165 individuals to be homeless (Los Angeles Homeless Services Authority, 2019). The amount of people who are living on the streets in California is 129,972, indicating that one-quarter of all homeless individuals reside in the city of Los Angeles (United States Interagency Council on Homelessness, 2018). Additionally, California has the highest number of homeless individuals within the U.S., followed by New York with approximately 91,000 homeless individuals, and then by Florida dropping down to around 31,000 (USICH, 2018). These statistics make it clear why homelessness is crucial for social workers to pay attention to, specifically in California.

The racial demographics of the homeless population in Los Angeles are as follows: 1% American Indian/Alaska Native, 1% Asian, 38% Black/African American, 34% Hispanic/Latino, 23% White, 0.3% Native Hawaiian/Other Pacific Islander, and 3% Multiracial (Los Angeles Homeless Services Authority, 2019). Regarding gender and sexuality, 67% identified as male, 30% as female, 2% as transgender, and 0.4% as gender non-conforming (Los Angeles Homeless Services Authority, 2019). These statistics indicate that people of color, as well as men, comprise a sizable proportion of those homeless in Los Angeles. There exists a disproportionate number of people of color that are homeless in Los Angeles, specifically African American men and Hispanic/Latino men.
Literature Review

Unequal Policing Of Municipal Laws

Researchers have found that municipal laws across the United States are enforced in homeless communities, but not in the general population. Bonds and Martin found that laws prohibiting camping in public spaces in Fredericksburg, Texas, were selectively enforced (2016). The researchers found that the police in this area would only enforce the anti-camping laws if a citizen reported an encampment and was not enforced otherwise (Bonds & Martin, 2016).

In the article written by Kate Klein and Manuel Riemer, they found that the homeless individuals that they interviewed were overall dissatisfied with how their city government represented them (2011). This article also found that many of the participants felt that they should be involved when the city makes decisions that would impact them.

De-Humanizing Homeless Individuals

Research has shown that the marginalization of homeless people happens through dehumanizing ideas about them. These dehumanizing ideas can sometimes turn into policies in an attempt to keep homelessness out of the public eye. For example, the concept of NIMBY (Not In My Backyard) states that people in a community may not feel very upset by homelessness or homeless services so long as they are "not in my backyard" (NIMBY, 2019). A common occurrence nation-wide is communities rejecting homeless shelters to be built near their homes as a result of their NIMBY ideals. This idea leads to policies such as bussing, in which homeless individuals receive bus tickets to travel to other places where their family or friends live. This may seem compassionate, but many people who are homeless do not have family or friends to live with, and it is a "band-aid solution," which only is moving the homeless population out of one area and into another. Bonds & Martin write that this policy is treating individuals like we do
pollution; by shipping out one city's waste to another city in order to avoid looking at it (2016). These researchers also write, "To say that the homeless are treated as a kind of pollution is to say that they are not viewed as members of the community in which they live." (2016, p. 140). These ideas dehumanize homeless individuals by focusing on their presence as problematic, rather than seeing these individuals as apart of the community that plays a role in the functioning of the city.

Many activist groups and researchers have found that the municipal laws are created to address the behaviors that are life-sustaining for homeless individuals (National Law Center on Homelessness & Poverty, 2016). These “life-sustaining” behaviors include sleeping on sidewalks, setting up tents to be safe from the weather, or living in cars.’ For example, the Los Angeles city ordinance Municipal Code (LAMC) section 41.18 states, “No person shall sit, lie or sleep in or upon any street, sidewalk or other public way.” This ordinance is quite controversial in Los Angeles, and the citizens contested the ordinance in court cases (Tinoco, 2019). In Idaho, municipal law was struck down by the U.S. 9th Circuit Court of Appeals and asserted that it was “cruel and unusual punishment” to enforce laws that punish people for sleeping outdoors (Smith, 2019).

**Gaps in the Literature**

As a result of the age of the city ordinance, there exists scant information about the ordinance and the reasoning behind it. Most of the literature on the city ordinance has been written in the past few years, as the effects of this municipal law become clear in our modern day.
Critical Race Theory Framework

This research project is a policy analysis of the Los Angeles city ordinance 41.18. The framework that will be utilized to analyze the policy is critical race theory. This theory emerged from legal scholarship through theorists such as Kimberlé Crenshaw, Mari Matsuda, Richard Delgado, and is based on “the view that race, instead of being biologically grounded and natural, is socially constructed and that race, as a socially constructed concept, functions as a means to maintain the interests of the white population that constructed it” (Curry, 2018). It has been applied to many different disciplines since its conception, and many groups have made it their own, including the LGBTQ+ community and the Latinx community. There are five main principles to critical race theory, and this analysis will address each principle and its relation to Los Angeles city ordinance 41.18
Policy Description

