

April 22, 2020

*Sent via email*

City Council  
389 Congress Street  
Portland, ME 04101

**RE: Homelessness and COVID-19**

Dear Mayor Snyder, Councilors, and City Manager Jennings,

We, the undersigned organizations, write to urge you to ensure that people experiencing homelessness are spared the worst consequences of the pandemic.

Recent reports indicate that homeless individuals are among the most vulnerable to COVID-19 and once infected are 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.<sup>1</sup> We have long known that homelessness in Maine afflicts a dramatically disproportionate number of brown, Black, African American and Native American people.<sup>2</sup> We are concerned that ingrained racism in our economy and health care system, coupled with early data showing that COVID-19 has disproportionately harmed Black Americans,<sup>3</sup> will cause Black and African American Mainers to suffer the worst health and economic outcomes and the highest mortality rates.

According to the federal CDC, COVID-19 primarily spreads from person-to-person, between people within six feet of each other and through droplets that are expelled when a person infected with COVID-19 coughs or sneezes. To prevent contracting and transmitting COVID-19, people are encouraged to wash their hands properly and frequently, avoid close contact with others, and to stay home if they are feeling sick. For people experiencing homelessness, options for following these recommendations are extremely limited. Even before the pandemic, there were too few private housing and shelter options available. The pandemic has made matters worse by forcing shelters to reduce their populations and turn away many people in efforts to establish safe distances between beds.

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<sup>1</sup> See 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, March 27, 2020, [https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper\\_clean-636pm.pdf](https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf).

<sup>2</sup> In 2018, for example, although Black and African American people made up only 1.5% of Maine's total population, they made up 19% of its homeless population. *Homeless Statistics: State Fiscal Year 2018* (July 2017 - June 2018), Maine State Housing Authority, July 16, 2018, [https://www.mainehousing.org/docs/default-source/housing-reports/2017-2018-state-fiscal-year-homeless-statistics.pdf?sfvrsn=eb32bd15\\_4&sfvrsn=eb32bd15\\_4](https://www.mainehousing.org/docs/default-source/housing-reports/2017-2018-state-fiscal-year-homeless-statistics.pdf?sfvrsn=eb32bd15_4&sfvrsn=eb32bd15_4).

<sup>3</sup> See the CDC Morbidity and Mortality Weekly Report (April 17, 2020), [https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e3.htm?s\\_cid=mm6915e3\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e3.htm?s_cid=mm6915e3_w).

Following our recommendations would strengthen the budgets of municipalities and the state. Numerous studies have shown that communities actually save money by providing housing and services to those in need, rather than saddling them with fines, fees and arrest records and cycling them through expensive hospital and jail systems.<sup>4</sup> A study by the University of North Carolina Charlotte found putting people experiencing homelessness into permanent housing rather than leaving them on the streets saved \$1.8 million in its first year by drastically reducing the amount of time its tenants spent in emergency rooms (447 fewer visits) and admitted to hospitals (372 fewer days), with a 78 percent drop in arrests and 84 percent fewer days spent in jail.<sup>5</sup>

Moreover, following our recommendations will not only benefit people experiencing homelessness, but the housed members of your community, who will have hospital beds available to them when they need them, instead of having those beds unnecessarily occupied by people whose risk of infection can be reduced.

We applaud municipalities for the steps they have already taken. Some municipalities have been working with the state and with nonprofit organizations to open additional wellness, isolation, and quarantine shelters. In addition, some municipalities are utilizing the General Assistance program to provide non-congregate shelter by covering hotel and motel room expenses, a best practice that cities and states are following to manage the spread of COVID-19. However, we can do more. This letter highlights additional best practices that we urge you to take up in municipal emergency response efforts.

