

Tuesday, June 2, 2020

Brenda Jones, Detroit City Council President
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Re: Homeless Encampment Evictions During COVID-19 Pandemic

Dear City of Detroit,

We write as concerned street medicine providers, the National Law Center on Homelessness & Poverty, the American Civil Liberties Union of Michigan (ACLU), Street Democracy, and our partner signatories below to urge you to immediately cease all homeless encampment evictions during the COVID-19 pandemic and ask that you adopt a policy that protects unsheltered people and their property. Recent guidelines released by the U.S. Centers for Disease Control and Prevention (CDC) and the Michigan Department of Health and Human Services (MDHHS) state that an immediate moratorium on homeless encampment sweeps should be implemented during the COVID-19 pandemic unless the city can offer individual housing units to people living at those locations. However, over the past month, we witnessed and/or heard of at least 14 known encampment removals in the City of Detroit. These removals have displaced a minimum of 40 encampment residents. Without adequate notice, City of Detroit officials confiscated essential medications, identifications, family heirlooms, cash, and other personal belongings - such as blankets, tents, coats, and other survival necessities - and left residents with no recourse to recover their belongings.

First, we ask that you issue a formal policy to leave homeless encampments intact during the COVID-19 pandemic unless the City can offer people living there individual housing units, per CDC and MDHHS guidance. **Second**, we ask that you formally enact, effectively implement, and properly enforce the policy drafted by the Housing and Revitalization Department, entitled *City of Detroit Response to Address Homeless Encampment Health & Safety Concerns*, to comply with constitutional due process and other legal rights of unsheltered people in Detroit. These steps are necessary to curb the spread of the virus and to protect against avoidable hospitalization and death among both housed and unsheltered people^{1,2}.

Who We Are

We are a group of student doctors and outreach providers who work closely with those experiencing homelessness to provide resources and support for chronic disease maintenance and acute, non-emergent care. Over the past several weeks, our teams and our partner organizations have seen a drastic increase in the frequency of homeless encampment removals within the City of Detroit. Our goal is to shed light on the harmful public health and legal implications of homeless encampment sweeps during the COVID-19 pandemic.

The National Law Center on Homelessness and Poverty (Law Center) is the only national legal advocacy organization dedicated solely to ending and preventing homelessness using the power of the law. The Law Center has published numerous reports citing the negative impact of policies and practices which punish homelessness, including sweeps of outdoor encampments and

¹ Coronavirus (COVID-19) Resources For Homeless Assistance Providers: Unsheltered Homeless - Guidance for Local Government and Law Enforcement: <https://www.michigan.gov/mcteh/0,8782,7-349-78543-522105--,00.html>

² Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>

destruction of homeless people's property. The Law Center also has published best practices, model policies, and case studies from across the country on how to constructively address homeless encampments^{3, 4}. In addition, the Law Center has compiled best practices and other resources for communities working to curb the spread of the deadly coronavirus, available at <https://nlchp.org/coronavirus/>.

The ACLU has led the fight to conserve the most basic liberties enshrined in the Bill of Rights. We represent everyone, rich or poor; every person in this country has the same basic rights and liberties. The ACLU has represented the rights of the unsheltered community in Detroit against inhumane policies - such as when the Detroit Police transported unsheltered and unwanted individuals out of city limits and abandoned them off on the freeway some thirty miles away, and when Detroit criminalized their right to peacefully panhandle under the First Amendment.

Street Democracy is a legal services nonprofit that helps poor and vulnerable communities amass and exercise power. Using a collaborative community-based lawyering approach, Street Democracy supports those communities through individual representation and advocacy of their efforts to effectuate systemic change. Its key work has been working with homeless persons and service organizations to teach courts how they can deflect and direct litigants to in-community service providers and away from the criminal justice system.

Encampment Evictions Threaten Public Health

CDC and MDHHS guidelines state that communities should not clear outdoor encampments unless the people living in those locations are offered access to individual housing units because doing so increases the risk of infectious disease spread. In addition, the guidance highlights the need to enable unsheltered people to maintain physical distancing and appropriate hygiene – the primary tools available for curbing the spread of the deadly coronavirus. To prevent contracting and transmitting COVID-19, all people are encouraged to wash their hands properly and frequently, avoid close contact with others, and to stay home if they are feeling sick. For people experiencing homelessness, however, options for following these recommendations are extremely limited.

