



National Homelessness Law Center Comment on US Interagency Council on Homelessness Federal Strategic Plan

November 30, 2021

1) What should the federal government's top priorities be?

The National Homelessness Law Center appreciates this opportunity to provide public comment on the next Federal Strategic Plan to End Homelessness. It further appreciates that several of the top priorities listed below have already been addressed in the recent statement [of USICH's Core Values as We Create a Federal Strategic Plan](#), but includes them as we had drafted prior to that values statement to reaffirm those values have set the Council on the right track.

A. The Federal Government Must Make Clear that Housing Justice is Racial Justice

Housing justice is racial justice, and USICH's new Federal Strategic Plan to End Homelessness must meaningfully acknowledge that the nation's homelessness crisis is the consequence of a long history of housing and zoning policies that have created racial and socioeconomic segregation and concentrated poverty in communities of color ([Final-AFFH-Comment-3.16.20.pdf \(homelesslaw.org\)](#)). Although USICH has acknowledged the overrepresentation of people of color among those experiencing homelessness ([How to Start Addressing Racial Disparities in Your Community | United States Interagency Council on Homelessness \(USICH\)](#)), USICH's last Federal Strategic Plan to End Homelessness did not mention the phrases "Race," "Segregation," "Racism," or "People of Color" at all. The new Federal Strategic Plan should substantively address the intersection of housing justice and racial justice by offering homelessness services in race-conscious ways. This is addressed further in our response to Q.3 below.

B. The Federal Government Must Approach Ending Homelessness From A Comprehensive Perspective that Housing Is A Human Right

Homelessness will be ended in the United States when we fully realize the human right to housing. As such, the USICH's strategic plan will be greatly strengthened by explicitly framing its plan to end homelessness within the realization of this internationally-recognized human right. The human right to housing is a holistic and powerful frame, carrying the weight of international law and tapping into our deep cultural understanding of the importance of upholding human and civil rights. As President Biden just stated on October 15, "we know that our efforts to defend human rights around the world are stronger because we recognize our own historic challenges as part of that same fight.... Demonstrating that our commitment to human rights begins at home is among the most powerful and persuasive tools..." (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/15/remarks-by-president-biden-at-the-dedication-of-the-dodd-center-for-human-rights/>).

Defining the human right to housing

We know that homelessness is not simply the result of an individual not having a home, but represents multiple systemic failures that led to that condition. The human right to housing, as defined by international law, is powerful because of its ability to take into account the many failings of the current, imperfect situation (including the disparate impact of those imperfections on historically marginalized communities), while also setting forth the numerous pieces that are required for the full realization of the right (including equitable policies that address historic disparities). While there is a universal definition of the right and its components, the understanding of what a country must do in the immediate future is based on the country's capacity and situation. As such, it is an incredibly useful framework that will help move us beyond reductive conversations about numbers of shelter beds or housing vouchers to a conversation about how to comprehensively end homelessness by ending the conditions which cause it.

While agreement is growing within the United States that housing is a human right, what that means is not widely understood or agreed.

The United Nations Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity. The characteristics of the right to adequate housing are clarified mainly in the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

• **The right to adequate housing contains freedoms.** These freedoms include:

- Protection against forced evictions and the arbitrary destruction and demolition of one's home;
- The right to be free from arbitrary interference with one's home, privacy and family; and
- The right to choose one's residence, to determine where to live and to freedom of movement.

• **The right to adequate housing contains entitlements.** These entitlements include:

- Security of tenure;
- Housing, land and property restitution;
- Equal and non-discriminatory access to adequate housing;
- Equitable policies to make up for prior discrimination;
- Participation in housing-related decision-making at the national and community levels.

• **Adequate housing must provide more than four walls and a roof.** A number of conditions must be met before particular forms of shelter can be considered to constitute "adequate housing." :

- (1) **security of tenure:** everyone needs legal protection against forced eviction and harassment—renters, homeowners, and persons in emergency circumstances—as well as for access to legal counsel;
- (2) **availability of services, materials, and infrastructure:** adequate housing includes access to sanitation and emergency services, plumbing and electricity, etc.;

- (3) **affordability:** housing costs should not force people to choose between paying rent and paying for other basic needs (food, health, etc.);
- (4) **habitability:** housing must provide adequate space to protect against internal dangers (overcrowding) and external ones (weather, insects, hazards like lead, etc.);
- (5) **accessibility:** accessibility of housing means physically accessible (for those facing disabilities, for example) and practically accessible (no discriminatory barriers for marginalized groups);
- (6) **location:** housing is more than four walls and a roof, but must exist in an environment with access to jobs, medical care, schools, etc., as well as not be threatened by pollution; and
- (7) **cultural adequacy:** housing and land use must respect the cultural traditions of inhabitants.

