



NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

**A DEATH SENTENCE:
VIOLATIONS OF THE RIGHT TO
ADEQUATE HOUSING DURING COVID-19
IN THE UNITED STATES**

**Submission to the Special Rapporteur on Adequate Housing
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I. Overview: The Right to Adequate Housing in the Context of COVID-19

Access to adequate housing is a fundamental human right. First formally articulated in the Universal Declaration of Human Rights (“UDHR”),¹ the right has since been codified in a number of key international human rights treaties including the International Covenant on Economic, Social, and Cultural Rights (“ICESCR”),² the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”),³ the Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”),⁴ the Convention on the Rights of Persons with Disabilities (“CRPD”),⁵ and the Convention on the Rights of the Child (“CRC”).⁶ The right is foundational for a number of other human rights; the U.N. Committee on Economic, Social, and Cultural Rights (“CESCR”), the treaty body responsible with monitoring implementation of ICESCR, has noted that “the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised.”⁷

The highly contagious and deadly nature of the COVID-19 pandemic has grimly underlined the fundamental importance of this right, leaving those without access to adequate housing at substantial risk of contracting and spreading the virus. In March 2020, when many states first began paying serious attention to the pandemic, the then-Special Rapporteur on the right to adequate housing, Leilani Farha, stated, “Housing has become the frontline defense against the coronavirus. Home has rarely been more of a life-or-death situation.”⁸ Since then the former Special Rapporteur has issued a number of reports urging states to “[d]eclare an end to all forced

¹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (“UDHR”) art. 25, Dec. 10, 1948 (“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing . . .”).

² G.A. Res. 2200A (XXI), International Covenant on Economic, Social, and Cultural Rights (“ICESCR”) art. 11(1), Dec. 16, 1966, 993 U.N.T.S. 3. (“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”).

³ G.A. Res. 2106 (XX), International Convention on Elimination of All Forms of Racial Discrimination (“ICERD”) art. 5(e)(iii), Dec. 21, 1965, 660 U.N.T.S. 195 (“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following . . . [e]conomic, social and cultural rights . . . [including] the right to housing.”).

⁴ G.A. Res. 34/180, Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”) art. 14(2)(h), Dec. 18, 1979, 1249 U.N.T.S. 13 (“State Parties shall . . . ensure to such women the right . . . [t]o enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”).

⁵ G.A. Res. 61/106, Convention on the Rights of Persons with Disabilities (“CRPD”) art. 28(1), Dec. 13, 2006, 2515 U.N.T.S. 3 (“States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing.”).

⁶ G.A. Res. 42/25, Convention on the Rights of the Child (“CRC”) art. 27(3), Nov. 20, 1989, 1577 U.N.T.S. 3 (“States Parties . . . shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”).

⁷ U.N. Committee on Economic, Social, and Cultural Rights (“CESCR”), *General Comment 4, Right to Adequate Housing*, ¶ 7, U.N. Doc. E/1992/23, annex III at 114 (1991).

⁸ “*Housing, the Front Line Defence Against the Covid-19 Outbreak*,” Says UN Expert, U.N. HUMAN RIGHTS OFFICE OF THE HIGH COMM’R (Mar. 18, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25727&LangID=E>.

evictions of informal settlements and encampments,”⁹ and to “[i]mmediately provide accommodation to all homeless people living ‘rough’ or on the streets with a view to transitioning them to permanent housing.”¹⁰ Underling the importance of instituting these measures she noted, “Homelessness, including during a crisis, and irrespective of nationality or legal status, is a prima facie violation of human rights.”¹¹

This submission looks at actions governments across the United States of America (U.S.) have taken since the outbreak of the COVID-19 pandemic with respect to their homeless populations. Specifically, it responds to two questions of the Special Rapporteur’s questionnaire: *What measures have been taken to protect persons living in informal settlements, refugee or IDP camps, or in situation of overcrowding from COVID-19? Have any measures been taken to provide safe accommodation for persons in situation of homelessness during the pandemic and in its aftermath?*

II. Background on Homelessness in the U.S.

Well before the COVID-19 pandemic, the U.S. already had a poor track record for ensuring access adequate housing. In 2019, the U.S. government estimated that roughly 568,000 individuals were experiencing homelessness on any given night;¹² a number that many advocacy groups believe is far higher than the government’s number suggests.¹³ Homelessness significantly increases vulnerability to the virus due to inadequate access to hygiene, sanitation, and health care. One study estimates that up to 10 percent of the homeless community will be hospitalized due to the virus, and that homeless individual 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 than the general population.¹⁴

⁹ Leilani Farha, *COVID-19 Guidance Note Protecting Residents of Informal Settlements*, SHIFT (Mar. 28, 2020), [http://www.unhousingrapp.org/user/pages/07.press-room/Guidance%20Note%20-%20Informal%20Settlements%20April%20FINAL\[3\].pdf](http://www.unhousingrapp.org/user/pages/07.press-room/Guidance%20Note%20-%20Informal%20Settlements%20April%20FINAL[3].pdf).

¹⁰ Leilani Farha, *COVID-19 Guidance Note Protection for those living in Homelessness*, SHIFT (Apr. 02, 2020), [http://www.unhousingrapp.org/user/pages/07.press-room/Guidance%20Note%20Homelessness%20Actual%20Final%20%20April%202020\[2\].pdf](http://www.unhousingrapp.org/user/pages/07.press-room/Guidance%20Note%20Homelessness%20Actual%20Final%20%20April%202020[2].pdf).