Los Angeles City Ordinance 41.18 prohibits people from obstructing the free passage of pedestrians on sidewalks, tunnels, or bridge overpasses. This policy includes a section banning remarks that are a nuisance to others in any pedestrian subway. Finally, the ordinance prohibits people from sitting, lying down, or sleeping on any street, sidewalk, or public space. The policy also provides an exemption to the rule: people may sit on a sidewalk if there is a parade. The ordinance includes the phrase "no person," indicating that all people are prohibited from the actions listed in the ordinance. Because the main information provided about this ordinance is from 1968, the original intentions of the lawmakers are not clearly stated and can only be deduced from the little information available. It is included in Los Angeles municipal law under Chapter IV “Public Welfare”, Article I “Disorderly Conduct Places and Publications”. This indicates that the behaviors that are prohibited in that section of Los Angeles law would be considered “disorderly conduct” and that the laws regard the welfare of the public. Included in this section are municipal codes related to public intoxication, trespassing on public property, noise ordinances, and urinating in public. It seems that the policy aims at increasing public safety by regulating the spaces that people inhabit. In Los Angeles’s City Charter, Volume I “Governance”, Article V “Departments”, Section 570, it states that “The Police Department shall have the power and duty to enforce the penal provisions of the Charter, City ordinances and state and federal law”. It is clear from this statement that the police department is the primary enforcement agency of LA city ordinance 41.18.

The intended outcome of the policy is to keep public spaces clear and free to walk through. Additionally, the policy intends to prevent verbal harassment in public spaces by banning remarks that are a nuisance. The policy also makes it clear that this policy does not apply to
people attending a parade. An unintended outcome of this policy is that homeless individuals are continuously fined, jailed, released in a circular fashion as a result of this policy (Bernard et al, 2018). Additionally, a disproportionate number of African Americans are being harassed by the police force as a result of this law because they make up more of the homeless population in Los Angeles than any other ethnicity. Also, the court case Jones v. The city of Los Angeles was an unintended outcome of the policy. The lawmakers may not have expected a court case to be settled on the matter, which changed the policy and the enforcement of the policy.

If the problem the city is attempting to address is public safety by the removal of people and things from public spaces, it has failed. There still exists a substantial homeless population in Los Angeles, and it has grown steadily since this ordinance was enacted. However, there is a recent discussion about altering the policy or getting rid of the policy altogether. There is much discussion within the Los Angeles city government and its citizens about altering the law, and it is favored among certain policymakers and citizen activist groups (Reyes, 2019).

As recently as last August 21st, 2019, the L.A. City Council Homelessness and Poverty Committee has recommended that this policy be rewritten to include regulation on the specific places that are prohibited for people to sleep, sit, or lie (Tinoco, 2019). This rewrite includes examples such as being 10 feet away from a driveway or building entrance or being 500 feet away from a park, school, or daycare center. The revisions would also include prohibiting people from sleeping, sit, or lie: in any way that violates free passage of someone in a wheelchair pursuant to the Americans with Disabilities Act, on bike paths, in or upon any tunnel, bridge or pedestrian subway that is on a city-designated school route, on public land with posted "no trespassing" signs, and on "crowded public sidewalk areas" like those where street vending is outlawed or near large venues (Tinoco, 2019).
In 2007 there was a court case Jones v. The city of Los Angeles, regarding this law, held that the punishment of involuntary sitting, lying, or sleeping on public sidewalks constitutes cruel and unusual punishment prohibited by the Eighth Amendment. The court found that because of the lack of shelter for homeless people in Los Angeles, about 50,000 beds lacking, that their violation of the ordinance was forced upon them. The court stated that so long as there exist more homeless people than the number of available shelter beds, the city may not enforce the ordinance at all times and places throughout the city. As a result of this, the city agreed in the settlement to stop enforcing this law from 9:00 PM-6:00 AM. They also agreed to stop enforcing this law until they built 1,250 units of permanent supportive housing for the chronically homeless, with at least 625 units in the downtown Skid Row area. In 2018, Mayor Garcetti declared to end this agreement, because they had built more than 1,500 units for the chronically homeless had been built, with 655 being built downtown. It seems that while Garcetti has not officially ended the agreement, that the homeless advocates are waiting for more citations and arrests to occur in order to sue the city again regarding the issue.
Policy Analysis