Human rights standards require that countries take progressive steps to respect, protect, and fulfill the right, to the maximum of the country's available resources, in a non-discriminatory, equitable manner. The government can use a wide variety of measures, from market regulation to subsidies, public-private partnerships to tax policy, to help ensure the right. Implementing the human right to housing would *not* require the government to immediately build a home for each person in America or to provide housing for all, free of charge. But it does require much more than the U.S. is doing now, and more than a mere provision of emergency shelter—it requires affirmative steps to be taken to ensure fully adequate housing, based on all the criteria outlined above.

To benefit from this framing, it will be important for USICH to gather key stakeholders in order to develop the answers to the following questions:

1. What would the full realization of the right to housing look like?
2. Where is the U.S. now?
3. What would the progressive realization of the right look like?
4. What federal resources and policies are needed to achieve this?

Such stakeholders should include, but are not limited to:

- People with lived experience of homelessness, eviction, and inadequate or unstable housing;
- High level officials from multiple agencies within the federal government, to include both political appointees and career staff;
- Members of Congress;
- Mayors, governors, and other state and local level officials;
- Organizations of tenants established to protect their rights;
- Organizations that promote the human right to housing (human rights groups in US and possibly other countries); and
- Academics and issue experts, including civil rights and other advocates.

C. The Federal Government Must Address the Prevalence of Criminalization of Homelessness and Disincentivize Communities From Criminalizing Homelessness

Housing Justice means stopping the injustice imposed by criminalization of homelessness, and any plan to end homelessness will not succeed if our country continues to waste public dollars

and impose further barriers to exiting homelessness on those experiencing it through criminalization.

Since the National Homelessness Law Center began tracking laws and ordinances that criminalize homelessness in 2006, we have seen an increase in every category of criminalization ([HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf \(homelesslaw.org\)](#)). As of 2019, 72% of cities surveyed have at least one law restricting camping in public, 51% have at least one law restricting sleeping in public, 55% have at least one law prohibiting sitting or lying down in public, 35% have at least one law prohibiting loitering or vagrancy, 83% have at least one law prohibiting begging in public, 50% have at least one law restricting living in vehicles, and 55% have at least one law prohibiting storing property in public places.

Laws that criminalize homelessness are rooted in prejudice, fear, and misunderstanding. These laws prioritize the preferences of businesses and people who have access to safe housing over the needs of those who are unhoused. Moreover, these types of laws perpetuate the cycle of poverty, harm public safety by diverting law enforcement resources away from dangerous crime and eroding trust between law enforcement and the public, and harm public health by dispersing people who have nowhere else to live or access services ([UNHEALTHY BY DESIGN \(wordpress.com\)](#)).

The widespread criminalization of homelessness disproportionately impacts communities of color; this is true both in terms of who is most likely to experience homelessness and the extent and severity to which individuals are punished under anti-homeless laws. For example, nearly 40% of people experiencing homelessness in the country (and more than 50% of unhoused families with children) are Black despite representing only 13% of the US population. In contrast, white individuals account for 72% of the total US population yet only 48% of those experiencing homelessness ([Homelessness and Racial Disparities - National Alliance to End Homelessness](#)). This disparity is compounded by the fact that anti-homeless laws are significantly more likely to be enforced against people of color, in particular Black people. While national statistics do not yet exist on the subject, regional snapshots are telling: a leading report out of California illustrates that unhoused Black and Latinx people are 9.7 and 5.7 times more likely to be cited under these laws than white people who engaged in the same activities ([Cited for being in plain sight – the Lawyers Committee For Civil Rights San Francisco](#)). Due to rampant and historic racism in policing, unhoused Black people and people of color are also far more likely to have encounters with police end in physical injury or death. Dismantling these laws by dissuading states and cities from enacting and enforcing them is inherently an issue of racial justice and equity and one that USICH must prioritize as part of any Strategic Plan.