## **Shelters**

The hundreds living in Maine's shelters on any given night are extraordinarily vulnerable to outbreaks of contagious illnesses such as COVID-19. Homeless shelters, by their very nature, make it difficult for residents to comply with precautionary measures recommended by the CDC. Congregate shelters, newly opened and existing, are adjusting operations and layout to meet guidelines for recommended physical distancing, air circulation, and sanitation necessary to stem the spread of the virus. However, additional shelter space is still needed. We encourage municipalities to:

- Work with the Department of Health and Human Services, Maine State Housing Authority, and Maine Emergency Management Agency to join efforts to contract with motels and hotels to provide non-congregate shelter;
- Work with the state and through their general assistance offices to help people who need shelter access motel and hotel rooms, as well as short term rentals and permanent housing;

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<sup>4</sup> See *Housing Not Handcuffs*, Report, National Law Center on Homelessness & Poverty, 2019, <https://nlchp.org/housing-not-handcuffs-2019/>.

<sup>5</sup> See Mark Price, *Study: Charlotte's apartments for homeless save money*, Charlotte Observer, March 24, 2014, [www.charlotteobserver.com/news/local/article9106181.html](http://www.charlotteobserver.com/news/local/article9106181.html).

- Work with private and public universities to use empty dorm rooms to provide stable housing for unhoused persons; and
- Provide incentives to induce providers of short-term rentals to house people experiencing homelessness.

## Law Enforcement

Municipalities should work with law enforcement agencies across Maine to place an immediate moratorium on enforcement of laws or policies criminalizing homelessness. These laws are ineffective at reducing homelessness, wasteful of public resources, and sometimes unconstitutional.<sup>6</sup> But, during the COVID-19 crisis, these laws also risk sending more people to detention settings where the risk of community spread is extremely high.<sup>7</sup> Below are two areas that call for special emphasis: arrests and encampment sweeps.

### I. Arrests

We urge municipalities to refrain from arresting and harassing unhoused people for resting and sheltering in public space or for engaging in life-sustaining activities in public spaces given the non-availability of private spaces. Community public health relies on the recognition and protection of individuals' civil and human rights. Steps taken to prevent the criminalization of homelessness are necessary to curb the spread of the virus and to protect against avoidable hospitalization and death among both housed and unhoused people.<sup>8</sup>

People experiencing homelessness suffer higher-than-average rates of Substance Use Disorders (“SUD”) and mental and behavioral health disorders. Combined with the fact that unhoused people lack the resources and privacy to shield their activities from public view, they have historically endured police contact, arrest, and incarceration at above-average rates. Yet, SUD and mental illness call for responses rooted in public health expertise, not criminal law. This is truer now than ever before as relying on arrests and detention carries graver consequences.

Municipalities can prevent criminalizing homelessness and better meet public health needs by:

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<sup>6</sup> In September 2018, the Ninth Circuit Court of Appeals ruled that “the Eighth Amendment prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter.” *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018). The Court stated, “as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.” On December 16, 2019, the Supreme Court declined to review the 9th Circuit’s decision, leaving the ruling in place, making it the law of the land in the 9<sup>th</sup> Circuit and persuasive precedent elsewhere.

<sup>7</sup> See *Responses to the COVID-19 Pandemic*, Prison Policy Initiative, April 09, 2020, <https://www.prisonpolicy.org/virus/virusresponse.html>.

<sup>8</sup> The National Law Center on Homelessness and Poverty, an organization dedicated to ending and preventing homelessness, has published numerous reports that describe the negative impact of criminalization policies on public health. One of these reports is *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness*; it is available here: <https://nlchp.org/housing-not-handcuffs-2019/>

- Following CDC recommendations to provide and maintain portable toilets, handwashing stations, and accessible public health information in public areas frequented by people experiencing homelessness (such as near community meal sites, food pantries, health care providers, bus stops, and public parks and squares) and near encampments;
- Facilitating strong coordination with health care and social service providers to ensure people staying in shelters or outside are supported to shelter in place by providing continuous access to needed medical and behavioral health care and harm reduction supplies and practices.

