



April 28, 2020

Sent via e-mail

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To the Mayor, Vice Mayor, and City Council:

We submit this letter in regards to the refusal of the City of Sacramento to provide emergency services to, and refrain from the criminalization of, people experiencing homelessness. This letter is submitted by the Sacramento Homeless Organizing Committee (SHOC), represented by Legal Services of Northern California (LSNC); the Sacramento Regional Coalition to End Homelessness (SRCEH), represented by Disability Rights California (DRC); the ACLU-Northern California; and the National Law Center on Homelessness and Poverty. On April 7, 2020 the Sacramento City Council voted to approve the Sacramento COVID-19 Homelessness Response Plan (“the Plan”). Though imperfect, the Plan includes a variety of measures that will serve the needs of people experiencing homelessness and reduce the further spread of coronavirus.

Yet, many of the most important measures in the Plan remain unenforced. Specifically, in violation of public health best practices and existing law, the City has: 1) continued law enforcement’s criminalization of homelessness,

including encampment sweeps, ticketing for quality of life crimes, removal of personal items, and forcing people out of public spaces; 2) not provided the necessary hygiene and sanitation supplies at encampments; 3) failed to provide emergency housing for at-risk populations, such as seniors and people with disabilities; and 4) continued to tow, ticket, and impound vehicles for non-emergency violations, leaving people who live in their cars with no alternative shelter.

Accordingly, pursuant to the California Public Records Act (“PRA”), we request the immediate release of all records specified in the attachment to this letter.

- I. **The City should end law enforcement sweeps and leave encampments intact unless appropriate housing can be offered to each person, as consistent with the response plan and CDC guidance.**

The Plan purports to include a “robust encampment response” focused on two main objectives: 1) providing food, water, hygiene supplies, and sanitation facilities to enable campers to remain in place safely; and 2) facilitating a path to isolation trailers and motels for people who meet the Plan’s prioritization criteria. The Plan references with approval the CDC’s Interim Guidance on Responding to Coronavirus Disease 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness (“CDC Guidance”). Notably, the CDC Guidance explicitly states: “Unless individual housing units are available, do not clear encampments during community spread of COVID-19.”¹ In direct contradiction to CDC guidance, the City has continued law enforcement sweeps of homeless encampments. That guidance was issued in March, but sweeps in Sacramento have continued through this month and appear to be ongoing.²

¹ *Interim guidance on responding to coronavirus disease 2019 (COVID-19) among people experiencing unsheltered homelessness.* Centers for Disease Control and Prevention. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html> (accessed on April 15, 2020).

² See e.g. “Sacramento police still clearing homeless—CDC coronavirus guidelines discourage it,” <https://www.sacbee.com/news/local/article241725021.html> (accessed on April 17, 2020); “Meet the volunteer team of medical students helping Sacramento’s homeless amid coronavirus,” <https://www.sacbee.com/news/local/homeless/article241979781.html> (accessed on April 17, 2020) (“Lao is also urging local officials to place more portable toilets and hand washing stations near the camps and to increase trash pickup. [...] She’s also urging the local police to stop clearing encampments.”)

Continuing with encampment sweeps under the present circumstances not only creates a public health risk; it also violates the constitutional rights of Sacramento's unsheltered residents. In *Jones v. City of Los Angeles*, the Ninth Circuit held that unless a city has sufficient housing for all of its residents, it may not prohibit people experiencing homelessness from sleeping on public property.³ Although the opinion in *Jones* was withdrawn as moot after the parties settled the case,⁴ its reasoning has been adopted in subsequent Ninth Circuit decisions.⁵

Encampment sweeps are legally and ethically fraught at the best of times. But in a public health crisis like the current pandemic, they do nothing but increase the risk of illness and death. The City should adhere to CDC guidance—and its own Plan—by leaving encampments of any size intact unless individual housing units can be offered to each camper.