Criminalization of homelessness also wastes taxpayer dollars. The National Homelessness Law Center found that in San Francisco in 2011, a third of all prosecuted crimes were for these “quality of life” citations ([NATIONAL LAW CENTER \(homelesslaw.org\)](#)). Of those arrested based on these laws, 49% reported having spent five or more days in jail while awaiting trial. A 2019 study of Santa Clara County, California estimated that homelessness cost the county \$520 million annually, and that 34% of those costs were for criminal justice related expenditures such as probation, custody mental health care, and jail or court costs. (see also [Exploring Homelessness Among People Living in Encampments and Associated Cost: City Approaches to Encampments and What They Cost | HUD USER](#), analyzing the costs of homelessness in Tacoma, Chicago, Houston, and San Jose).

While USICH has acknowledged the proliferation of laws that criminalize homelessness ([RPT_SoS_March2012.pdf \(usich.gov\)](#)), there has not been a meaningful incorporation of the criminalization of homelessness into any of the Federal Strategic Plans that USICH has put out thus far. The next iteration of the Federal Strategic Plan to End Homelessness must recognize that the criminalization of homelessness is becoming more and more prevalent across the country, and that such criminalization will continue to thwart attempts to actualize USICH's goal of ending homelessness.

Not only does the criminalization of homelessness perpetuate poverty, harm public safety and public health, and waste taxpayer dollars – it is also unconstitutional. In April 2019, the U.S. Court of Appeals for the Ninth Circuit decided in *Martin v. Boise* that the Eighth Amendment of the U.S. Constitution prohibits the enforcement of laws criminalizing sleeping, sitting, and lying down outside against people with no access to indoor shelter. The Ninth Circuit opined that “[A]s 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.” *Martin v. Boise*, 902 F.3d 1031 (9th Cir. 2019). The U.S. Department of Justice has echoed these sentiments in a brief filed at an earlier stage of the case (<https://www.justice.gov/opa/pr/justice-department-files-brief-address-criminalization-homelessness>), and is currently incorporating violations of homeless persons' rights in its civil rights investigations in Phoenix, Minneapolis, and Louisville (<https://www.justice.gov/opa/pr/justice-department-announces-investigation-city-phoenix-and-phoenix-police-department>). Working with national, state, and local partners across the country, the National Homelessness Law Center has assisted in litigating a host of similar cases, resulting in decisions in jurisdictions across the country that make clear that criminalization policies may also violate the First, Fourth, and Fourteenth Amendments as well as the Americans with Disabilities Act.

The National Homelessness Law Center's Housing Not Handcuffs campaign lays out a series of model policies that can help address homelessness by stopping its criminalization ([HNHA-2017-FEDERAL.pdf \(housingnohandcuffs.org\)](#)). The Federal Strategic Plan to End Homelessness should incorporate some of these suggestions by reinforcing the Department of Justice's position that criminalization is unconstitutional, reviewing the policy harms it imposes, calling for more data collection from local law enforcement to determine the extent and impact of criminalization, and recommending federal agencies create incentives for their grantees to dissuade states and localities from subjecting individuals to civil or criminal sanctions for moving, sitting, resting, storing belonging, or asking for help in public spaces.

Many people priced out of traditional housing seek shelter in their vehicles and are also routinely targeted and criminalized for parking their vehicle homes in public space. Private parking options are often unavailable, and public space is increasingly regulated to prohibit parking of RVs and other vehicle homes. Enforcement of laws prohibiting living in vehicles, which is the fastest growing category of anti-homeless law in the U.S., can result in arrest and incarceration, expensive tickets, and even permanent loss of the vehicle home and the property that it contains. USICH's new Strategic Plan should urge cities to repeal laws prohibiting use of vehicles as shelter and instead to incorporate vehicle homes into local systems of care. USICH should urge cities not to tow and impound vehicle homes for unpaid tickets and minor ordinance violations and instead urge that tows and impoundments of vehicle homes only occur when an urgent traffic or safety purpose requires removal of the vehicle home to a safe location where it can be retrieved by the vehicle resident. ([Washington Supreme Court holds](#)

[impoundment of homeless person's vehicle violates Eighth Amendment - JURIST - News - Legal News & Commentary](#)). Additionally, the Strategic Plan should incentivize localities and states to provide and maintain long-term parking options for Recreational Vehicles and other vehicle homes so that individuals and families living in their vehicles have a safe and reliable place to park and access available services. Finally, USICH should urge local governments to develop more complete and accurate data about people living in vehicles in their communities.

