



## I. Overview

On June 5<sup>th</sup> and 6<sup>th</sup>, 2019 more than 115 advocates, attorneys, currently and formerly homeless individuals, funders, and government representatives, gathered in Washington, D.C. for the annual National Forum on the Human Right to Housing organized by the [National Law Center on Homelessness & Poverty](#). This year, the Forum's focus was on how to build on the *Martin v. Boise* decision which states communities cannot criminalize basic acts of survival like sleeping and self-sheltering in the absence of adequate alternatives. The Forum was designed to draw on the resources that each participant brought to the table and to help create new ones. The event provided the opportunity to share victories and challenges and strategize for future advocacy.

The 2019 Forum was generously hosted by [Hogan Lovells LLP](#) and sponsored by [Ballard Spahr LLP](#), [Fish & Richardson PC](#), [Trader Joe's](#), and [Microsoft Corporation](#). Thanks to these sponsors and revenues generated through paid registrations, the Law Center was able to award twenty travel scholarships, along with free registrations, to enable the participation of currently and formerly homeless individuals in the discussions. The event was developed with the assistance of a planning committee of homeless and other advocates.

Photos from the event are located on the [Law Center's Twitter page \(@nlchphomeless\)](#) and using [#RTHForum](#) hashtag. Facebook Live videos are located on the [Law Center's Facebook page](#).

## II. Background: *Martin v. Boise*

On September 4, 2018, the 9th Circuit Court of Appeals affirmed that the state may not "criminalize conduct that is an unavoidable consequence of being homeless—namely sitting, lying, or sleeping on the streets" when there are more homeless persons than available shelter beds or in the absence of other adequate alternatives. Alternatives must be practically accessible to a given individual, taking into account disability, religious beliefs, or other restrictions.

The 9th Circuit reasoned that sitting, lying down, and sleeping in public is unavoidable conduct that is inseparable from a homeless person's status when they have no other place to live. To punish that conduct is akin to punishing a person's homeless status - a result that cannot be tolerated under the 8th Amendment. This rationale can be - and has been - applied to laws ranging from camping bans to disorderly conduct laws.

The 9<sup>th</sup> Circuit, sitting *en banc*, reaffirmed this ruling on April 1, 2019. But, only two days before the conference, the city of Boise asked for an extension to its deadline for filing an application for the Supreme Court to hear the case. This means that although the ruling remains the law of the land for the moment, and we should work to maximize its impact, we need to be careful in our public statements, at least until the Supreme Court decides whether it will hear the case. Whether the case proceeds to the high court or not, it was an excellent time to bring together all the partners working on these issues to strategize.

### III. Sharing Successes and Challenges



The Forum was officially opened with remarks from **T. Weymouth Clark**, Pro Bono Counsel at [Hogan Lovells LLP](#), who welcomed participants to Hogan Lovells' offices as the host of the Forum. **Khadijah Williams**, from [Rocketship DC](#), welcomed people on behalf of the Law Center's Board, and emphasized as a formerly homeless person how important it was to have seen the development of the Forum agenda reflecting the diversity of the movement.

**Maria Foscarinis**, founder and executive director of the [Law Center](#) then provided opening remarks reflecting on the 30 years of work to end homelessness since the founding of the Law Center in 1989, and how important this Forum at this moment is to moving things forward.



**Amanda Andere**, the CEO of [Funders Together to End Homelessness](#), delivered opening [keynote remarks](#) on how housing as a human right also means housing justice, and housing justice means centering race in our conversations about housing and homelessness.

For the first time, the Law Center held a Rotating Roundtables session in which members of the Housing Not Handcuffs Campaign could share successes and challenges on a variety of topics and initiatives. Attendees were able to learn about the [#IAskForHelpBecause Panhandling Ordinance Campaign](#), privatization of public space, vigilantism, corporate responsibility and Proposition C, family homelessness, and youth homelessness.



## IV. *Martin*: Where Do We Go Next with Litigation and Policy?

### Litigation

The first plenary, moderated by the Law Center's Legal Director, **Eric Tars**, together with **Christian Abasto** of [Disability Rights CA](#), **Michael Bern** of [Latham & Watkins](#), **Wookie Kim** of the [ACLU of Hawai'i](#), and **Carol Sobel** of the Law Office of Carol Sobel covered what *Martin* means and how litigators can build on its precedent.

#### Major Takeaways:

- While we should be conscious of the current appeal status and avoid major public pronouncements, now is also the time to build examples of positive post-*Martin* activities. This way we can show both the courts and other communities that by taking a Housing, Not Handcuffs approach, they get a win-win for housed and unhoused residents alike.
- As always, it is important to develop cases with very good facts as well as legal arguments. The law center and our new HNH Justice network will be happy to help strategize. Helping public defenders with motions to dismiss cases on the criminal side may be an effective strategy of maximizing *Martin*'s impact.