II. The City should quickly increase its supply of hygiene and sanitation equipment to stem the spread of COVID-19.

As stated above, the Plan includes the provision of resources, supplies, and sanitation facilities to encampments as a component of its homelessness response. The Plan dedicates \$1.25 million to “support encampment responses,” of which \$1 million will come from the Continuum of Care Homeless Emergency Assistance Program (HEAP). The remaining \$250,000 will come from the County Department of Human Assistance and is allocated to “support sanitation in encampments.” The Plan also states that “all components [of the Plan] are launching immediately.”

But little of that money has resulted in tangible improvements to encampments. As of April 7, 2020 only three toilets had been deployed to encampments.⁶ And, there appears to be no specific plans for trash pick-up or showers—two crucial needs for people living in encampments. The 30 hand-washing stations deployed to six encampment locations last month were funded through private donations raised by a community member.⁷

³ *Jones v. City of Los Angeles*, 444 F.3d 1118, 1132 (9th Cir. 2006) *vacated as moot*, 505 F.3d 1006 (9th Cir. 2007).

⁴ See 505 F.3d 1006.

⁵ See e.g., *Martin v. City of Boise*, 920 F.3d 584, 617 (9th Cir. 2019).

⁶ “Plan approved for 1,000 beds to shelter Sacramento homeless during coronavirus crisis,” <https://www.sacbee.com/news/coronavirus/article241815736.html> (Accessed on April 16, 2020).

⁷ “Sacramento County identifying hotels where homeless will be sheltered during COVID-19 crisis,” <https://www.sacbee.com/news/coronavirus/article241247646.html> (Accessed on April 16, 2020).

The Plan states that the purpose of the Homelessness Response Team is to “plan proactively;” yet, the City has struggled to keep pace with the needs of people experiencing homelessness as the pandemic spreads.

III. The City should prioritize the placement of vulnerable populations, including seniors and people with disabilities, into emergency housing without requiring mandatory COVID-19 testing results.

The Plan lays out a variety of housing options, eligibility for which is determined based on where a person falls on the Prioritization chart. Prioritization Populations 1 and 2—people who test positive for COVID-19, are under public health/medical investigation, are awaiting test results, or have been exposed to someone who tested positive—are eligible for placement in the Medically Supported Isolation Care Centers. The first site for these units are the 60 trailers located at CalExpo. If additional sites are needed, the Plan anticipates contracting with motels.

Making these units available subject to testing places people experiencing homelessness at a distinct disadvantage to accessing them. People experiencing homelessness lack transportation to places where testing is offered, particularly if those locations are drive-thru only like CalExpo.⁸ Though there have been outreach efforts to provide medical care—including tests—to people experiencing homelessness where they live,⁹ the Plan acknowledges that provider capacity is a major challenge to implementing the Plan’s goals.

Those in Prioritization Populations 3 through 5—highly vulnerable symptomatic persons—are eligible for Preventative Quarantine Units. These units will be available to Prioritization Populations 6 and 7—highly vulnerable persons who are not symptomatic—as capacity exists. The Plan reports that the County DHA has identified motel sites with over 1,100 units with owners interested in participating. Yet, the City’s delay in executing master leases has left individuals eligible for these units with nowhere to go. For example, when St. Francis Parish suddenly closed down on April 7,

⁸ “Wasting this precious commodity,: Hundreds of no-shows for Sacramento coronavirus testing,” <https://www.sacbee.com/news/coronavirus/article242034686.html> (Accessed on April 17, 2020).

⁹ “Meet the volunteer team of medical students helping Sacramento’s homeless amid coronavirus,” <https://www.sacbee.com/news/local/homeless/article241979781.html> (Accessed on April 17, 2020).

2020 it left 20 seniors homeless and unsheltered.¹⁰ It is unclear why the City failed to provide motels or any other emergency services for these vulnerable residents.

Notably, the Plan identifies two challenges that could be resolved with a housing-first approach to COVID19 homelessness. The first is re-housing, on which the Plan says: “Expected lengths of stay in the isolation/quarantine shelters may be as few as 14 days. While the Homelessness Response Team is working to offer exits from isolation/quarantine to a more dormitory style shelter, the potential capacity for isolation/quarantine is much larger than the existing capacity in traditional shelters.” The second is the referral process: “The new referral process for isolation/quarantine units includes medical screening and training to community partners, and may cause confusion and frustration to people experiencing homelessness, who may not understand why certain sheltering options are not available to them.”