D. The Federal Government Must Incorporate Substantive Policy Changes In Its Plan to End Youth Homelessness

Efforts to end youth homelessness have consistently been at the forefront of USICH's work, and USICH's former Federal Strategic Plans to End Homelessness have prioritized youth populations. However, youth continue to experience homelessness at unacceptable and rising rates. Homelessness does not affect all youth equally, as 34% of homeless youth across the country are Black, and the relative risk of experiencing homelessness for Black youth is 83% higher compared to youth of other races ([Homelessness in America Youth.pdf \(usich.gov\)](#)). Moreover, youth who experience homelessness are particularly vulnerable to health challenges, abuse, and involvement in the child welfare and criminal legal systems ([AWAH-report.pdf \(homelesslaw.org\)](#)). A 2017 survey found that 29% of youth experiencing homelessness reported having substance abuse problems, 69% of youth experiencing homelessness reported mental health difficulties, 33% of youth experiencing homelessness had interacted with the foster care system, and nearly half of youth experiencing homelessness had been in juvenile detention, jail, or prison. Less than half of jurisdictions require procedures to address discharge or aftercare needs for youth exiting juvenile justice systems; of those that do require such procedures, only 18% require that housing needs be addressed.

Before discharge from juvenile justice and child welfare systems, youth should be provided with assistance in obtaining identity and vital records documentation and should be connected to safe housing options, educational resources and job training, and other social services. USICH's Strategic Plan should encourage states and cities to incorporate post-discharge services into the infrastructure of the child welfare, juvenile justice, and other legal systems that purport to provide care for youth so that no child or young adult is discharged from governmental care into homelessness or housing instability.

Many youth experiencing homelessness do not necessarily have fair, equitable, and stable access to education despite federal laws requiring local and state education authorities to ensure homeless youth's participation in school. As the National Homelessness Law Center's "Alone Without A Home" Report ([AWAH-report.pdf \(homelesslaw.org\)](#)) notes, only 25% of surveyed jurisdictions have an updated education dispute resolution procedure that reflect changes made under the Every Student Succeeds Act, and none of these jurisdictions explicitly protect the privacy rights of homeless students.

In order to adequately address and end youth homelessness, the USICH Federal Strategic Plan must do more than pay lip service to youth homelessness. The next iteration of the Federal Strategic Plan to End Homelessness should address barriers unaccompanied youth face when attempting to obtain supports and services by incentivizing states and localities to create mechanisms that provide youth with alternative verification processes for proof of identity or residency and by recommending the elimination of any fees associated with obtaining identification and vital records documents. Additionally, the new Federal Strategic Plan should discourage states and localities from criminalizing youth status offenses and should instead

provide opportunities for young people to access housing assistance, treatment programs, and counseling services.

The Federal Strategic Plan should also direct federal, state, and local agencies to establish clear eligibility for unaccompanied minors to apply for and access Medicaid and Children 's Health Insurance Program by reducing obstacles such as parental income, permanent address, and other documentation that may be difficult for unaccompanied youth to obtain and by expanding CHIP to include youth through 24 years of age.

E. The Federal Government Must Prioritize the Use of Vacant and Surplus Property for the Provision of Housing and Services to People Experiencing Homelessness

The use of vacant and surplus property to provide housing and services to people experiencing homelessness is one of the primary ways that governments can substantively end homelessness. Under Title V of the McKinney-Vento Homeless Assistance Act, state and local governments and non-profit organizations have a right of first refusal to free federal surplus property for housing and services for people experiencing homelessness. The National Homelessness Law Center's 2019 Housing Not Handcuffs Report ([HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf \(homelesslaw.org\)](https://www.homelesslaw.org/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf)) reported that more than two million Americans in 30 states are served by Title V property conveyances, which have provided access to 500 buildings on 900 acres of land in 30 states across the country.

Although Title V of the McKinney-Vento Homeless Assistance Act has created housing, shelter, and services for many, the program continues to be under-utilized and only a small fraction of the thousands of unneeded federal properties have been transferred under the program. The National Homelessness Law Center has published a toolkit for using vacant federal property to end homelessness ([Public-Property-Public-Need-1.pdf \(homelesslaw.org\)](https://www.homelesslaw.org/Public-Property-Public-Need-1.pdf)) and has worked extensively with Congress to protect and improve the Title V statute, litigated to ensure compliance with federal laws governing Title V, and worked with local partners to implement Title V in communities across the country.