Race and Racism is Central

The first principle of critical race theory is that race is central to our lives as Americans, and that racism is a common occurrence in the lives of people of color (Delgado & Stefancic, 2001). Examining racial disparities is crucial to understand the impact this ordinance has on homeless people, particularly people of color. White people are 23% of the Los Angeles homeless population, therefore indicating that 77% of the homeless population in the city identify as a race that is not White (Los Angeles Homeless Services Authority, 2019). From a CRT lens, we understand that these people of color experience racism as a common occurrence, and it can be argued that the law enforcement targets these individuals especially when they are homeless. This policy states that “no person” shall sit, lie, or sleep in public spaces, but in reality, the enforcement of the law clearly focuses on homeless encampments, and not on citizens that take up space for other reasons. It is included in the municipal code that attending a parade and sitting on the curb for that reason is not in violation of the law, however parade attenders are engaging in the same activity, sitting in public spaces, as homeless individuals. This city ordinance makes an exception in the written law, and the exceptions to the law are expanded when it is left up to LAPD to decide what is enforceable. Researchers Bonds & Martin found that laws similar to LA city ordinance 41.18 are selectively enforced by local police, and mostly get enforced when people lying on sidewalks or in tents become visible in their community and community members request for their removal (2016). The reasons why community members request for the removal of homeless individuals may vary, but race cannot be ignored. It is possible that people who are homeless and people of color will be more greatly targeted by the community and by the police force because of unconscious bias. Because the city ordinance does
not strictly outline procedures for removing items and people from sitting or lying down in
customary spaces, the ordinance leaves room for LAPD to implement whatever strategies it finds
effective.

**Interest Convergence**

Additionally, the tendency to address homelessness only when citizens complain about it
is an example of interest convergence, a key tenet of critical race theory. Delgado & Stefancic
write that interest convergence is when, “the majority group tolerates advances for racial justice
only when it suits its interest to do so” (2001, p.149). In other words, when the dominant law
enforcement agency only enforces a law when its privileged members of society complain about
the presence of homelessness, it is only enforcing the law to cater to the majority group. It
benefits the police and cities’ reputations when they address vocal citizens’ concerns, so they put
the resources toward raiding encampments and patrolling areas to hand out tickets to homeless
individuals. Los Angeles city ordinance 41.18 is the mechanism through which LAPD has the
power to do so.

A cycle of jail and release often occurs with homeless people in Los Angeles, which can
result in more than a thousand dollars’ worth of fees that people cannot afford (Holland &
Zhang, 2018). A data analysis conducted by The Los Angeles Times found that in 2011, one in
ten arrests citywide were of homeless people (Holland & Zhang, 2018). They also found that in
2016, 14,000 arrests were made of homeless people, which is a 31% increase between 2011 and
2016 (Holland & Zhang, 2018). Interestingly, during this time overall arrests by LAPD
decreased by 15% (Holland & Zhang, 2018). Lastly, they found that two-thirds of those arrested
that were homeless identified as Black or Latino (Holland & Zhang, 2018).

**The Challenge to Dominant Ideology**
The second principle of critical race theory is that the experience of white European Americans is the normal experience, and all other life experiences of people who do not hold this identity are out of the ordinary. LA city ordinance 41.18 is listed under “disorderly conduct”, meaning that the behavior is disobedient and disrupting what is considered to be “normal” behavior of a citizen. Therefore, sleeping in public spaces, and sitting on the sidewalk is deemed to be abnormal. However, it is considered a “life sustaining” activity for homeless people that live in Los Angeles because of the lack of shelter beds. According to journalist Matt Tinoco, there only exists 8,100 shelter beds for homeless individuals, and more than half of those beds are reserved for families with children (2019).

LA city ordinance 41.18 normalizes the experience of sleeping indoors, which specifically targets people who are too poor to have access to this privilege or who prefer to live outdoors. Many people of color are targeted as a result, because of the sheer disproportionate amount of people of color that are homeless in Los Angeles. This is not written explicitly in the ordinance, but the impacts to people of color are clear.

The Centrality of Experiences of People of Color

The third principle of critical race theory is analyzing the policy’s integration of the lived experiences of people of color. The third principle also states that understanding the past and current oppression of people of color and other marginalized groups, such as people who are homeless, is key to analyze how policies affect these groups. At the time of the ordinance’s enactment, three of Los Angeles’s City Council Members were African American and the rest were White. These three city council members were the first three African Americans to sit on the Los Angeles City Council. The city ordinance amendment did not seem to be related to race
at the time, rather, it focused on the “hippies” that were annoying people on the cities’ streets (“L.A. Oks Ordinance”, 1968).