Disability Rights California tackled substantially similar issues as lead class counsel in a case that involved a federal court overseeing the mass movement of unhoused individuals from an outdoor encampment into motels, hotels, and other housing facilities.¹¹ In that case, housing people in motels on an emergency basis allowed them to be assessed by service providers for long-term housing options. Providing vulnerable, at-risk individuals with an opportunity to sleep, eat, and recuperate safely made screening for service eligibility easier, faster, and more efficient.

Based on that experience, DRC urges the City to meet its obligations to people experiencing homelessness, particularly those with disabilities, by pairing COVID-19 emergency dollars with other sources of funding to create a pathway to long-term housing and health stability. For example, homeless Medi-Cal recipients with disabilities may be eligible for a variety of programs that include social services, coordinated care, and permanent supportive housing.

Pathways, Sacramento’s Whole Person Care pilot, is one such program. The City of Sacramento receives \$6.4 million in federal funds to administer

¹⁰ “I have nowhere to go.’ Parish shuts down homeless shelter during COVID-19 pandemic,” <https://www.sacbee.com/news/local/homeless/article241847391.html> (Accessed on April 17, 2020).

¹¹ *Ramirez et al. v. County of Orange*, Case no. 8:18-cv-00220-DOC-KES, Central District of California.

the program, matched by an equal amount of local funding.¹² Pathways is designed to address the needs of people experiencing homelessness who are eligible for Medi-Cal and have poor health outcomes despite high utilization rates of multiple delivery systems. The program includes funding for housing-related transportation and describes its approach to care coordination as a “Whatever It Takes” service delivery model.¹³

California has long-failed to address the problem of homelessness in a meaningful way. The funding made available by the Governor for emergency shelter provides a unique and invaluable opportunity to address the current crisis and to create a pathway to long-term housing and stability for unsheltered residents.

IV. The City puts people experiencing homelessness at risk by continuing to ticket, tow, and impound vehicles that function as housing.

According to the City’s legislative report, the number of unhoused people who sleep in their cars increased 62% from 2017 to 2019.¹⁴ The most recent Point-in-Time count showed there were nearly 500 youth, seniors, Veterans, families, and individuals living in their vehicles. The City has promised to create at least two safe-parking districts, yet to date none have opened. Meanwhile, the City has continued to ticket, cite, tow, and impound vehicles for non-emergency violations like overnight parking and expired registration.

For many people experiencing homelessness, losing a car or RV means losing the only safe shelter available to them. It may also be the only way for some people to self-isolate and adhere to social distancing guidelines. Ticketing, towing, and impoundment may leave these individuals with no option but to enter congregate shelters, where the risk of infection and illness is high. Many Bay Area cities and the City of Los Angeles have eased or suspended their ticketing and towing practices during the pandemic. Sacramento’s Plan remains silent on this issue.

¹² City of Sacramento Whole Person Care flyer, available at: <http://caph.org/wp-content/uploads/2018/07/sacramento-wpc-pilot-7.12.2018.pdf> (Accessed on April 17, 2020).

¹³ Id.

¹⁴ Safe Parking Program, City of Sacramento Legislative Report Item 19, August 27, 2019, available at https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4475&meta_id=563607 (Accessed on April 17, 2020).

In light of the issues detailed in this letter, the signatories to this letter request that you provide the documents listed in Attachment A as promptly as possible.

Sincerely,

A handwritten signature in blue ink, appearing to be 'ZHA', with a long horizontal flourish extending to the right.

Zeenat Hassan
Lili Graham
Disability Rights California

Laurance Lee
Masao Taylor
Legal Services of Northern California

Abre' Conner
ACLU-Northern California

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National Law Center on Homelessness and Poverty

Attachment A

Pursuant to the California Public Records Act (“PRA”), we request all records showing the City’s policies, procedures, and training requirements in these areas, as specified below.