The Federal Strategic Plan to End Homelessness should direct HUD and HHS to update their regulations and internal policies to remove unnecessary barriers to successful transfers of property and to fully implement the Title V program. USICH should direct HHS to define "reasonable plan to finance" conditionally approved programming under Title V to be consistent with affordable housing development, allowing applicants to rely on funding sources such as Low Income Housing Tax Credits, and not requiring applicants to provide proof of complete financing before the applicant has site control. USICH should also direct HHS to let applicants supplement the financial portion of their conditionally approved applications.

USICH should also direct HHS to update its regulations to eliminate the requirement that successful applicants place acquired properties into use within a maximum period of 36 months or face reversion. Affordable housing projects typically require at least 5 years from acquisition to completion, and the arbitrary 36-month time limit on development of a transferred property significantly limits the ability of service providers to use Title V properties for housing, which is the single largest unmet need among the homeless population. Moreover, USICH should direct HHS to remove any risk of reversion of properties transferred under Title V except in extraordinary circumstances, and never for minor, technical violations of the Title V regulations or in situations where violations can be remedied with HHS approval. USICH should also direct HUD to prioritize public education about the Title V program and to incentivize local and state

governments and nonprofits to take advantage of the program.

F. The Federal Government Must Focus on Preventing Housing Loss Before it Happens By Incentivizing Policy Changes That Stabilize Rents, Curb Evictions, and Provide Low-Income Tenants Access to Justice

In line with the above-described comprehensive approach to housing as a human right, the best and most effective way to end homelessness is to prevent housing loss before it happens. This can be achieved by building and maintaining strong renters' rights throughout the country, which will address housing instability and serve a critical role in preventing, and ultimately ending, homelessness in America. The new Federal Strategic Plan should encourage states and localities to adopt universal protections that include minimum wages indexed to actual housing costs, Supplemental Security Income and Social Security Disability Insurance payments indexed to actual housing costs, and universal voucher programs with values based on current fair market rent. USICH may consider elevating Senate Bill 608 out of Oregon ([SB 608 — Oregon Housing Alliance](#)), which limits rent increases to 7% annually and requires landlords to have good cause for evicting renters.

Additionally, states and localities should be incentivized to adopt robust source of income discrimination protections that make it unlawful for landlords and building management companies to discriminate against potential renters based on their receipt of housing choice vouchers or cash assistance. USICH should also direct states and localities to prohibit any evictions without just cause as well as any discrimination against renters based on eviction history, criminal history, or previous or current status as homeless ([ProtectTenants2018.pdf \(homelesslaw.org\)](#)). These suggestions directly support USICH's goal of prioritizing racial equity in its new Strategic Plan, since people of color, and Black women in particular, are disproportionately discriminated against in the rental market. A study done by the Equal Rights Center, for example, found that housing agents discriminated against Black women with reported criminal histories at a much higher rate than similarly situated white women ([HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf \(homelesslaw.org\)](#)).

The new Federal Strategic Plan should also incentivize the provision of counsel to all tenants facing eviction or landlord/tenant disputes. Tenants in most jurisdictions do not have access to counsel when facing eviction or other landlord/tenant disputes. USICH may consider pointing to New York City's 2017 bill ([Right to Counsel- A victory for Tenants! - New York City Council \(nyc.gov\)](#)) providing a guaranteed right to housing for all tenants facing evictions – a move that has significantly curbed evictions throughout the city while also saving the city an estimated \$320 million by reducing funds needed for homelessness services ([ProtectTenants2018.pdf \(homelesslaw.org\)](#)).

While some federal guidance on ending homelessness has tended to rely on congregate shelter as a solution to homelessness, USICH's new Strategic Plan should acknowledge that shelters are a temporary and incomplete tool that cannot be offered in lieu of permanent housing. Congregate shelters are prone to overcrowding, and often cannot offer residents adequate privacy, services, or supports. These conditions have negative psychiatric, psychological, and mental health effects on people experiencing homelessness ([The Homeless Shelter Family Experience: Examining the Influence of Physical Living Conditions on Perceptions of Internal Control, Crowding, Privacy, and Related Issues - Pable - 2012 - Journal of Interior Design - Wiley Online Library](#)). Moreover, congregate shelters are often segregated by gender and age, and do not allow pets, which can have the result of forcing unhoused families to separate in exchange for shelter ([No Pets Allowed: Discrimination, Homelessness, and Pet Ownership](#)

seattleu.edu); [For Many Homeless Families, a Tough Choice: Separation, or a Shelter Bed? – California Health Report \(calhealthreport.org\)](http://calhealthreport.org)).