There are too few private housing and shelter options available in Detroit, and congregate shelter settings do not allow for recommended physical distancing, air circulation, and sanitation necessary to stem the spread of the virus. Even if a place of shelter isn't optimal, such as a tent, a stable place to shelter-in-place is invaluable during the COVID-19 pandemic. A study by medical practitioners, public health professionals, and social scientists at University of California at Berkeley's School of Public Health emphasized the critical need to stop sweeping homeless encampments and, instead, to assist people to safely shelter in place in their tents⁵. This systematic review concluded that helping unsheltered people to properly shelter-in-place – even if those shelters are tents or vehicles - will help to “flatten the curve,” decrease the demand for services from hospitals, and enable communities to lift shelter-in-place orders sooner than if people experiencing homelessness are not sheltered-in-place.

³ *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness*: <https://nlchp.org/housing-not-handcuffs-2019/>

⁴ *Tent City, USA: The Growth of America's Homeless Encampments, and How Communities are Responding*: https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf

⁵ *For the Good of Us All | Addressing the Needs of Our Unhoused Neighbors During the COVID-19 Pandemic*: <https://publichealth.berkeley.edu/wp-content/uploads/2020/04/For-the-Good-of-Us-All-Report.pdf>

In sharp contrast, displacing encampment residents from their private tents and vehicles increases the risk of COVID-19 spread and can rapidly increase the number of unsheltered people requiring hospitalization and intensive care. Indeed, people experiencing homelessness who are infected by COVID-19 are twice as likely to be hospitalized, two to four times as likely to require critical care, and two to three times as likely to die than the general population⁶.

Yet, despite these known health risks to the unsheltered community and city workers, the City of Detroit has engaged in at least 14 encampment removals since mid-April.

“They came and took all of my stuff and threw it away... My bible was a family bible, actually. My identification and a one hundred dollar bill was in there. The money isn’t all that important, but the identification and the bible matter. The bible had a family tree on it. My family came from Ethiopia, and some of that information I’m never going to get back. I mean I lost my heritage and it was sad. That really hurt me. I’m asking and praying on how to get that back because a lot of my family members are gone.” - L

Those who have been displaced have told us that they have felt humiliated and were made to feel as though they do not matter.

*“They came and kicked us out like we didn’t even matter. I’m sorry we’re homeless, but we survive. It made me feel like I was getting kicked out of my home...They put a stop to evictions, but if you’re homeless? Boom! You’re gone.”
- B*

Just as Detroit has placed a moratorium on evictions of residents in brick and mortar homes, similar protections should be extended to our unsheltered neighbors.

Furthermore, the City’s sweeps of encampments – which cause encampment residents to lose their only available option for private shelter - have eliminated people’s ability to practice physical distancing. For example, some people who lost their tents and critical belongings as a result of the City’s actions were left with no other option but to move into other tents with people from whom they cannot remain physically distant – including people who have subsequently been diagnosed with COVID-19.

“It was wrong for them to just kick us out like that. We were isolating ourselves, staying away from people, not bothering anybody.” – C

Every time an unsheltered individual is displaced, and their belongings are discarded, the number of people utilizing community infrastructure - such as buses and grocery stores - increases to replace what was taken. It also causes unsheltered people to relocate to new parts of the City, elevating the risk of disease spread to those new areas. Sweeps sever connections with service providers by displacing people to areas where they cannot be found or from which they cannot access services – including needed medical services. Moreover, seizure of tents, tarps, medications, and other survival gear make homeless individuals, who are already more likely than members of the general public to be hospitalized, even more vulnerable to hospitalization due to COVID-19 or other illnesses. This can lead to strain on precious hospital resources and even loss of life.

“It felt like they didn’t give a damn where we went.” – J

⁶ *Estimated Emergency and Observational/Quarantine Capacity Need for the US Homeless Population Related to COVID-19 Exposure by County; Projected Hospitalizations, Intensive Care Units and Mortality:*
https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf

Detroit's sweeps not only violate CDC and MDHHS guidance, but they also stand in stark contrast to the policies of other communities – as seen in cities in California^{7, 8, 9}, Nevada¹⁰, and Washington¹¹ - that have suspended encampment sweeps during the pandemic to protect public health. Rather than violate CDC and MDHHS guidance and risk the lives and health of its residents, the City of Detroit and Detroit Police Department should place an immediate moratorium on encampment removals and other actions which destabilize living spaces unless the affected individuals can be offered immediately accessible individual housing units for the duration of the pandemic. In accordance, we ask that:

1. The requested moratorium last for the duration of the eviction moratorium and Stay at Home Order.
2. The City of Detroit and Detroit Police Department issue a public statement of this commitment.
3. The timeframe for the moratorium should be extended to accommodate any further executive orders regarding the COVID-19 pandemic.

