

# NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

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The National Law Center on Homelessness and Poverty and the Center for Social Innovation urge the U.S. Department of Housing and Urban Development (“HUD”) to resume enforcement of the Affirmatively Furthering Fair Housing (“AFFH”) requirement of the Fair Housing Act and require program participants to submit Assessment of Fair Housing submissions (“AFHs”) in accordance with the timelines and procedures laid out in the governing regulation. The AFH Assessment Tool -- and data, mapping tool and guidance that accompanied its release -- help local governments and PHAs identify and overcome the numerous barriers to fair housing faced by homeless individuals. Individuals experiencing homelessness often belong to one or more protected classes under the Fair Housing Act and suffer discrimination, exclusion, and segregation disproportionately. Using data and community participation to analyze how local policies can serve to include or exclude this population is critical to a full fair housing analysis. As discussed further below, the process that preceded the release of the AFFH regulation and tool, in which jurisdictions prepared but did not submit to HUD an Analysis of Impediments (“AI”), perpetuated housing barriers faced by homeless individuals.

People of color are significantly more likely than whites to experience homelessness.<sup>1</sup> This is true even when accounting for income disparities.<sup>1</sup> Persons with mental or physical disabilities are also disproportionately more likely to experience homelessness.<sup>1</sup> Additionally, animosity towards people experiencing homelessness is often based on racial, ethnic or disability stereotypes.<sup>1</sup>

An empirical study by Supporting Partnerships for Anti-Racist Communities (“SPARC Initiative”),<sup>1</sup> an initiative of the Center for Social Innovation, indicates that the correlation between race/ethnicity and homelessness may be even stronger than previously realized. Results from the SPARC Study indicate that African Americans comprise as much as two-thirds of the homeless population in SPARC communities, while the white homeless population could be as low as 28%. These numbers are staggering, as they are nearly the *inverse* of the racial makeup of the general U.S. population, which is 74% white and 13% African American.

HUD’s definition of “affirmatively furthering fair housing” includes “replacing segregated living patterns with truly integrated and balanced living patterns.”<sup>1</sup> In order for local communities to ensure that they are living up to their fair housing mandates, they must have the appropriate tools for analysis and be regularly held accountable for how they are addressing fair housing issues, including homelessness.

The September 2010 report from the United States Government Accountability Office (“GAO Report”) made clear how woefully inadequate the prior process for compliance with the Fair Housing Act’s AFFH requirement was.<sup>1</sup> The GAO Report found that AIs suffered from numerous shortcomings, and concluded that AIs “do not likely serve as effective planning documents to identify and address current potential impediments to fair housing choice.”<sup>1</sup> In response to the GAO report the AFFH sought to overcome the deficiencies of the AI regime through the creation of the Tool.<sup>1</sup>

The Tool is a step in the right direction toward effecting meaningful change in how fair housing is monitored and enforced. While we believe that the Tool can be improved to provide greater focus on homelessness and the fair housing issues directly correlated to homelessness (notably the disproportionate impact of homelessness on people of color), the Tool is a significant improvement over the prior AI process.

Such improvements can be seen in the AFHs that already been submitted versus the AIs that were previously submitted. In preparation of this comment we reviewed submitted AFHs from 27 jurisdictions. Thirteen of the jurisdictions had submitted AIs in the past. The AFHs from eleven of those jurisdictions had more mentions of “homeless” or related terms than their prior AIs. The AFHs for Seattle, Washington and Philadelphia, Pennsylvania used “homeless” 63 and 94 more times, respectively, than such term was used in their previously submitted AIs.

More important than the sheer number of mentions of the term “homeless” is where and how the term is used in the reports. A telling statistic is that the term “homeless” appears in the “Community Participation Process” in 24 out of the 27 AIs we reviewed. The documenting of community participation in development of an AFH is a unique feature of the Tool that was not required as part the AI regime. The fact that many jurisdictions sought input from organizations focused on assisting the homeless as stakeholders in their Community Participation Process, and that homelessness was a common issue mentioned in the surveys and hearings conducted through the AFH process, indicates the Tool is helping to bring homelessness into the broader conversation regarding fair housing.