*Panelists Eric Tars, Wookie Kim, Michael Bern, Carol Sobel, Christian Abasto*

### Policy

The second plenary, *Martin: Where do we go next with Policy?*, focused on discussing how to ensure that communities see *Martin* as an opportunity to implement better policies and best practices to end homelessness, rather than criminalize its symptoms. The panel was moderated by Law Center Senior Attorney, **Tristia Bauman**, joined by **Terese Howard** of [Denver Homeless Out Loud](#), **John Pollock** of the [National Coalition for a Civil Right to Counsel](#), **Sara Rankin** of [Seattle University School of Law](#), and **Pete White** of the [Los Angeles Community Action Network](#).

#### Major Takeaways:

- Advocates should pay attention to messaging and centering policy goals on an ultimate right to housing. Even when arguing to governments that policies are cost-effective, it is important not to lose sight of the people who will be impacted by these policies.
- Recently, cities' practices such as the sweeping of homeless encampments have been framed as compassionate responses rooted in a health and safety interest. However, cities need to consider the health and safety effects of criminalizing homelessness, from hypo/hyperthermia

that can occur when homeless individuals are banned from using tents, vehicles, or other forms of shelter, to sleep deprivation arising from the lack of options for places to sleep.

- The right to counsel in eviction courts has passed in New York City, San Francisco, and Newark and is picking up speed nationwide. Because evictions are a major cause of the inflow into homelessness, building on this momentum will be an important part of helping to end homelessness, and its criminalization.



*Panelists Tristia Bauman, Pete White, Terese Howard, John Pollock, and Sara Rankin*

## V. Breakouts: Beyond Martin

Following a networking lunch, the day then proceeded to breakout workshops:

### **Anatomy of a Good Post-Martin Case**

This breakout session was led by [Kirsten Anderson](#) ([Southern Legal Counsel](#)), [Tristia Bauman](#) ([NLCHP](#)), [Paul Boden](#) ([WRAP](#)), [Carol Sobel](#) ([Law Office of Carol Sobel](#)), and [Pete White](#) ([LACAN](#)). Participants discussed different strategies for protecting the rights of those experiencing homelessness through litigation and organizing.

#### **Major Takeaways:**

- Litigators and Organizers need to think about what each can realistically do and then work together to fill in the gaps. Both groups should also clarify their expectations, roles, and where the decision-making power lies.

### **#IAskForHelpBecause Campaign**

[Pierre Collins](#) and [Eric Tars](#) of the [Law Center](#) facilitated the [#IAskForHelpBecause Campaign](#) breakout session where attendees brainstormed ways to make the campaign to take down panhandling ordinances more successful and give it a wider scope.

#### **Major Takeaways:**

- For a successful campaign, we need to increase outreach to rural communities, faith-based partners, and media organizations, and gather statistics and stories for myth-busting around panhandling.

- Developing case studies of constructive alternatives, like the day labor programs in Albuquerque, NM, and elsewhere, is important to show communities there are other approaches they can take.

### **Building a Deeper Housing Not Handcuffs Campaign**

**Megan Hustings** and **Annie Leomporra** ([National Coalition for the Homeless](#)) and **Rachel Lee** and **Kelly Miller** ([Law Center](#)) led this session to brainstorm and develop ways to make the [Housing Not Handcuffs Campaign](#) more impactful and to get more people involved.

#### **Major Takeaways:**

- Create know your rights materials for people experiencing homelessness in each state.
- Develop strategies for getting high school and college students involved in the campaign.

### **Working Woke After *Martin***

**Amanda Andere** ([Fundors Together to End Homelessness](#)), **Lovie Arthur** ([Community Solutions](#)), and **Marc Dones** ([National Innovation Service](#)) led a discussion on how to center racial equity in the work towards ending homelessness.

#### **Major Takeaways:**

- Racial equity work needs to be institutionalized. This is long-term work that cannot be solved with a quick toolkit.
- Communities need to be engaged more deeply through community based participatory design and a democratizing of information transfer. The process is equally important as the outcome, and is the outcome.

## **VI. Beyond *Martin*: Next Steps and Takeaways**

### **Re-convening**

The second day began with [keynote remarks](#) from **Andrea Ritchie** ([Social Justice Institute of the Barnard Center for Research on Women](#)) helping ground participants in the intersectional impacts of race and gender on homelessness and its criminalization.



