

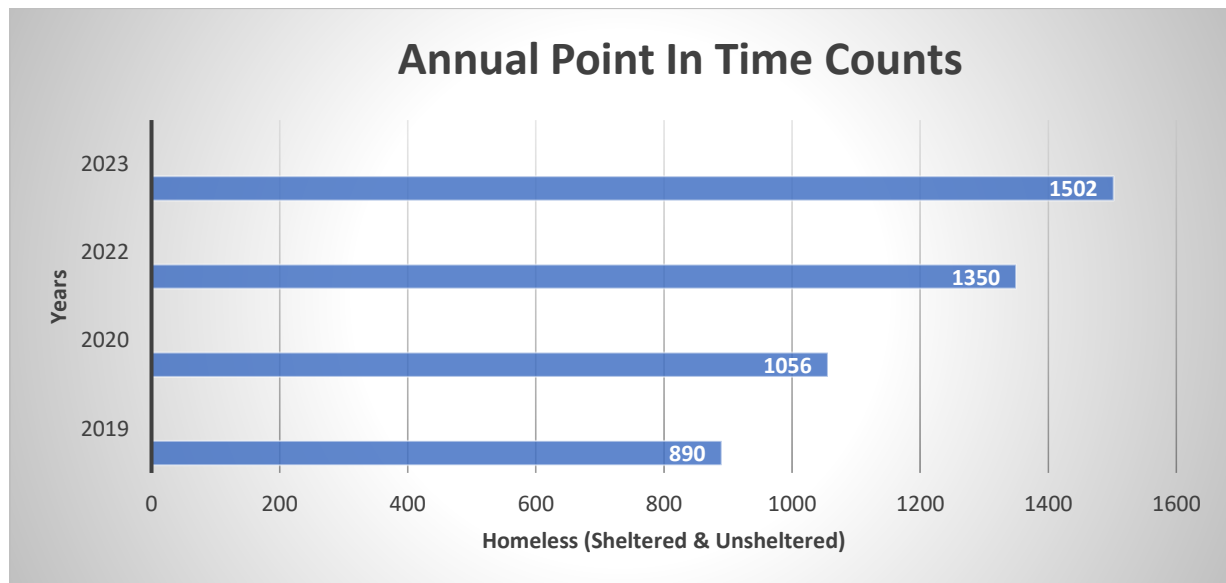
San Bernardino Police Department
Martin v. Boise (2018) and the Impacts
Chief Darren Goodman

Synopsis:

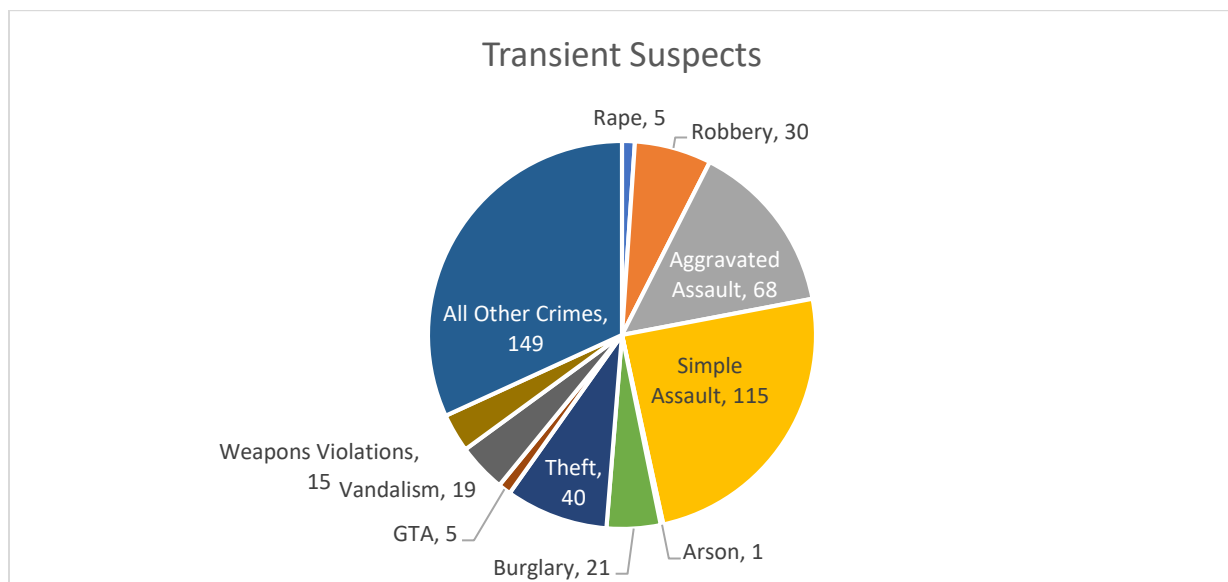
For the past twelve years, California has demonstrated an aggressive appetite for decriminalization and prison reform. *Brown v. Plata* (2011) may have been the tipping point for prison reform; however, California has systematically chipped away at the foundation of criminal justice accountability and penalization. Propositions 47, 57, and Assembly Bill 109, effectively reduced previous felonies to misdemeanors; flushed the prisons into the local jails; and dispersed a large portion of once incarcerated inmates into communities (Lofstrom, Raphael, & Gratett, 2014; Do, 2018). While many argue these effects have not impacted communities, there are many others citing increases in property and violent crime as the result of decriminalization and case law.