¹¹ Leilani Farha, *COVID-19 Guidance Note Protection for those living in Homelessness*, SHIFT (Apr. 02, 2020), [http://www.unhousingrapp.org/user/pages/07.press-room/Guidance%20Note%20Homelessness%20Actual%20Final%20%20April%202020\[2\].pdf](http://www.unhousingrapp.org/user/pages/07.press-room/Guidance%20Note%20Homelessness%20Actual%20Final%20%20April%202020[2].pdf).

¹² *2019 Annual Homeless Assessment Report*, U.S. DEPT. OF HOUSING & URB. DEV. (“HUD”), 1, 1 (2018), <https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf>.

¹³ *Don’t Count on It: How HUD Point-in-Time Count Underestimates Homelessness Crisis in America*, NAT’L LAW CTR. ON HOMELESSNESS & POVERTY (“LAW CTR.”), 1, 6 (2017), <https://nlchp.org/wp-content/uploads/2018/10/HUD-PIT-report2017.pdf>; *Pitfalls of HUD’s Point-in-Time Count*, SCHOOLHOUSE CONNECTION, <https://www.schoolhouseconnection.org/the-pitfalls-of-huds-point-in-time-count/>; see also *Federal Data Summary School Years 2014–15 to 2016–17*, NAT’L CTR. FOR HOMELESS EDUC. (2019), <https://nche.ed.gov/wp-content/uploads/2019/02/Federal-Data-Summary-SY-14.15-to-16.17-Final-Published-2.12.19.pdf> (discussing data reported annually by states to the Department of Education, finding that in the 2016–2017 school year, 1.36 million students experienced homelessness—a number that is substantially larger than HUD’s PIT count for that same year and only focusing on one segment of the total population of individuals experiencing homelessness).

¹⁴ Dennis Culhane et. al., *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*, UNIV. PENN., UNIV. CAL., & BOS. UNIV. (Mar. 27, 2020), https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf.

It is important to note that even before the COVID-19 crisis began, communities of color were disproportionately affected by homelessness and housing insecurity due to a history of racist economic and housing policies. Black, Latinx, and Native American communities experience homelessness at disproportionate rates and the risks associated with homelessness are coupled with other existing economic and health inequities to increase the risk of contracting or dying from COVID-19 among communities of color.¹⁵

The existing inequities and evidence of disparate impact already occurring underline the need for a short and long-term response that equitably centers communities of color and people experiencing homelessness. Unless governments at all levels of the U.S. political system take action, the effects of the COVID-19 pandemic could be devastating and long-lasting for communities of people experiencing homelessness.

III. Measures Taken with Respect to Informal Settlements in the U.S.

At the federal level, the Centers for Disease Control issued important guidance to stop dispersing homeless encampments unless individual housing units could be supplied for all affected residents, and in the alternative, to provide people living in encampments with access to hygiene and sanitation services. The federal government also provided funding in the CARES Act to secure temporary or permanent housing for those experiencing homelessness, and to prevent new homelessness, though only a fraction of what was needed. Unfortunately, while some have taken the recommended steps, other jurisdictions throughout the U.S. have gone against the best practices prescribed by public health officials and have continued to forcibly evict encampments of people experiencing homelessness, often under threat of fine or arrest. Additionally, despite clear risks to those already in shelters, many communities continue to maintain or even expand congregate shelter facilities, rather than place people into individual housing units.

In March, the The Centers for Disease Control and Prevention (“CDC”) issued interim guidance recommending local governments to allow “people who are living unsheltered or in encampments to remain where they are” if they cannot offer individual housing to people experiencing homelessness.¹⁶ Additionally, the CDC’s guidance urged that jurisdictions stock nearby restrooms or portable latrines with hygiene products that people experiencing homelessness have twenty-four hour access.¹⁷ The CDC warned that by not following this guidance, municipalities could be

¹⁵ 40 percent of people experiencing homelessness are Black or African American and 22 percent are Hispanic or Latinx. Among the general population, Black or African American people make up 13 percent of the population, and Hispanic or Latinx people make up 18 percent. *2019 Annual Homeless Assessment Report*, U.S. DEPT. OF HOUSING & URB. DEV. (“HUD”), 1, 1 (2018), <https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf>.

¹⁶ *Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials*, CTR. DISEASE CONTROL AND PREVENTION (“CDC”), <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html> (last visited June 14, 2020).

¹⁷ *Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials*, CTR. DISEASE CONTROL AND PREVENTION (“CDC”), <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html> (last visited June 14, 2020).

“increas[ing] the potential for infectious disease spread” by causing people experiencing homelessness to disperse throughout the community and break ties with service providers.¹⁸

Despite this guidance many municipalities have cleared encampments of people experiencing homelessness without providing adequate alternatives.¹⁹ For example:

- During a press briefing on May 5, 2020, New York City Mayor Bill de Blasio called encampments “absolutely unacceptable” and said that “if we see any encampment developed anywhere in New York City, we’re taking it down period.”²⁰ The city further conducted sweeps of homeless persons sheltering on subways, only offering congregate shelter as an alternative.²¹ Videos of overcrowded shelters with people sleeping in hallways have emerged indicating people are being subjected to increased, rather than decreased risk of contracting COVID-19 by being placed into shelters.²²
- Miami, Florida cleared a large encampment in May without providing those displaced with any alternative housing or shelter.²³ While the city claims this action served to clean up trash piled up in and around the encampment, it also signalled its intention to permanently evict residents from the area. Following the clean-up, the city’s Department of Transportation put up ‘No Trespassing’ signs, providing ‘notice’ to any returning resident that they are committing a crime. These actions come on the heels of multiple steps to criminalize people experiencing homelessness merely for living in public spaces.²⁴

¹⁸ *Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials*, CTR. DISEASE CONTROL AND PREVENTION (“CDC”), <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html> (last visited June 14, 2020).