### **Litigation**

**Tristia Bauman** ([National Law Center on Homelessness and Poverty](#)) and **Robbie Norton** ([Latham & Watkins LLP](#)) led a discussion of non-8th Amendment litigation angles after *Martin*, including regional jurisdictional conversations, again examining reaching goals of both “Housing” and “Not Handcuffs.”

#### **Major Takeaways:**

- Litigators need to be bold, but not reckless—advance new theories, but make sure the facts are solid.
- Practice due diligence in developing cases—know your judges at the local and appellate level.
- Litigation has a role in changing court of public opinion. Thus we, need messaging, organizing, and policymaking baked into strategies.

## Policy

[Paul Boden](#) ([Western Regional Advocacy Project](#)), [Kelley Cutler](#) ([San Francisco Coalition on Homelessness](#)), [Nikita Price](#) ([Picture the Homeless](#)), [Sara Rankin](#) ([Seattle University School of Law Homeless Rights Advocacy Project](#)), and [Eric Tars](#) ([National Law Center on Homelessness and Poverty](#)) led advocates in a discussion of strategies for post-Martin policy, including state- and local-level homeless bills of rights and other guidance or policies on addressing unsheltered homelessness.

### Major Takeaways:

- There is a real danger in the post-Martin backlash. Cities are looking for technical compliance while finding loopholes, and more heavily relying on public safety/health/environmental concerns as justifications for sweeps, and casting advocates as the ones endangering homeless persons for demanding alternatives before displacement.
- We need work on creating a better way to answer the question about what to do about encampments. Develop best practices to give to elected officials who want to find a better process for outreach and to address concerns about public health and property impacts.
- In pushing anti-criminalization measures, need to pair with what the alternative is. Monetizing the status quo helps (tracking every police/departement of public works interaction).
- Main message can be “Leave ‘em alone until you have an alternative; return HUD’s budget to pre-1980 levels, and you’ll end homelessness.”

## Communications

[Armando Garcia](#) ([San Francisco Coalition on Homelessness](#)), [Don Sawyer](#) ([a Bigger Vision Films](#)) [Max Rameau](#) ([Pan-African Community Action](#)), and [Cassidy Waskowicz](#) ([National Law Center on Homelessness and Poverty](#)) provided a space for developing both new affirmative narratives as well as considering how to effectively respond to the backlash seen in the wake of Martin and other efforts to repeal criminalization ordinances.

### Major Takeaways:

- Make sure to bring the homeless community on board with the messaging. The process should involve outreach, going to the streets and knowing how to listen to people.
- Put more of a policy focus on the housing part of Housing Not Handcuffs and then emphasize housing in the messaging.

## Policing: How Law Enforcement Can Support Decriminalization Efforts

[Judge Cylentia LaToye Miller](#) (36th District, Michigan), [Dan McDonald](#) (Tampa Police Department) [Detective Debbie Ramsey \(Ret.\)](#) (Baltimore Police Department), and [Nicola Smith-Kea](#) ([Arnold Ventures](#)) facilitated this workshop to allow law enforcement and non-law enforcement participants to discuss how they can better work together to get their communities to provide Housing, Not Handcuffs to people who are experiencing homelessness.

### Major Takeaways:

- Law enforcement needs to make the effort to rebuild trust by operating in others’ comfort zones, out of uniform, and especially without a gun. Without this trust, long-term solutions can’t be constructed, and long-term solutions like housing and work are the only way to keep things from regressing back to where they started.

- The [Law Enforcement Action Partnership](#) (LEAP) brings together members of law enforcement who believe in promoting alternatives to arrest and incarceration, addressing the root causes of crime, and working toward healing police-community relations. They have speakers who can provide testimony, and writers who can provide op-eds. LEAP is a powerful resource and should be better utilized by homeless advocates.



*Participants from the Communications beyond Martin Breakout Present their Next Steps and Major Takeaways*

## VII. Keep the Conversation Going

We encourage people to continue the conversation online via the HNH Campaign listserv (join by endorsing at [housingnothandcuffs.org](https://www.facebook.com/HousingNotHandcuffs/)) and the Housing Not Handcuffs Campaign's social media platforms below:

-  <https://www.facebook.com/HousingNotHandcuffs/>
-  @NLCHPhomeless
-  #RTHForum

## VIII. Conclusion

The Law Center will work to achieve the above next steps that require national tools, resources, and coordination. At the same time all the Forum attendees, and the HNH Campaign participants who could not attend, should review the above lists and see what steps they can take individually to help move the collective goals of the Campaign forward in their own spheres of advocacy, and reach out to us at the Law Center as you need help. **Together, we can stop the criminalization of homelessness, and ensure the human right to housing for all!**