2) What are the biggest barriers in your community?

A. The Criminalization of Homelessness Perpetuates Homelessness and Poverty and Hinders Attempts to End Homelessness

The criminalization of homelessness is on the rise, and despite the recent surge in programs and policies dedicated to ending homelessness, not enough attention has been paid to the criminalization of homelessness as a key barrier to ending homelessness.

These laws perpetuate the cycle of poverty by imposing financial obligations on people who are already experiencing difficulty paying for basic necessities. They harm public safety by diverting law enforcement resources from dangerous crime and toward the over-surveillance of people living in poverty, who are disproportionately people of color. They harm public health by dispersing people who have nowhere to sleep and access basic services and by contributing to loss of sleep, severe stress, and the deterioration of mental and physical health. They waste taxpayer dollars by spending millions on surveilling, moving, and detaining people experiencing homelessness rather than housing them and connecting them to services. And they violate constitutional law by infringing upon individuals' Eighth Amendment right to be free from cruel and unusual punishment; Fourth Amendment right to be free from unreasonable searches and seizures; Fourteenth Amendment right to not be deprived of life, liberty, or property without due process of law; and First Amendment right to speak freely.

It is not a crime to be homeless, and the widespread criminalization of homelessness strips people who experience homelessness of their dignity and humanity while only further entrenching them in poverty and cementing the barriers that already exist when it comes to accessing affordable housing and correlated services. The Federal Strategic Plan to End Homelessness cannot meaningfully address homelessness without acknowledging the criminalization of homelessness as a substantial barrier in communities across the country.

B. The Supply of Affordable Housing is Too Low to Meet Demand, and Housing Remains Unaffordable for Most People

According to the National Low Income Housing Coalition, there is a national shortage of seven million affordable and available rental homes for extremely low-income renter households ([THE GAP: The Affordable Housing Gap Analysis 2016 \(nlihc.org\)](http://nlihc.org)). With only 36 affordable and available homes for every 100 extremely low-income renter household, there is simply not enough affordable housing supply to meet the demand. And with stagnating wages and rising housing costs, the demand is only growing. The same National Low Income Housing Coalition report found that 71 of the lowest-income renter households are severely housing cost-burdened, meaning that they spend more than half of their incomes on housing. Not a single state had an adequate number of affordable homes for its lowest-income renters in 2020.

As long as our nation's lowest-income individuals and families are forced to choose between shelter and other basic necessities such as food, clothing, education, and healthcare, we cannot say with sincerity that we are on track to end homelessness. Deliberate and targeted use of Title V of McKinney-Vento to convert vacant and surplus federal property in affordable housing and homelessness services centers, coupled with the tethering of public benefits to actual housing

costs in a given area and the expansion of housing choice vouchers, can begin to move the country's affordable housing supply slightly closer to the country's affordable housing demand.

3) How can the federal government more effectively center racial equity and support equitable access and outcomes at the local level?

A. The Federal Strategic Plan Must Prioritize the Full Funding of HUD's Affordable Housing Programs

Centering racial equity in the effort to end homelessness starts with fully funding the Department of Housing and Urban Development to meet the needs of low-income populations who are disproportionately individuals and families of color. Since the 1970s, the HUD budget has been cut by 56%, which has led to the reduction of 10,000 units per year in publicly assisted housing, and leads to the place that now only 25% of those eligible for HUD aid actually receive assistance ([\(Racial Discrimination in Housing and Homelessness in the United States \(homelesslaw.org\)\)](#)). USICH's Strategic Plan must prioritize the funding of HUD so that 100% of those eligible for assistance can actually benefit from HUD programs and initiatives. The federal plan cannot possibly achieve its goal to end homelessness so long as fewer people receive housing aid than those who actually need it.

The spending deficits that currently exist mean that 3.5 million people experience homelessness annually, of whom 42% are Black, 20% Hispanic, 4% Native American, and 2% Asian – all disproportionate when compared to the makeup of the general population. To more effectively center racial equity, the federal government must adequately fund programs that provide affordable housing and homelessness services, and must reconsider spending on housing programs that purport to address homeownership and housing access but in actuality only benefit white families and individuals who are already high income earners ([\(Racial Discrimination in Housing and Homelessness in the United States \(homelesslaw.org\)\)](#)).