¹⁹ See e.g. Alex Harris et. al., ‘*This is Wicked*’: *Miami Clears Out Overtown Homeless Encampment Despite CDC Guidance*, MIAMI HERALD (May 17, 2020), <https://www.miamiherald.com/news/local/community/miami-dade/article242699386.html>; Jacqueline Derobertis, *Baton Rouge Cleared Homeless Camps for Health Reasons. But Some Residents Feel Misled, Left Behind*, ADVOCATE (May 30, 2020), https://www.theadvocate.com/baton_rouge/news/crime_police/article_aaf0915a-a12c-11ea-b954-4b1dc6108842.html; Conor McCormick-Cavanagh, *Denver Clearing Homeless Encampments in Five Points Today*, WESTWORD (May 27, 2020), <https://www.westword.com/news/denver-homeless-encampments-downtown-sweep-11716567>; Benjamin Oreskes & David Zahniser, *L.A. Uneasy on Order to Move Homeless People From Freeways, There’s Ethical Issues*, LA TIMES (May 20, 2020), <https://www.latimes.com/california/story/2020-05-20/homeless-freeway-relocate-court-order-coronavirus-los-angeles-judge-david-carter>; Theresa Clift, *Sacramento Police Still Clearing Homeless — CDC Coronavirus Guidelines Discourage It*, SACRAMENTO BEE (Apr. 4, 2020), <https://www.sacbee.com/news/local/article241725021.html>.

²⁰ Paul Liotta, *Mayor Vows to Clear Homeless Encampments, Like Those in St. George*, SILIVE.COM (May 7, 2020), <https://www.silive.com/news/2020/05/mayor-vows-to-clear-homeless-encampments-like-those-in-st-george.html>.

²¹ Miranda Bryant, *Closing New York Subway Will Have ‘Devastating’ Impact on Homeless, Experts Warn*, GUARDIAN (May 6, 2020), <https://www.theguardian.com/us-news/2020/may/06/new-york-city-subways-closed-homeless-coronavirus>.

²² Courtney Gross, *Massive Crowding Seen at Intake Center for Homeless in Manhattan*, SPECTRUM NEWS NY 1 (May 15, 2020), <https://www.ny1.com/nyc/all-boroughs/news/2020/05/15/massive-crowding-at-intake-center-for-homeless-men>.

²³ Alex Harris, et. al., ‘*This is Wicked*’: *Miami Clears Out Overtown Homeless Encampment Despite CDC Guidance*, MIAMI HERALD (May 18, 2020), <https://www.miamiherald.com/news/local/community/miami-dade/article242699386.html>.

²⁴ For example, the city won a court battle in 2019 to dissolve a longstanding set of judicial protections which, among other things, had once required police to offer alternative shelter to people experiencing homelessness before they could ask them to leave an area. Joey Flechas, *Federal Judge Dissolves Homeless Protections From Police Harassment in Miami*, MIAMI HERALD (Feb. 15, 2020), <https://www.miamiherald.com/news/local/community/miami-dade/article226339915.html>.

- Officials in Denver, Colorado, cleared a large homeless encampment in downtown Denver, despite not having housing units secured for those who have been displaced. The 151 rooms the city has secured are reserved for those with symptoms or recovering from the virus. The shelter the city recently opened with 600 beds has already reached capacity.²⁵
- Philadelphia Pennsylvania, cleared a large encampment in March, offering the residents of the encampment space in shelters or residential drug treatment, which forty-nine of the seventy-five residents accepted.²⁶ While the city asked the people who accepted shelter whether they had a cough, the city neither consistently checked them for fever nor performed any COVID testing to determine whether or not they were carriers.²⁷

Whatever the intention, the policy of breaking up encampments is severely misguided in terms of protecting people from COVID-19. First, as the CDC guidelines cautioned, the encampment residents that did not accept shelter likely dispersed to other parts of the city, potentially spreading the disease if they were carriers. Dispersal can also make it more difficult for service providers or government officials to locate people experiencing homelessness, which can complicate resource distribution or contact tracing efforts.

Second, placing people experiencing homelessness into shelters increases their risk of catching or spreading the disease. Most shelters in the U.S. are extremely crowded, making it virtually impossible to self-isolate.²⁸ Residents share communal eating, sleeping, and bathing spaces—the perfect situation for the virus to spread.²⁹ As most municipalities, like Philadelphia, are not performing extensive testing before admitting people experiencing homelessness to shelters, there is no way to safely and knowingly segregate those who are infected from those who are not.³⁰ For example, a study of 408 residents of a Boston homeless shelter found that while 147 residents tested positive for COVID-19, “[t]he majority of individuals with newly identified infections had no symptoms and no fever at the time of diagnosis, suggesting that symptom screening in homeless shelters may not adequately capture the extent of disease transmission in this high-risk setting.”³¹ As Jenny Friedenbach, the director of the Coalition on Homelessness, bluntly noted, “The have-nots are basically put into large congregate settings and locked down there until they’re able to pull out the dead bodies.”³² This analysis is at least equally apt for jails and prisons where many

²⁵ *Occupants Evicted From Fort Collins Homeless Camp*, 1310 AM KFKA (Apr. 28, 2020), <http://www.1310kfka.com/news/04/occupants-evicted-from-fort-collins-homeless-camp/>.

