



9/18/2020

Mayor Erin Mendenhall
mayor@slcgov.com

Dear Mayor Mendenhall,

I write on behalf of the National Homelessness Law Center (“Law Center”) to inform you that recent guidelines released by the Centers for Disease Control and Prevention (“CDC”) state that homeless encampments should not be evicted during the COVID-19 pandemic unless the city can offer individual housing units to people experiencing homelessness, and to urge you to immediately stop conducting sweeps of homeless encampments with the goal of permanently closing and/or criminalizing camping. See <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>. This step is necessary to curb the spread of the virus and to protect against avoidable hospitalization and death among both housed and unhoused people.

The Law Center is the only national legal advocacy organization dedicated solely to ending and preventing homelessness. We have published numerous reports, including *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness* <https://nlchp.org/housing-not-handcuffs-2019/>, which includes a section about the negative impact of criminalization policies on public health, and *Tent City, USA: The Growth of America’s Homeless Encampments, and How Communities are Responding* collecting best practices, model policies, and case studies from across the country on how to constructively address homeless encampments. See https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf.

According to the CDC, COVID-19 primarily spreads from person-to-person, between people within six feet of each other and droplets that are expelled when a person infected with COVID-19 coughs or sneezes. Recent reports indicate that homeless individuals infected by COVID-19 would be 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 of COVID-19 than the general population. See https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf. To prevent contracting and transmitting COVID-19, 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, options for following these recommendations are extremely limited. There are too few private housing and shelter options available, even as the pandemic continues to grow worldwide, and congregate shelter settings like local mass shelter options do not allow for recommended social distancing, air circulation, and sanitation necessary to stem the spread of the virus. Displacing encampment residents from their private tents and vehicles – where they can self-isolate – to crowded congregate shelters will create a breeding ground for COVID-19 and rapidly increase the number of people requiring hospitalization and intensive care.

Instead, the CDC advises that **communities should not clear any encampments unless they can provide individual housing units for those displaced.** The rationale for this recommendation also applies to clearance of vehicle shelters through towing and impoundment which, like tents, represent many unhoused persons' best options for sheltering in place and social distancing. Moreover, the CDC recommends installing hand-washing stations, portable latrines, and other sanitation services for unhoused people near the areas where they are located outside.

Transitioning people into individual housing units, such as the many vacant hotel rooms now available, is the best practice and would ensure they would be able to effectively socially distance themselves and have access to adequate sanitation, as well as be easily accessible to health care and other service providers. Communities are recommended to coordinate with local partners and “continue activities that protect people experiencing homelessness, including supporting continuity of homeless services, healthcare, behavioral health services, food pantries, and linkages to permanent housing.” Failing the availability of individual rooms, the CDC states encampments should be left in place, provided with information on COVID-19, encouraged to space out tents, and provided with sanitation facilities. The guidelines also specify that any individual experiencing homelessness who is diagnosed with COVID-19 should be provided with isolation housing so they can recover and not infect others.

With the passage of the federal CARES Act, there is no excuse for not implementing these approaches immediately. The CARES Act specifically sets aside \$4 billion “to prevent, prepare for, and respond to coronavirus, among individuals who are homeless or receiving homeless assistance.” This money would be used to reimburse Salt Lake City for costs associated with responses to coronavirus for people experiencing homelessness. Furthermore, Salt Lake City would be able to “deviate from applicable procurement standards when procuring goods and services to prevent, prepare for, and respond to coronavirus.” Salt Lake City should work with its City Council to affirm these provisions of the CARES Act to financially enable local organizations and service providers to take steps now to respond to this crisis. See <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>, 328

Salt Lake City should also place an immediate moratorium on enforcement of laws or policies criminalizing homelessness, such as laws against camping, sleeping, panhandling, or sleeping in or residing in one's vehicle, as well as any parking ordinances which may result in people's vehicle shelters being towed and impounded. These laws are always ineffective at reducing homelessness, wasteful of limited public resources, and are often unconstitutional.¹ But, during the COVID-19 crisis, these laws also risk putting more people into jails and detention settings where the risk of COVID-19 spread is also extremely high, which is why many communities are already taking

¹ In September 2018, the Ninth Circuit Court of Appeals held in *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018) that “the Eighth Amendment prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter.” It ruled that “as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.” On December 16, 2019, the Supreme Court declined to review the 9th Circuit's decision, leaving the ruling in place, making it the law of the land in the 9th Circuit and persuasive precedent elsewhere.

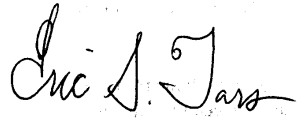
steps to release individuals charged with low-level crimes such as the ordinances criminalizing homelessness. See <https://www.prisonpolicy.org/virusresponse.html>.

Salt Lake City can look to practices from other communities when crafting its response. For example, California is working to procure hotel and motel rooms to safely isolate people experiencing homelessness and reduce the risk of COVID-19 spread. See <https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/>. Washington, DC issued a moratorium on ticketing for emergency no parking violations and for expired license plates, inspection stickers, parking permits, and meters. See https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/publication/attachments/DPW-COVID-19-ONE-PAGER_040720.pdf. Washington, DC also prepared portable restrooms and handwashing stations throughout the city near homeless encampments. See https://dhs.dc.gov/sites/default/files/dc/sites/dhs/page_content/attachments/COVID%20DHS%20Handwashing%20Stations_04032020.pdf. Finally, Middlesex County, Massachusetts coordinated among its law enforcement agencies to depopulate its jails, limit arrests, and reduce the price of bail. See <https://patch.com/massachusetts/lexington/middlesex-county-jail-sees-15-population-decline-after-releases>. The costs associated with pursuing these or other practices as part of Salt Lake City's response would be eligible for reimbursement under the CARES Act.

These approaches are necessary for the current crisis, but they are also best practice for the long term, from both a public health and fiscal policy perspective. Numerous studies have shown that communities actually save money by providing housing and services to those in need, rather than saddling them with fines, fees and arrest records and cycling them through expensive hospital and jail systems. See Housing Not Handcuffs 2019 Report. A study by the University of North Carolina Charlotte found putting people experiencing homelessness into permanent housing rather than leave them on the streets saved \$1.8 million in its first year by drastically reducing the amount of time its tenants spent in emergency rooms (447 fewer visits) and admitted to hospitals (372 fewer days, with a 78 percent drop in arrests and 84 percent fewer days spent in jail. See <https://www.charlotteobserver.com/news/local/article9106181.html>. See also Lavena Staten and Sara Rankin, Penny Wise But Pound Foolish: How Permanent Supportive Housing Can Prevent a World of Hurt (July 12, 2019), <https://ssrn.com/abstract=3419187>.

We urge you to follow the CDC recommendations as well as the Law Center's Encampment Best Practices and Procedures found in the Tent City Report. Only by providing housing will Salt Lake City stop this wasteful and harmful cycle and combat the spread of COVID-19 among people experiencing homelessness. This is not a matter of charity, but of public health that will not only benefit people experiencing homelessness, but the housed members of your community who will have hospital beds available to them when they need them, instead of having those beds unnecessarily occupied by people who were swept from encampments and subjected to increased risk of infection. If Salt Lake City would like, we would be happy to work with you to develop and implement solutions that work for everyone. Please feel free to contact us at etars@nlchp.org or 202-638-2535 x. 120.

Sincerely,

A handwritten signature in black ink that reads "Eric S. Tars". The signature is written in a cursive style with a large initial "E" and a stylized "T".

Eric Tars,
Legal Director
National Homelessness Law Center