1. All documents¹⁵ in possession of the City and the Sacramento Police Department regarding the demographics of Sacramento’s homeless population, including number, gender, age, race, ethnicity, and location of homeless individuals in Sacramento.
2. As part of Request 1 above, all documents used to calculate the Total Homeless Beds available in the City and County of Sacramento, including but not limited to the number of beds reported in the most recent County of Sacramento Homeless Plan.
3. All documents, policies, and procedures in the possession of the City and the Sacramento Police Department that identify and pertain to the prioritization of bed space.
4. With respect to the hotels, trailers, and other bed space referred to in the City’s COVID-19 Homelessness Response Plan, all documents that pertain to the following: the hotels, trailers, and individualized housing units available for unhoused individuals.
5. All documents regarding contracts, leases, and other agreements with hotels, motels, and trailers for unhoused individuals to shelter in place during the pandemic.
6. All documents that support the average number of beds per week available for rapid rehousing programs, permanent supportive housing, year-round and seasonal shelter, and temporary housing¹⁶;

¹⁵ The term “document” used in this request has the same broad definition as the term “writing” in Government Code section 6252(f): “Any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting, by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.”

¹⁶ These terms are used in the 2018 Sacramento NPLH Plan, available at: <https://www.saccounty.net/Homelessness/Documents/20181130%20Sacramento%20NPLH%20Plan%20with%20Appendices.pdf>.

any requirements or restrictions on access to the facilities, including any rules of conduct and behavior; and the City and Police Department's communications with the providers of housing or shelter or services that pertain to the enforcement of prioritization.

7. All documents, policies, and procedures that reflect, indicate or record an instance in which sweeps¹⁷ have been enforced by the Sacramento Police Department since April 1, 2019.
8. Any citations that have been given to individuals since April 1, 2019, for the following reasons regardless of whether charges under were filed:
 - a. Sit and Lie Ordinance
 - b. Loitering
9. All documents that pertain to the following categories: the number of homeless persons approached by police to move from encampments; and the number of encampments cleaned up by city sanitation workers since April 1, 2019. This request seeks documents that support these numbers and provide an update of these statistics to the present, and includes police dispatch records related to contacts with homeless individuals.
10. All documents pertaining to the City and County's Offices' policies around towing, impoundment, and citations of vehicles;
11. All documents that indicate the number of tows, citations, and impoundment of vehicles in Sacramento City and County since April 1, 2019.
12. All documents describing any training City or Police Departments receive on interacting with unhoused individuals during crisis, including any training on crisis intervention techniques and de-escalation tactics.

¹⁷ The term "sweeps" is defined as the clearing of any homeless encampment or individual experiencing homelessness from a location, with or without notice, regardless of whether a citation or ticket was issued.

13. All documents regarding policies and procedures for sheltering-in-place during COVID-19 or general crisis management documents in the City and the County.
14. All documents regarding policies and procedures on who may congregate outside City Hall.

If portions of any documents are exempt from disclosure, please provide the non-exempt portions.¹⁸ Also, please provide complete documents, even if some of them do not appear to be responsive to this request.

When possible, please provide records in electronic format to avoid copying costs.¹⁹ However, if that is impossible, please provide documents in whatever format they are available.

If you have any questions regarding the scope of this request, anticipate the cost of production will exceed \$50, or that the time needed to copy the records will delay their release, please contact Laurance Lee to discuss arrangements for the production of these documents.²⁰ He can be reached at llee@lsnc.net or (310) 990-3723. Otherwise, please send all documents as soon as possible and on a rolling basis if necessary.

Thank you in advance for your compliance with this request.

Sincerely,



Zeenat Hassan
Lili Graham
Disability Rights California

Laurance Lee
Masao Taylor
Legal Services of Northern California

¹⁸ Gov't Code 6253(a).

¹⁹ Gov't Code 6253.9.

²⁰ Gov't Code 6253.1.