



May 13, 2021

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Via email

Dear Mayor Rogers, Vice Mayor Rogers, and Santa Rosa City Council,

I write on behalf of the National Homelessness Law Center (“Law Center”) to express concern regarding Santa Rosa’s clearance of various city encampments and frequent impoundment of vehicle homes and 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. *See*

<https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>.

### **Who We Are**

The Law Center is the only national legal advocacy organization dedicated solely to ending and preventing homelessness. We have over 30 years of experience in policy advocacy, public education, and impact litigation. Since 2006, the Law Center has tracked laws criminalizing homelessness in 187 cities across the country, and we have documented the failures and costs of those policies in numerous national reports, including *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities* (2019) available at <http://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>. We have also published best practices, model policies, and case studies from across the country on how to constructively address homeless encampments. *See Tent City, USA: The Growth of America’s Homeless Encampments, and How Communities are Responding* (2018) available at [https://nlchp.org/wp-content/uploads/2018/10/Tent\\_City\\_USA\\_2017.pdf](https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf).

In addition to raising awareness about the criminalization of homelessness, we have filed lawsuits to challenge policies that exclude homeless people from public space. One of our cases, *Martin v. City of Boise*, resulted in a decision from the Ninth Circuit holding that the Eighth Amendment to the U.S. Constitution prohibits enforcement of laws criminalizing sleeping, sitting, and lying down outside against people with no access to indoor shelter.

## **Discussion**

The CDC guidelines state in part, “[i]f **individual housing** options are not available, allow people who are living unsheltered or in encampments to remain where they are. Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.” As such, the CDC advises that **communities should not clear any encampments unless they can provide individual housing units for those displaced**. Otherwise, the CDC recommends that these individuals be allowed to remain where they are and be provided with necessary sanitation facilities.

Similarly, impounding vehicle homes or vehicles people experiencing homelessness rely on for individual shelter can increase the potential for infectious disease spread. Impounding these vehicles over minor traffic violations serves no constructive purpose. Instead, it just punishes people experiencing homelessness for using their best available option for private shelter. Additionally, the fines associated with the traffic violation and with recovering an impounded vehicle can preclude recovery of the vehicle, create barriers to securing employment or participating in supportive or permanent housing programs, and otherwise lead to worse outcomes for people experiencing homelessness and Santa Rosa. *See Bell v. Boise, et al.*, 1:09-cv-540-REB, Statement of Interest of the United States (Aug. 6, 2015).

Fortunately, the Federal Emergency Management Agency (“FEMA”) has recently approved waivers of both its 30-day renewal and 25% match requirements, offering **100% retroactive reimbursement funding for non-congregate shelter until the end of September 2021**. *See* <https://nlihc.org/resource/fema-changes-policy-approve-non-congregate-shelter-reimbursement-duration-emergency>, <https://nlihc.org/resource/new-executive-order-addresses-urgent-health-and-housing-needs-people-experiencing>.

On March 31, 2020, FEMA first issued a press release recognizing non-congregate sheltering as an important tool to combat COVID-19. *See* <https://www.fema.gov/news-release/20200722/coronavirus-covid-19-pandemic-non-congregate-sheltering>. At that time, FEMA provided a non-exhaustive list of examples of appropriate instances to rely on non-congregate sheltering. **FEMA will reimburse for non-congregate sheltering like hotels and motels** beyond just these instances. On February 3, 2021, FEMA expanded its support for communities using non-congregate housing to combat COVID-19. *See* <https://www.fema.gov/press-release/20210203/fema-statement-100-cost-share>. FEMA will now offer 100% reimbursement for “all work eligible under FEMA’s existing COVID-19 policies, including increasing medical capacity, non-congregate sheltering, and emergency feeding distribution.” Once FEMA approves a reimbursement request, it will fund the activity retroactively from January 2020 to September 30, 2021.

While FEMA indicated a path for state-wide approval of non-congregate shelter, Santa Rosa can request additional reimbursement at the guidance of local public health declarations because providing non-congregate shelter and individual housing for all people experiencing homelessness is necessary to reduce the spread of COVID-19.

**Santa Rosa should not conduct any encampment sweeps or vehicle home impoundments contrary to CDC guidance. Instead, Santa Rosa should aggressively pursue FEMA funding to offer non-congregate shelter to people experiencing homelessness for the duration of the pandemic.** Rather than waste tax dollars on enforcement of legally suspect ordinances and encampment evictions when unhoused residents lack adequate alternatives, the City’s interests are better served by providing opportunities for adequate shelter and stability using federal dollars.

There are also other steps that Santa Rosa can take to meet people's basic human needs until adequate housing options are available to them. The City can identify locations where people who privately shelter in vehicles, including RVs, can safely and stably park. A growing number of California communities have established safe parking programs, including programs that allow people to park and shelter in their vehicles day after day while accessing key services, such as access to toilets and trash services. These programs can benefit not only the City's vehicle residents, but also the City as a whole by alleviating reliance on public street parking and reducing the threat of harmful and expensive vehicle home towing and impoundment. See *Towed Into Debt: How Towing Practices in California Punish Poor People* available at <https://wclp.org/wp-content/uploads/2019/03/TowedIntoDebt.Report.pdf>.

The City can also expand safe and lawful locations where unsheltered homeless people can stably live in their outdoor homes while permanent housing options tailored to their individual needs are made available. Providing safe, stable, and accessible locations where unsheltered people can temporarily live and access services, including hygiene and sanitation services, is a constructive alternative to the wasteful and harmful cycle of encampment sweeps currently conducted by the City.

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. This is not a matter of charity, but of sound public policy that will reduce harm and benefit quality of life in Santa Rosa.

If you 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](mailto:etars@nlchp.org) or 202-638-2535 x. 120 with any questions or concerns.

Sincerely,

Eric S. Tars  
Legal Director