²⁶ Anna Orso, *Philadelphia Clears Homeless Encampment Despite CDC Guidance Not to During Coronavirus Spread*, PHILA. INQUIERER (Mar. 23, 2020), <https://www.inquirer.com/health/coronavirus/coronavirus-covid-19-homeless-philadelphia-pennsylvania-convention-center-20200323.html>,

²⁷ Anna Orso, *Philadelphia Clears Homeless Encampment Despite CDC Guidance Not to During Coronavirus Spread*, PHILA. INQUIERER (Mar. 23, 2020), <https://www.inquirer.com/health/coronavirus/coronavirus-covid-19-homeless-philadelphia-pennsylvania-convention-center-20200323.html>.

²⁸ Sarah Holder & Kriston Capps, *No Easy Fixes as Covid-19 Hits Homeless Shelters*, CITYLAB (Apr. 17, 2020), <https://www.citylab.com/equity/2020/04/homeless-shelter-coronavirus-testing-hotel-rooms-healthcare/610000/>.

²⁹ Amy Maxmen, *Coronavirus is Spreading Under the Radar in Us Homeless Shelters*, NATURE (May 7, 2020), <https://www.nature.com/articles/d41586-020-01389-3>.

³⁰ Amy Maxmen, *Coronavirus is Spreading Under the Radar in Us Homeless Shelters*, NATURE (May 7, 2020), <https://www.nature.com/articles/d41586-020-01389-3>.

³¹ Travis P. Baggett et. al., *Prevalence of SARS-CoV-2 Infection in Residents of a Large Homeless Shelter in Boston*, JAMA (Apr. 27, 2020), <https://jamanetwork.com/journals/jama/fullarticle/2765378>.

³² Sarah Holder & Kriston Capps, *No Easy Fixes as Covid-19 Hits Homeless Shelters*, CITYLAB (Apr. 17, 2020), <https://www.citylab.com/equity/2020/04/homeless-shelter-coronavirus-testing-hotel-rooms-healthcare/610000/>.

people experiencing homelessness end up after city sweeps or after being arrested for sleeping, sitting, or “loitering” in public spaces.³³

Some municipalities, however, have followed the CDC’s guidance. Reno, Nevada has had a moratorium on encampment sweeps since March and in April, the state of Nevada suspended any major clean-ups of homeless encampments for the duration of the pandemic.³⁴ Oakland, California passed a resolution in April committing to “only clear homeless encampments if individual housing units or alternative shelter is provided.”³⁵ Chico, California has instructed police to not evict people experiencing homelessness from encampments.³⁶

Other cities leave encampments generally undisturbed while providing them with medical, food, and hygiene resources. For example, in addition to placing a moratorium on encampment evictions, Chico, California has partnered with local non-profits to provide shelter, food, and educational outreach programs.³⁷ The cities of Los Angeles, California;³⁸ Gainesville, Florida;³⁹ and Springfield, Massachusetts⁴⁰ have created programs to provide medical services, including testing for COVID-19, to encampments. Finally, cities such as Los Angeles, California;⁴¹ San Francisco,

³³ *Housing Not Handcuffs: Ending the Criminalization of Homelessness in U.S. Cities*, LAW CTR. 1, 38 (2019), <https://nlchp.org/wp-content/uploads/2018/10/Housing-Not-Handcuffs.pdf>.

³⁴ Marcella Corona, *A Month Into COVID-19 National Emergency, NDOT Cancels Homeless Camp Clean-Ups*, RENO GAZETTE JOURNAL (Apr. 15, 2020), <https://www.rgj.com/story/news/2020/04/15/ndot-ceases-homeless-encampment-cleanups-coronavirus-outbreak/5142574002/>.

³⁵ Ken Epstein, *City Council Passes Moratorium Halting Renter Evictions and Sweeps of Homeless Encampments*, Post News Group (Apr. 2, 2020), <https://www.postnewsgroup.com/city-council-passes-moratorium-halting-renter-evictions-and-sweeps-of-homeless-encampments/>.

³⁶ Natalie Hanson, *Sheltering the Homeless Gets Funding, City Scrutiny Under Coronavirus Order*, ENTERPRISE-RECORD (Apr. 9, 2020), <https://www.chicoer.com/2020/04/09/sheltering-the-homeless-gets-funding-city-scrutiny-under-coronavirus-order/>.

³⁷ Natalie Hanson, *Sheltering the Homeless Gets Funding, City Scrutiny Under Coronavirus Order*, ENTERPRISE-RECORD (Apr. 9, 2020), <https://www.chicoer.com/2020/04/09/sheltering-the-homeless-gets-funding-city-scrutiny-under-coronavirus-order/>.

³⁸ *LA to Dispatch ‘Street Medical Teams’ to Test Homeless for Coronavirus*, L.A. DAILY NEWS (Apr. 17, 2020), <https://www.dailynews.com/2020/04/17/la-to-dispatch-street-medical-teams-to-test-homeless-for-coronavirus/>.

³⁹ Sarah Mandile, *Town Hall Meeting Addresses COVID-19 Healthcare for Homeless*, ALLIGATOR (Apr. 10, 2020), https://www.alligator.org/news/town-hall-meeting-addresses-covid-19-healthcare-for-homeless/article_04682b04-7ae4-11ea-bce9-53b9418be62f.html.

⁴⁰ Jada Furlow, *City Officials to Attend Homeless Tent Triage Facility Tour in Springfield*, WWLP (Apr. 4, 2020), <https://www.wwlp.com/news/health/coronavirus-local-impact/city-officials-to-attend-homeless-tent-triage-facility-tour-in-springfield/>.

⁴¹ Elizabeth Chou, *YMCA Will Open Up Showers for Unsheltered, LA Mayor Says, During Coronavirus Crisis*, L.A. DAILY NEWS (Apr. 3, 2020), <https://www.dailynews.com/2020/04/03/ymca-will-open-up-showers-for-unsheltered-la-mayor-says-during-coronavirus-crisis/>.