The City of San Bernardino has not been immune to the negative effects of legislation or case law. More particularly, the 9th Circuit, *Martin v. Boise* (2018) decision, summarily allowing homeless individuals to reside in public spaces, has impacted the safety, security, and quality of life in San Bernardino. This decision has contributed to the city experiencing a 40% increase in the homeless population since 2019 (*figure 1*), with limited funding or government services to address the challenges this population presents. Additionally, the crime committed by these individuals is disproportionate to the rest of the city's population. While the transient population is slightly less than 1% of the city's population, transients account for 15.88% of misdemeanor arrests and 14.33% of felony arrests. Statistics in San Bernardino indicate 34% of the transient population has been arrested for various crimes (*figure 2*); 15% of the transient population are

victims of crime; and almost 50% of vehicle versus pedestrian collisions involve transients. Remember, these are the crimes where they have been caught, not necessarily the crimes the population may have committed.



(figure 1)



(figure 2)

In 2019, in response to the challenges of *Martin v. Boise* (2018) and inhibitive legislation, the San Bernadino Police Department restructured its Operations Division. The department divided the city into five policing districts, each armed with its own sworn staff to address quality of life issues, primarily transient encampment clean-ups. Officers were posting the camps with 72-hour eviction notices three days before the encampment would be cleaned. After three days, officers would return with a crew from the city's Public Works Department along with a Burrtec refuse truck, to execute the clean-up. These clean-ups, typically 5-10 daily, occurred Monday through Friday, from 0700-1700 hours, at a daily cost of \$1,059.87 (2 officers/6 hours per officer) for two officers and a daily cost of \$709.20 (2 employees/10 hours per employee) for two public works employees. This cost does not include Burrtec expenses for the trash truck or the accompanying Burrtec crew to clean the encampments; four Burrtec employees.

In 2022, the American Civil Liberties Union threatened the City of San Bernardino with litigation stemming from the clean-ups. The argument of the ACLU primarily rested on the *Martin v. Boise* (2018) decision, stating the city did not have adequate housing for the transients and as such, could not cite for the municipal codes related to anti-camping in parks and public storage. Additionally, the ACLU demanded the San Bernardino Police Department not be involved in any clean-ups or storage of personal property from encampments. The city agreed to transfer the primary responsibility of encampment postings and clean-ups to the Public Works Division. Public works staff had to be hired, trained, and deployed, solely for encampment clean-ups and for compliance with *Martin v Boise* (2018) and the ACLU agreement.

Currently, the Public Works Division retains lead responsibility for encampment clean-ups. They post encampments; store personal property of transients; and conduct refuse removal. As of August 2023, police officers have returned to accompanying the public works personnel

for law enforcement purposes and security concerns. Public works personnel complained of threats from the transients and one of the employees was even assaulted by a transient in a park. In September of 2023, the Public Works Division reported it has disposed of 828 tons of trash from encampments to date; an average of 23 tons per week. The encampment trash would fill approximately 6-7 football fields, to date.