**Interdisciplinary Perspective**

The fourth principle of critical race theory is the inclusion of many different disciplines in understanding racism and its functioning. For example, a historical perspective of racism in Los Angeles is critical in understanding why so many African Americans are disproportionately homeless. In a report written by Bernard et al., they write that racism is a significant cause of African American homelessness in Los Angeles (2018). They write that the Fair Housing Act of 1968 has mostly not been enforced, and that discrimination against African Americans in the housing market has continued (Bernard et al., 2018). Redlining and exclusionary zoning is also cited as a major cause of African American homelessness. As a result of historical discrimination against African Americans in the housing market, Los Angeles ranks as one of the most segregated metropolitan areas in the U.S (Bernard et al., 2018). Bernard et al. also write that “segregation is associated with lower homeownership, lower wealth accumulation, and high rents” (2018, p.19). This historical context makes it clear that racism and discrimination have compounded the struggles that African Americans face today, which is linked to rates of homelessness.

It is also important to understand the historical context of Los Angeles during the time when LA City Ordinance 41.18 was amended by Ordinance Number 137.269 in 1968. In 1965, race riots occurred in Los Angeles. Many citizens, especially African Americans, distrusted the police and there were concerns by minorities about the new LAPD police chief Thomas Reddin (Berman, 1967). It is clear that the Los Angeles City Council was focused on bringing more stability to its citizens based on the creation of this amendment as well as the unanimous
appointment of a police chief that wanted to focus on crime and community relations (Berman, 1967). There exists no information about the racial implications about the amendment during the time it was created. The city council notes on the day it was amended cited a unanimous vote to amend the previous laws regarding public space without comment from the council members or community members.

**Commitment to Social Justice**

A social justice perspective is the fifth principle of critical race theory. This final principle focuses on whether policies are created in a way that is socially just and effects the citizens equally regardless of their identity. Los Angeles City Ordinance 41.18 was not created to be enforced equally, and a newspaper article in The Los Angeles Times in 1968 wrote that the ordinance was amended to, “keep hippies from annoying and molesting people on Hollywood streets, but which would apply citywide” (“L.A. Oks Ordinance”, 1968). Therefore, this amendment to cite those who were bothering people in public spaces targeted people who were transient in an effort to create a safer city, even though it was not considering the experiences of those who were being cited for this behavior.
Limitations

The historical information about Los Angeles City Ordinance 41.18 is lacking, therefore it limited the application of a historical lens. The resources available were from when it was amended in 1968 to include Ordinance 137.269. The Los Angeles Municipal Code has been revised six times since its creation in 1936, and the revisions are virtually impossible to find.

According to Delgado and Stefancic, a common criticism of critical race theory is that it does not address the economic issues of the modern world and how they relate to racism (2001). These scholars also write that critical race theory has been criticized for being overly focused on issues of middle-class racial minorities, mainly focused on microaggressions, racial insults, unconscious discrimination, and affirmative action. As a result of this focus, the application of the lens onto the intersection of race, homelessness, and poverty was challenging.
Conclusion

In conclusion, the Los Angeles City Ordinance 41.18 and its effect on the homeless community has not been academically explored. A recommendation the author makes is for academia to explore the consequences of Los Angeles City Ordinance 41.18 and to look for ways to alter the municipal code to benefit the citizens of Los Angeles in an equitable way, particularly relating to racial relations.

The ordinance was amended in 1968, and the city now utilizes Los Angeles City Ordinance 56.11 to allow LAPD and Los Angeles Bureau of Sanitation to remove homeless encampments. Los Angeles City Ordinance 56.11 also names city departments such as Recreation and Parks, Los Angeles World Airports as secondary support regarding removing homeless encampments and bulky items from public spaces in the city. Additionally, there exists three main programs that aid the city with clearing homeless encampments including Operation healthy Streets, Clean Streets Initiative, and Homeless Outreach and Proactive Engagement. The Los Angeles City Controller’s report on homeless encampments suggests that all of these entities need to become more coordinated and their roles need to become clearer in order to function more effectively (Galperin, 2017). This policy analysis echoes these concerns. Additionally, the inclusion of mental health professionals during homeless encampment sweeps is crucial to provide compassionate law enforcement.
References


Reyes, E. (2019, August 22). L.A. is again considering limits on where homeless people can sleep — this time by schools and parks. *Los Angeles Times.*