California;⁴² Santa Barbara, California;⁴³ and Minneapolis, Minnesota⁴⁴ have put in place initiatives to provide more bathroom and hygiene facilities for use by people experiencing homelessness.

Even though encampments are not an ideal long-term solution for either protecting people experiencing homelessness from COVID-19 or ensuring the fundamental right to adequate housing, they are better than the alternative of shelters, jails, or prisons. Cities that cannot provide individualized housing units to people experiencing homelessness should follow CDC guidance and issue moratoriums on encampment evictions and sweeps. Further, cities should proactively provide health, food, and hygiene services to further mitigate any risks of COVID-19 transmission among populations of people experiencing homelessness.

IV. Measures Taken to Provide Safe Accommodations for People Experiencing Homelessness in the U.S.

Prior to COVID-19, the U.S. already had a large population of people experiencing both sheltered and unsheltered homelessness. That number is only expected to rise as the economic effects of the pandemic cause thousands of Americans who are housing unstable to get evicted. Given that people experiencing homelessness are generally more vulnerable to contagious disease and that large percentage of the homeless population in the U.S. has many of the comorbidities associated with severe illness or death from COVID-19, outbreaks of this pandemic could be both devastating and long-lasting within communities of people experiencing homeless. The only way to protect people experiencing homelessness is to house them for the duration of the crisis with the aim of securing long-term, adequate housing. Furthermore, governments in the U.S. should do everything in their power to prevent new homelessness by halting all evictions/foreclosures and providing supplemental aid through the duration of the pandemic.

Prior to the COVID-19 pandemic the U.S. had done very little to advance the right to adequate housing within its borders with at least, 568,000 individuals experiencing homelessness⁴⁵—a population extremely vulnerable to contagious diseases.⁴⁶ Given the economic fallout from the pandemic, the number of people experiencing homelessness in the U.S. is likely to increase in

⁴² Nicholas Iovino, *San Francisco to Provide More Sinks & Toilets for Homeless During Pandemic*, COURTHOUSE NEWS SERV. (May 5, 2020), https://www.courthousenews.com/san-francisco-to-provide-more-sinks-toilets-for-homeless-during-pandemic/?utm_source=rss&utm_medium=rss&utm_campaign=san-francisco-to-provide-more-sinks-toilets-for-homeless-during-pandemic.

⁴³ Joshua Molina, *Santa Barbara Places 8 Bathrooms for Homeless; Plans 68-room Hotel to Fight COVID-19*, NOOZHAWK (Apr. 14, 2020), https://www.noozhawk.com/article/santa_barbara_places_8_bathrooms_for_homeless_plans_68_room_hotel.

⁴⁴ *Minneapolis Working to Add Bathrooms and Handwashing Stations for People Facing Homelessness*, FOX 9, <https://www.fox9.com/news/minneapolis-working-to-add-bathrooms-and-handwashing-stations-for-people-facing-homelessness>.

⁴⁵ *2019 Annual Homeless Assessment Report*, U.S. DEPT. OF HOUSING & URB. DEV. (“HUD”), 1, 1 (2018), <https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf>.

⁴⁶ *Homelessness & Health: What’s the Connection?*, NAT’L HEALTH CARE FOR THE HOMELESS COUNCIL (Feb. 2019), <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>.

2020 as a result of evictions—possibly rising by as much as 45% percent by the end of year.⁴⁷ While the federal and state governments have taken some steps to help people who are currently housing insecure, those steps do not go far enough to provide safe accommodations for people experiencing homelessness and to forestall pandemic-related evictions.

As discussed above, the rising rate of homelessness during COVID-19 is particularly worrisome given that people experiencing homelessness are generally at a higher risk of catching, spreading, and dying from infectious diseases than other groups in the U.S. People experiencing homelessness frequently live in cramped and crowded spaces such as shelters, informal settlements, jails, and prisons where infectious diseases are able to quickly take root and spread.⁴⁸ Further, given that the U.S. lacks universal access to healthcare, people experiencing homeless are much less likely than other groups to receive immunizations to inoculate against disease or adequate healthcare in the event they do become infected.⁴⁹ This lack of access to basic healthcare combined with the highly stressful and dangerous lifestyle people experiencing homelessness are forced to lead can exacerbate even minor issues, such as the common cold or cuts, into life-threatening health problems.⁵⁰

The particular profile of COVID-19 further increases the risk of severe illness and death among people experiencing homelessness in the U.S. The CDC has stated that the individuals at highest risk of severe illness and death from COVID-19 are those over the age of sixty, those with already compromised immune systems, and those with chronic health disorders.⁵¹ These comorbidities all exist within the current population of people experiencing homelessness in the U.S. The stressful

⁴⁷ Harmeet Kaur, *The Pandemic Could Drive Homelessness Up as Much as 45%*, *an Economist Projects*, CNN (May 15, 2020), <https://www.cnn.com/2020/05/15/us/homelessness-unemployment-increase-report-pandemic-trnd/index.html>.