## II. Encampments

The CDC advises that communities should not clear encampments unless the community can provide individual housing units for those displaced.<sup>9</sup> The rationale for this recommendation also applies to clearance of vehicle shelters through towing and impoundment. Unless unsheltered individuals and families are supported to move into stable housing, vehicles, tents, and other sleeping spaces represent many unhoused persons' best options for sheltering in place and social distancing.

Displacing encampment residents from their private tents and vehicles – where they can self-isolate – to congregate shelters will increase congestion and can increase transmission of COVID-19. Instead, municipalities should focus on supporting public health practices and sanitation and hygiene infrastructure in encampments and public spaces.

### **Stakeholder Collaboration**

We encourage municipalities to support collaboration between public health departments, social services, law enforcement, and nonprofits to ensure network-wide communication and coordination that prioritizes the rights, health, and safety of people experiencing homelessness. In addition, through the state of emergency it is critical that municipalities ensure public health and social service policies and procedures meet state requirements, are clearly written for staff and public consumption, and are uniformly implemented to protect against increased bias and discrimination.

### **General Assistance**

The best method for addressing the public health concerns related to unsheltered homelessness is to provide people access to stable housing, either through motel, hotels, short-term rentals, or permanent housing. Transitioning people into individual housing units is the best practice and

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<sup>9</sup> Responding to Coronavirus Disease 2019 (COVID-19) among People Experiencing Unsheltered Homelessness, Interim Guidance, March 22, 2020, [www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fhomeless-shelters%2Funsheltered-homelessness.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fhomeless-shelters%2Funsheltered-homelessness.html)

would ensure they can practice social distancing and access adequate sanitation, health care, and other basic needs.

One tool that municipalities can use to accomplish this is General Assistance (“GA”). Unfortunately, in many municipalities, people:

1. are being turned away when they attempt to apply;
2. endure long wait periods when calling GA or the DHHS hotline number;
3. are not able to get State intervention through the DHHS hotline number; and
4. face wrongful denials.

Barriers to GA cause vulnerable people to go without the resources they need to get and remain in stable housing.

We have received troubling reports from advocates working with people who are in immediate need of shelter and housing assistance. In multiple cases, advocates had to lobby to get municipalities to receive emergency applications from people experiencing homelessness and, when found eligible, for municipalities to pay for individuals to stay in a motel when no other shelter options were available.

In other cases, people have continued to face barriers to housing and shelter even after receiving GA. Many motels and hotels have reportedly refused to accept GA. We therefore urge municipalities to pressure and incentivize the motel and hotel industry, including short term rental providers, and support people experiencing homelessness to access all available shelter options to help stem the spread of COVID-19.

## **Conclusion**

The recommendations in this letter are necessary for the current crisis, but they are also best practices for the long term, from both a public health and fiscal policy perspective. We all share the goal of a Maine without homelessness.

We appreciate your attention to this pressing issue.

Sincerely,

American Civil Liberties Union of Maine  
Criminology Department at the University of Southern Maine  
Disability Rights Maine  
Gateway Community Services  
GLBTQ Legal Advocates & Defenders (GLAD)  
Health Equity Alliance of Maine  
Homeless Advocacy for All  
Homeless Voices for Justice

Immigrant Legal Advocacy Project  
Maine Association of Criminal Defense Lawyers  
Maine Center for Economic Policy  
Maine Coalition to End Domestic Violence  
Maine Coalition Against Sexual Assault  
Maine Democratic Socialists of America  
Maine Drug Policy Alliance at Colby College  
Maine Family Planning  
Maine Immigrant Rights Coalition  
Maine People's Alliance  
Maine Prisoner Advocacy Coalition  
Maine Prisoner Re-Entry Network  
Maine Women's Lobby  
Mano en Mano  
People's Housing Coalition of Portland  
Planned Parenthood of Northern New England  
Portland Outright  
Preble Street  
Southern Maine Workers' Center  
Up With Community