Collaborating with San Bernardino County Fire Department and its personnel has revealed the impacts of *Martin v. Boise* (2018) on the fire service. Fire personnel report since 2020, there have been 1,093 fires related to transients. This includes everything from encampment fires to trash fires to vacant building fires. In addition, the rates of overdose by transients are disproportionate to the population of the city. Fire department personnel have responded to 157 incidences of drug overdoses involving transients since 2020. There have also been 266 incidences of assault since 2020, with a direct nexus to transients. Drug use and a general disrespect for codified laws by this population is prevalent and a daily challenge for the fire department also.

San Bernardino has multiple large parks throughout the city. All the parks experience some level of transient activity; however, three of the parks suffer the most. The criminal activity in the parks became prolific and caused significant infrastructure degradation at epic levels. Residents and employees routinely complain about transient encampments in the parks, to include fecal matter on sidewalks and benches; hypodermic needles in and around playgrounds; aggressive panhandling; intercourse in open view inside encampments; piles of trash throughout the park; and continual burglaries of city structures in the parks.

In May of 2023, faced with growing encampment and transient challenges, three of the parks were closed for cleaning and infrastructure repair. Signage was posted throughout the

parks and all encampments within the parks were provided 72-hour notices to vacate, with most encampments having additional time to move. The parks were thoroughly cleaned, repaired, and improved. The city hired a security firm to patrol the parks, authorizing them to issue citations for minor violations of municipal codes.

Since the city's park repairs and cleaning, the Parks and Recreation Director reports an increase in attendance of 230% for the city's community pool at Perris Hill Park. The city owned gazebos in the parks are being rented for celebrations; this had not happened in the previous five years due to encampments enveloping the gazebos. The open-air amphitheater is hosting events, one in which it is expected to have over 1,000 people attending. Once again, this had not happened for many years due to the criminal activity and conditions of the park caused by transient encampments and activity in the parks.

One of the parks cleaned and repaired is adjacent to the San Bernardino County Courthouses, in the downtown region. All the court staff, to include judges, attorneys, and other staff, have reported marked improvement in the park, and now use the park during lunch hours for employee breaks. The ability to keep the parks clean and free from criminal activity in encampments is both quantitative and qualitative.

The City of San Bernardino employs a homeless liaison representative, and the city has an active contract with "Hope the Mission," an agency providing outreach services with the City of San Bernardino for a cost of approximately \$1.5 million. Staff reported approximately 80% of the transients contacted, who live in public spaces in accordance with *Martin v. Boise* (2018), refuse services or placement. They did report 100% of the transients contacted will accept hotel vouchers for one-to-two-night stays. Additionally, according to the 2020 San Bernardino County

homeless cost analysis, managing a chronically homeless individual costs a city approximately \$31,873 annually.

In 2023, the District Resource Officer teams began tracking the homeless services they offered to transients at encampments and throughout the city. While approximately half of the transients stated they were interested in services, officers would routinely report observing the same individuals in the same locations daily. The services information packet provided to the subjects has multiple phone numbers and addresses for them to seek assistance; however, it does not appear services are routinely sought by this population. This is corroborated by the city's homeless and housing coordinator.

The challenges of *Martin v. Boise* (2018) and the decriminalization in California have initiated a chain of events in California society which will be difficult to recover from. Allowing rampant encampments throughout any municipality or county property will always be adversarial to improving the quality of life for the taxpayer in these communities. Legalizing camping in public areas has created criminal communities, within business and residential communities, struggling to reduce crime and improve quality of life. *Martin v. Boise* (2018) has handicapped the safety of communities and will continue to do so unless overruled by the Supreme Court.

References

Do, A. (2018, June 9). California's dangerous trifecta: Ab 109, prop. 57 and prop. 47. *Orange County Register*. Retrieved from <https://www.ocregister.com/2018/06/08/californias-dangerous-crime-trifecta/>.

Lofstrom M., Raphael S., & Gratett, R. (2014). Is public safety realignment reducing recidivism in california? *Public Policy Institute of California*. Retrieved from https://www.ppic.org/content/pubs/report/R_614MLR.pdf.