⁴⁸ Sékéné Badiaga et. al, *Preventing and Controlling Emerging and Reemerging Transmissible Diseases in the Homeless*, 14 EMERGING INFECTIOUS DISEASE 1353, 1353 (2008), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2603102>; Anna Gorman, *Medieval Diseases Are Infecting California's Homeless*, ATLANTIC (Mar. 8, 2019), <https://www.theatlantic.com/health/archive/2019/03/typhus-tuberculosis-medieval-diseases-spreading-homeless/584380/>; Carmen Heredia Rodriguez, *Crowded Shelters and the Vicious Flu Brew Perfect Storm for the Homeless*, WASH. POST (Mar. 3, 2018), https://www.washingtonpost.com/national/health-science/crowded-shelters-and-the-vicious-flu-brew-perfect-storm-for-the-homeless/2018/03/02/eafa097c-168f-11e8-92c9-376b4fe57ff7_story.html. See also Ank E. Nijhawan, *Infectious Diseases and the Criminal Justice System: A Public Health Perspective*, 352 AM. J. MED. SCI. 399, 407 (2016), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5119815> (noting that “[i]ncarceration disproportionately affects African American men, and inmates are more likely to live in poverty, be homeless and have a low level of education than the general population. In addition to social issues, inmates often experience multiple medical co-morbidities and have high rates of mental health and substance use disorders. A significant burden of infectious diseases (tuberculosis, hepatitis, STIs, HIV) exists among incarcerated and recently released individuals. These infections are not only transmissible, but are often asymptomatic, highlighting the important public health role for jails and prisons in the detection and treatment of these infectious diseases.”).

⁴⁹ Travis P. Baggett et. al., *The Unmet Health Care Needs of Homeless Adults: A National Study*, 100 AM. J. PUB. HEALTH 1326, 1327 (2010), available at: <https://pubmed.ncbi.nlm.nih.gov/20466953/>.

⁵⁰ *Homelessness & Health: What's the Connection?*, NAT'L HEALTH CARE FOR THE HOMELESS COUNCIL (Feb. 2019), <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>.

⁵¹ *People Who Are at Higher Risk for Severe Illness*, CTR. DISEASE CONTROL AND PREVENTION (“CDC”), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited June 14, 2020).

and dangerous conditions of homelessness compromise immunity,⁵² and people experiencing homelessness are much more likely to contract chronic health disorders, such as diabetes⁵³ and HIV,⁵⁴ than those in the general population. Furthermore, 44% of all people experiencing homelessness in the U.S. become homeless after turning fifty years old.⁵⁵ This, combined with the finding that homelessness prematurely ages the body ten to twenty years,⁵⁶ places almost half the population of people experiencing homelessness in the U.S. at high risk of death or serious illness from COVID-19.

On the federal level, the CARES Act Congress passed in March provided some funding for people experiencing homelessness.⁵⁷ Additionally, the Federal Housing Finance Agency, an agency in the U.S. that regulates housing loans, passed a moratorium on foreclosures and evictions on single-family homes—a moratorium that it recently extended through August 2020.⁵⁸ While these have been good first steps they are not enough to mitigate the potentially devastating effects of the pandemic on their own.⁵⁹

On the state and local level, many jurisdictions have not taken steps to help people experiencing homelessness beyond what they were doing prior to the pandemic. On the contrary, as discussed in the previous section, many municipalities have used their police powers to break up encampments and put people experiencing homelessness into shelters, jails, and prisons—sites that increase vulnerability to infection. For example:

- Rather than placing people into the more than 150,000 largely vacant hotel rooms in Las Vegas, the city instead painted six-foot squares in a parking lot for people to sleep on the bare concrete and placed outdoor restrooms nearby. This took place on the weekend *after* CARES Act funding was passed, indicating the city would have resources to relocate people to hotels.

⁵² *Homelessness & Health: What's the Connection?*, NAT'L HEALTH CARE FOR THE HOMELESS COUNCIL (Feb. 2019), <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>.

⁵³ Sungwoo Lim et. al., *Supportive Housing and Its Relationship With Diabetes Diagnosis and Management Among Homeless Persons in New York City*, 188 AM. J. EPIDEMIOLOGY 1120, 1120 (2019), available at: <https://academic.oup.com/aje/article/188/6/1120/5369506>.

⁵⁴ Emily Land, *Homelessness Linked to Hiv Infection and Low Rates of Viral Suppression*, S.F. AIDS FOUND. (Oct. 2, 2018), <https://www.sfaf.org/collections/beta/homelessness-linked-to-hiv-infection-and-low-rates-of-viral-suppression/>.

⁵⁵ Kevin Fagan, *Aging onto the Street*, S.F. CHRONICLE (Mar. 8, 2019), <https://www.sfchronicle.com/bayarea/article/Aging-onto-the-street-Nearly-half-of-older-13668900.php>.

⁵⁶ Liz Seegert, *Homeless Get 'Older' at Younger Ages Than Their Peers, Research Says*, ASS'N OF HEALTH CARE JOURNALISTS (Apr. 1, 2016), <https://healthjournalism.org/blog/2016/04/homeless-get-older-at-younger-ages-than-their-peers-research-says/>. Allowing COVID-19 to spread through populations of people experiencing also puts the larger population at risk by keeping the disease alive and allowing it to mutate into new strains. Sékéné Badiaga et. al, *Preventing and Controlling Emerging and Reemerging Transmissible Diseases in the Homeless*, 14 EMERGING INFECTIOUS DISEASE 1353, 1353 (2008), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2603102> (noting that “[h]omelessness is associated with numerous behavioral, social, and environmental risks that expose persons to many communicable infections, which may spread among the homeless and lead to outbreaks that can become serious public health concerns”).

⁵⁷ CARES Act, S. 3548, 116th Cong. (2020).

⁵⁸ Jessica Menton, *FHFA Extends Moratorium on Evictions, Foreclosures for Two More Months*, USA TODAY (June 18, 2020), <https://www.usatoday.com/story/money/2020/06/18/eviction-moratorium-fhfa-extends-deadline-foreclosures/3212645001/>.

⁵⁹ *Cares Act: What's in It, and What Do We Still Need?*, NAT'L COALITION FOR THE HOMELESS (Apr. 2, 2020), <https://nationalhomeless.org/cares-act-whats-in-it-and-what-do-we-still-need/>.