B. USICH Must Address Continued Racial Segregation in Public and Affordable Housing and Housing Programs

Additionally, despite federal and international mandates to end racial segregation in housing, such segregation persists. Black households in public housing are four times more likely than their white counterparts to live in census tracts where the poverty rate exceeds 40% and 12% of Black households receiving vouchers live in high poverty census tracts compared to 4% of white voucher-holding households ([Layout 1 \(prrac.org\)](#)). The federal government has consistently come up short in attempts to adequately address racial segregation in housing: the Housing Choice Voucher Program continues to steer low-income families into racially segregated neighborhoods, and programs like the Low Income Housing Tax Credit lack any civil rights guidance. Moreover, the federal government has yet to adequately safeguard against racial discrimination in lending or to protect voucher and welfare recipients from discrimination in the rental market.

These federal shortcomings have effects that are felt on the local level. USICH and the federal government as a whole should address racial discrimination and racial segregation in housing by incentivizing local entities to take advantage of Title V of McKinney-Vento, tie voucher values and other public benefits to current fair market rents, implement oversight measures that more meaningfully govern how localities interact with people experiencing homelessness and people living in affordable housing, tie civil rights standards to the administration of the Low

Income Housing Tax Credit Program, provide more funding for mobility programs in segregated areas, create metrics that incentivize public housing authorities to increase the range of neighborhoods available to voucher holders, and encourage municipalities to adopt strong source of income protections.

C. The New Federal Strategic Plan Should Move Away from Colorblind Guidance and Instead Recognize How Anti-Black Racism Perpetuates Homelessness

Black Americans are more likely to experience homelessness than White Americans in every state in the country regardless of state population ([Demographic Data Project: Race - National Alliance to End Homelessness](#)). Despite HUD's own data showing that Black people make up close to 40% of the homeless population despite only comprising 13% of the general population ([Demographic Data Project: Race - National Alliance to End Homelessness](#)), the vast majority of federal policy and guidance aimed at addressing and ending homelessness, including the McKinney-Vento Homeless Assistance Act and USICH's last Federal Strategic Plan, omit anti-Black racism as a leading driver of homelessness and neglect to include Black people as a target subpopulation of people experiencing homelessness ([Social Sciences | Free Full-Text | Who Are the Homeless? Centering Anti-Black Racism and the Consequences of Colorblind Homeless Policies | HTML \(mdpi.com\)](#)).

Early advocates for ending homelessness were deliberate in cultivating and sharing a colorblind image of homelessness as a means to shift the public perception of homelessness and coalesce a broad range of stakeholders and decision-makers – namely white people – to empathize with the plight of unhoused communities and support policies aimed at alleviating homelessness ([Social Sciences | Free Full-Text | Who Are the Homeless? Centering Anti-Black Racism and the Consequences of Colorblind Homeless Policies | HTML \(mdpi.com\)](#)). But the practical effects of this colorblind approach to ending homelessness are that anti-Black racism continues to be ignored as a root cause of homelessness, and that Black people experiencing homelessness continue to be inadequately protected from housing discrimination, over-policing, criminalization of poverty, and other systemic forces that contribute to their overrepresentation in the total population of people experiencing homelessness.

The new Federal Strategic Plan should recognize the unique and particular challenges of Black people experiencing homelessness and housing instability as well as the role that anti-Black racism specifically has played in fueling homelessness among Black communities. This can be done first and foremost by centering Black people and the lived experiences of Black people experiencing homelessness into USICH's recommendations and guidance. It can also be done by establishing mechanisms for accountability of law enforcement officers and agencies that over-surveil and over-police people of color experiencing homelessness, incorporating evidence-based and trauma-informed practices into the provision of services for people experiencing homelessness, ensuring that homelessness service providers and staff along continuums of care have shared experiences with the populations they serve, and diverting funding away from criminal legal responses to homelessness and toward housing first programs and harm reduction responses ([\(2020.10.21 Racial Justice Response to Homelessness Factsheet- UPDATED.pdf \(homelesslaw.org\); Initiative Sparks Change in Local Organizations' Approach to Racial Equity in Work to End Homelessness | United States Interagency Council on Homelessness \(USICH\)](#)).

4) What lessons have you learned during the COVID pandemic about how housing, health, and supportive services systems can best respond?