Encampment Evictions Conducted by the City of Detroit Likely Violate the Constitutional Rights of Encampment Residents

Along with serious public health concerns, observed encampment sweeps also raise serious legal concerns. Encampment sweeps conducted by the City of Detroit result in the loss or destruction of encampment residents' personal possessions. The loss of essential personal items is devastating to the people who need and rely upon those possessions for survival. Worse yet, the City seizes and disposes of encampment residents' property without providing adequate notice nor any opportunity to recover their belongings or challenge the destruction of their personal property.

Although it is appropriate for Detroit to clean public areas, the seizure and destruction of unsheltered people's personal property without adequate notice or other procedural protections likely violates their rights to be free from unreasonable searches and seizures and to due process under the Fourth and Fourteenth Amendments to the U.S. Constitution. See e.g. *Cash v. Hamilton County Department of Adult Probation*, 388 F.3d 539, 542 (6th Cir. 2004) ("There can be little doubt that the plaintiffs have a protected property interest in their own items of value."). Homeless individuals retain full rights to property, even if unattended, while they perform necessary business such as eating, showering, using the restroom, or attending appointments. Cities may not immediately destroy unabandoned property, but must store it and provide means

7 Santa Barbara Places 8 Bathrooms for Homeless; Plans 68-Room Hotel to Fight COVID-19:

https://www.noozhawk.com/article/santa_barbara_places_8_bathrooms_for_homeless_plans_68_room_hotel

8 Sheltering the homeless gets funding, city scrutiny under coronavirus order:

<https://www.chicoer.com/2020/04/09/sheltering-the-homeless-gets-funding-city-scrutiny-under-coronavirus-order/>

9 City Council Passes Moratorium Halting Renter Evictions and Sweeps of Homeless Encampments:

<https://postnewsgroup.com/2020/04/02/city-council-passes-moratorium-halting-renter-evictions-and-sweeps-of-homeless-encampments/>

10 NDOT ceases homeless encampment clean-ups during coronavirus outbreak:

<https://www.rgj.com/story/news/2020/04/15/ndot-ceases-homeless-encampment-cleanups-coronavirus-outbreak/5142574002/>

11 Governor of Washington issues moratorium on evictions and encampment removals:

[chrome-extension://oemmnadbldboiebfnladdacbdm/https://www.governor.wa.gov/sites/default/files/20-19.1%20-%20COVID-19%20Moratorium%20on%20Evictions%20Extension%20\(tmp\).pdf?utm_medium=email&utm_source=govdelivery](chrome-extension://oemmnadbldboiebfnladdacbdm/https://www.governor.wa.gov/sites/default/files/20-19.1%20-%20COVID-19%20Moratorium%20on%20Evictions%20Extension%20(tmp).pdf?utm_medium=email&utm_source=govdelivery)

for owners to reclaim it. Notice of the sweep and where individuals can reclaim their property must be clear and easy for people to see and understand.

Enacting and implementing a policy that affords basic property and due process protections to encampment residents can help to protect the City from exposure to legal action for violations of the rights of unsheltered people. To that end, we urge the City of Detroit to formally enact, effectively implement, and properly enforce the proposed policy drafted by the Housing and Revitalization Department, entitled *City of Detroit Response to Address Homeless Encampment Health & Safety Concerns*. This policy emphasizes the necessity of just cause for removal, adequate notification, safe storage of belongings, and connection with necessary resources. Additionally, we ask that:

1. The policy be followed in its entirety.
2. The policy be reviewed annually and strengthened as necessary.
3. Any changes to this policy be made in a manner consistent with the needs and recommendations of unsheltered individuals affected by the policy's implementation.

Conclusion

The CDC and MDHHS guidelines are in place to protect public health during the deadly COVID-19 pandemic, and it is imperative that the City of Detroit follow these guidelines for the good of all residents. There is no time to wait. Only by prohibiting encampment removals or providing individual housing units for the duration of the pandemic will the City of Detroit stop this wasteful and harmful cycle and combat the spread of COVID-19. This is not a matter of charity, but of public health.

It is also critical that the City of Detroit implement an encampment policy that extends beyond the current public health crisis to protect the welfare and legal rights of the City's unsheltered residents. We all share the goal of a Detroit where everyone has access to safe housing, and the best, most cost-effective, and permanent way to achieve that is to ensure that all who live outside are able to live stably until they can access adequate permanent housing. Enacting and implementing the policies recommended in this letter are important steps toward that goal.

The policies urged in this letter are supported by our petition with over 1,600 signatures to date. Please feel free to contact Anneliese Petersen and Eliana Small at DetroitStreetMedAlliance@gmail.com or Tristia Bauman at tbauman@nlchp.org or 202-638-2535 x. 102.

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