- Although more than 100 medical officials have called for San Francisco to urgently place people experiencing homelessness into individual housing units,⁶⁰ and the Board of Supervisors passed a law ordering more than 8,000 rooms be requisitioned, the Mayor has refused to place the majority of homeless San Franciscans into hotels.⁶¹

Some state and local governments, however, have provided private rooms for people experiencing homelessness in currently unoccupied spaces, such as hotels and dorms. This policy allows people experiencing homelessness the opportunity to both safely social distance and maintain good hygiene for the duration of the pandemic. California,⁶² Connecticut,⁶³ and Virginia⁶⁴ have taken steps to provide individual housing units to people experiencing homelessness at the state level, with Virginia, in particular, taking steps to completely move people experiencing homelessness out of shelters and into private rooms.⁶⁵ Some municipalities, such as New York, New York;⁶⁶ Tucson, Arizona;⁶⁷ San Diego, California;⁶⁸ San Francisco, California;⁶⁹ and New Orleans, Louisiana,⁷⁰ have also provided some private accommodations at the local level. While none of these examples have been able to house their entire population of people experiencing homelessness, such policies serve as a good model that more states should strive towards.

Additionally, some state and local governments have taken steps to slow the increase of homelessness within their jurisdictions. First, to prevent more people from becoming homeless

⁶⁰ Joseph Wilson, *100 Medical Experts Call on San Francisco to Expedite Housing the Unhoused*, W. REG'L ADVOCACY PROJECT (Mar. 25, 2020), <https://wraphome.org/2020/03/25/100-medical-experts-call-on-san-francisco-to-expedite-housing-the-unhoused/>.

⁶¹ *Coronavirus Update: San Francisco Supervisors Blast Mayor Breed Over Failure To Secure Hotel Rooms For Homeless April*, CBS S.F. BAY AREA (Apr. 28, 2020), <https://sanfrancisco.cbslocal.com/2020/04/28/coronavirus-update-san-francisco-supervisors-blast-mayor-breed-over-failure-to-secure-hotel-rooms-for-homeless/>.

⁶² *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*, CA.GOV (Apr. 3, 2020), <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/>.

⁶³ Exec. Order No. 7P (Mar. 10, 2020), available at: <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7P.pdf>.

⁶⁴ Jackie DeFusco, *Governor Northam Announces Emergency Funding to Shelter Virginia's Homeless Population*, WFXR FOX (May 21, 2020), <https://www.governor.virginia.gov/newsroom/all-releases/2020/april/headline-855925-en.html>.

⁶⁵ *Homelessness Funding at Unprecedented Levels in Virginia During Pandemic*, VIRGINIA.GOV (Apr. 3, 2020), <https://www.wfxrtv.com/health/coronavirus/homelessness-funding-at-unprecedented-levels-in-virginia-during-pandemic/>.

⁶⁶ Valeria Ricciulli, *Homelessness Nyc Commits to Housing More Homeless Individuals in Empty Hotel Rooms*, CURBED (Apr. 13, 2020), <https://ny.curbed.com/2020/4/13/21218888/nyc-coronavirus-homeless-hotel-rooms-shelters>.

⁶⁷ Austin Counts, *City of Tucson and Hotels Are Teaming To Help Homeless Threatened by COVID-19 Outbreak*, TUCSON WEEKLY (Apr. 17, 2020), <https://www.tucsonweekly.com/TheRange/archives/2020/04/17/city-of-tucson-and-hotels-are-teaming-to-help-homeless-threatened-by-covid-19-outbreak>.

⁶⁸ *Landlord Engagement and Assistance Program*, SAN DIEGO HOUSING COMM'N, <https://www.sdhc.org/doing-business-with-us/landlords/landlord-engagement-and-assistance-program-leap/> (last visited June 14, 2020).

⁶⁹ Dominic Fracassa, *San Francisco Strikes Deal Over Tenderloin Lawsuit to Clear Tents on 'Dangerously Crowded Sidewalks*, S.F. CHRONICLE (Jun. 12, 2020), <https://www.sfchronicle.com/local-politics/article/San-Francisco-strikes-deal-over-Tenderloin-15336228.php>.

⁷⁰ David Hammer, *City's Street Homeless Being Moved Into Hotel*, CBS 4WWL (Mar. 25, 2020), <https://www.wwtv.com/article/news/health/coronavirus/citys-street-homeless-being-moved-into-hotel/289-ad5e17fc-f39f-4a4e-a9f5-95c1fd62bd27>.

due to the economic effects of COVID-19, many states and municipalities in the U.S. have placed temporary moratoriums on evictions.⁷¹ While this was an important step to prevent creating more homelessness, many states have allowed their moratoria to lapse before the U.S. economy has been able to recovery.⁷² With many more of these moratoria expected to lapse in the coming weeks, unless the federal government administers assistance many experts believe that evictions are an unfortunate inevitability.⁷³ It is thus critical for the federal government to provide aid to both states and directly to tenants to forestall evictions, and states, in turn, need to renew or extend their moratoria on evictions.

For the current population of people experiencing homelessness in the U.S. governments at all levels of the U.S. political system should in the short term, seek to immediately house people experiencing homelessness in private accommodations. In the long term, governments should plan to create or subsidize affordable housing and guarantee the right to adequate housing. Only by guaranteeing this right can the U.S. fulfill its human rights obligation as a state and protect all residents from this and any future pandemics.