When the federal government first began issuing guidance to the public about how to prevent the spread of COVID-19, its primary suggestion to people was to “stay home.” It was immediately and abundantly clear that in attempting to manage the pandemic, the federal government and its state and local counterparts omitted entirely any consideration of individuals experiencing homelessness. That omission has resulted in homeless individuals being more likely to be infected by COVID-19, more likely to be hospitalized when they contract COVID-19, more likely to require critical care once hospitalized, and more likely to die from COVID-19 ([How to Make a Human Right \(homelesslaw.org\)](https://www.homelesslaw.org)).

COVID-19 brought to light many existing shortcomings of homelessness services, including the facts that even sheltered individuals are often congregated into small spaces, sanitation facilities and hygiene materials are too often scarce, access to health care is extremely limited, and service and shelter providers are given broad discretion to turn people away. At all times but particularly during times of crisis, people should not be forcibly moved or criminalized for where they are sleeping or sitting. They should not be forced into congregate shelter or separated from their belongings or companions. States and localities should be making more concerted efforts to use surplus government property to house people experiencing homelessness and provide them with necessary services. For those who are housed but at risk of homelessness, all levels of government should provide guidance and funds that allow for the halting of evictions, foreclosures, and terminations of utility services.

Additionally, in issuing cash payments to all Americans, the federal government failed to adequately consider how funds would be distributed to people without a permanent address or how to provide funds to people without bank accounts. Though federal, state, and local governments also worked to create programs to help renters and small landlords, many of these programs did not reach their full potential because they either explicitly or implicitly excluded people experiencing homelessness and people in temporary or transitional housing. And, despite the fact that 81% of voters supported measures for the government to purchase to take control of unoccupied buildings to provide temporary housing for people experiencing homelessness during the height of the pandemic ([fighting-the-coronavirus-and-protecting-the-unhoused.pdf \(filesforprogress.org\)](https://www.filesforprogress.org)), many jurisdictions failed to do this and instead left hotels and other commercial properties entirely vacant while people experiencing homelessness remained unhoused.

COVID-19 also made clear the imperative to end the criminalization of homelessness, as encampment sweeps continued throughout the country and law enforcement continued to issue citations and make arrests based on laws that prohibit sleeping outside or in vehicles.

Policies and remedies handed down in response to COVID-19 do not mark the first time that individuals experiencing homelessness have been egregiously left out of the conversation, but the results of this exclusion should serve as a reminder and a catalyst to center unhoused people in future social, economic, and public health related policies, both pertaining to and beyond COVID-19. People experiencing homelessness deserve access to safety, privacy, and dignity and this means that governmental entities need to do a better job of providing adequate shelter options, and access to health care and sanitation. State and local governments should be meaningfully incentivized to convert vacant and surplus properties into affordable or no-cost housing options for vulnerable populations, and disincentivized from enacting and enforcing laws that criminalize homelessness. Any future measures that attempt to protect renters and homeowners or revitalize the economy must consider how to effectively deliver those resources

to people experiencing homelessness by actually centering those communities to assess their needs and formulate best practices.

5) Is there anything else you wish to add?

The most effective way to end homelessness is to increase the supply and accessibility of affordable housing. In addition to the suggestions that we have laid out in the preceding sections, it is critical that USICH's new Strategic Plan address barriers to construction of affordable housing in neighborhoods and communities across the country. Patterns of exclusionary zoning ([Microsoft Word - Testimony of Sheryll Cashin 10-13.docx \(house.gov\)](#)) and widespread public opposition to the development of affordable housing, fueled by racial discrimination and myths about the socioeconomic consequences of affordable housing ([Does affordable housing negatively impact nearby property values? - Community and Economic Development in North Carolina and Beyond \(unc.edu\)](#)), have proven to be contentious obstacles in efforts to increase the supply of affordable housing.

USICH has a clear role to play in collecting data about the true effects of affordable housing on communities, and educating the public to ensure that "NIMBYism" does not continue to thwart attempts to provide more and better affordable housing to unhoused Americans, or to expand homelessness services. USICH should elevate the HUD "NIMBY Decision Tree" ([Nimby Assessment - HUD Exchange](#)) resource to help developers and housing advocates predict and respond to NIMBYism in their communities, and should incentivize municipalities and other agencies to develop similar localized tools. Additionally, USICH's new Strategic Plan should share information and resources that aid in dispelling pervasive myths about affordable housing, and encourage governmental bodies on all levels to take stock of, and do away with, exclusionary zoning ordinances and other land use restrictions that codify NIMBYism.