V. Recommendations

1) House people experiencing homelessness in hotels, motels, dorms, and/or RVs for the duration of the crisis and make plans to exit people into permanent housing rather than back to the streets. This allows people experiencing homelessness access to adequate sanitation and to effectively maintain social distancing. This is both a preventive measure for people experiencing homelessness who are showing no symptoms, as well as provides for medical respite housing while individuals are quarantined or recovering after diagnosis. Placement into such temporary housing should include provisions for people to bring their partners, pets, and possessions with them.

2) Place a moratorium on sweeping encampments and seizing homeless people's tents and other temporary structures and stop enforcement of laws prohibiting resting and sheltering oneself in public space. While encampments are not a long-term solution, preserving individuals' ability to safely and legally sleep in private tents instead of mass facilities would ensure people can more safely shelter in place, maintain social distancing, and reduce sleep deprivation. Enforcement of laws criminalizing self-sheltering in the absence of adequate alternatives is cruel and leads to incarceration in overcrowded jails where the risk of COVID-19 exposure is high. Stopping sweeps can also help prevent scattering people and spreading infection. San Jose, CA was the first city in the nation to place a moratorium on sweeps, and other cities like Portland, Oregon have reduced sweeps.

3) Increase access to hygiene and sanitation services for those living in unsheltered areas. To stop the spread of COVID-19 exposure and infection, it is critical for unhoused people to have access to running water, clean toilets, and handwashing stations. This is particularly a concern as

⁷¹ Ann O'Connell, *Emergency Bans on Evictions and Other Tenant Protections Related to Coronavirus*, NOLO, <https://www.nolo.com/legal-encyclopedia/emergency-bans-on-evictions-and-other-tenant-protections-related-to-coronavirus.html> (last updated June 9, 2020).

⁷² Courtenay Brown, *Fears Grow of an Eviction Apocalypse*, AXIOS (June 12, 2020), <https://www.axios.com/eviction-crisis-coronavirus-351bb693-a04f-4ea1-a27d-dceb5163af14.html>.

⁷³ Sarah Mervosh, *An 'Avalanche of Evictions' Could Be Bearing Down on America's Renters*, N.Y. TIMES (May, 27, 2020), <https://www.nytimes.com/2020/05/27/us/coronavirus-evictions-renters.html>.

many previously publicly accessible facilities (restaurants, gyms, libraries, etc.) have now closed. Encampments should be provided with mobile toilets and sanitation stations and trash bins to further reduce harm, as Los Angeles Councilmember Mike Bonin has done in his district.

4) Place a moratorium on vehicle ticketing, towing, and impoundment. Without housing, many people seek shelter in their private vehicles where they can lock doors for safety and remain with their families, pets, and personal possessions. Moreover, RVs and similar vehicles offer amenities typically found in a permanent home, such as running water, showers, and toilets. Laws punishing sheltering in vehicles are the fastest growing criminalization policy in the nation, leaving many people at risk of expensive ticketing, arrest, and/or incarceration. In response to this risk, some cities like Los Angeles, California and Portland, Oregon have temporarily halted or reduced vehicle ticketing, towing, and impoundment.

5) Provide adequate testing for people experiencing homelessness, and collect data based on housing status in addition to race, gender, and other characteristics for testing, hospitalization, and death rates.

5) Immediately and safely decrease the number of people incarcerated for laws criminalizing homelessness and other non-violent offenses. Many homeless people are arrested and incarcerated for crimes of survival, yet they are unable to afford bond or to secure pre-trial release on their own recognizance. This results in homeless people being locked into overcrowded jails where risk of COVID-19 exposure is high. Communities should not only reduce arrests of unhoused people, but urgently increase options for release from custody for bondable offenses.

6) Schools at the primary, secondary, and collegiate levels must take students experiencing homelessness into account as they plan for reopening, for both in person and virtual education. Title VII of the McKinney-Vento Act includes making equitable considerations for students experiencing homelessness to ensure they are able to continue learning. This could include making schools available during the day, providing meals that can be with students, ensuring access to computers and Wi-Fi for online learning, and other steps. Institutions of higher learning should ensure accommodations are made during coronavirus shut-downs for students experiencing homelessness who may not have alternative housing, including, but not limited to, keeping dorms open and accessible and providing for meals, and providing stipends for additional needs.

7) Federal, state, and local surplus governmental property available for safe camping, parking and access to supplies and services. Many governments have vacant land and buildings that can be used to safely shelter people in private, sanitary settings and/or to park their vehicles. These properties can also be used as a base for distribution of sanitation supplies, meals, and/or other needed goods and services to help unhoused people meet their basic human needs while preventing spread of COVID-19.

8) Prevent new homelessness by immediately halting ALL eviction and foreclosure proceedings, put a moratorium on evictions, and ban the imposition of late fees on missed rental or mortgage payments during the crisis. Private housing is the best place to practice social distancing—the single most important method for curbing the spread of COVID-19. A halt

to all evictions is necessary to prevent homelessness, but also stop the need to fight evictions in a crowded courtroom. A ban on foreclosures is also necessary to help affected homeowners and ensure landlords with mortgages do not suffer as a result of delayed or foregone rent. The ban on missed payments is necessary to ensure a new homelessness crisis does not develop following the resumption of payments after the healthcare-specific crisis comes to an end. Please find additional low-income housing recommendations at <https://nlihc.org/coronavirus-and-housing-homelessness>.

9) Ensure that any emergency cash relief measures designed to assist people with the economic impact of the Coronavirus crisis are also made available to and reach homeless people. This includes unaccompanied homeless youth and could be through distribution by health/shelter outreach workers, at shelters, food pantries, public housing, social service sites, and other sites serving homeless and low-income people. Outreach informing homeless people of the availability of cash relief and locations to receive it is also essential.