

# HOUSING NOT HANDCUFFS

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## e-news update

June-July 2021

**Dear Supporters and Endorsers of the Housing Not Handcuffs Campaign,**

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#HNH  

Thank you so much for your continued support. We appreciate your partnership while we advocate on behalf of people experiencing homelessness. We acknowledge that as much of the country is ready to turn the page on the COVID-19 pandemic, people experiencing homelessness and people at risk of homelessness still experience hardships.

If you have submissions for the next newsletter, please fill out [this Google form](#) by **August 4th**.

The CDC eviction moratorium is expected to expire on [July 31, 2021](#), with no further extensions. Despite the availability of [federal emergency rental assistance](#), we anticipate a significant wave of evictions in August. Though many communities seek to end hotel programs for people experiencing homelessness, congregate shelter facilities still pose a threat, as they may [struggle](#) to contain COVID-19 outbreaks because of the extremely contagious Delta variant. Additionally, [unprecedented heat waves](#) in the Pacific Northwest and across the Southwest United States have created [lethal conditions](#) for people experiencing unsheltered homelessness.

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Though the present situation may seem bleak at times, there are still reasons to be optimistic. There has been significant momentum at the federal level regarding the right to affordable housing. In June, Representatives Jayapal and Meng reintroduced the

["Housing is a Human Right Act."](#) Representative Waters, chair of the House Financial Services Committee, also hosted a [congressional hearing](#) in anticipation of her proposed "Ending Homelessness Act," legislation that would make housing vouchers universally available. President Biden even [confirmed](#) that housing will be included in a reconciliation bill amid the infrastructure package.

[Keep encouraging your friends, colleagues, and elected officials to endorse.](#) Please check out our new COVID-19 page at [nlchp.org/coronavirus](http://nlchp.org/coronavirus) for recommendations and resources. Be on the look out for future communications from the campaign.

## Campaign Updates

### Legislative Updates

#### ***Housing is a Human Right Act of 2021***

On June 8, U.S. Representatives Pramila Jayapal (WA-07) and Grace Meng (NY-06), introduced the [Housing is a Human Right Act of 2021](#), a bill to "address and end root causes of homelessness; transition communities towards providing housing for all; and ensure full democratic participation of persons experiencing homelessness."

The Housing is a Human Right Act will authorize more than \$300 billion for crucial housing infrastructure to reduce homelessness across America and would invest more than \$200 billion in necessary affordable housing and support services. Additionally, the bill puts forward \$27 billion a year for homelessness services, provides \$100 million a year for community-driven alternatives to criminalization of those experiencing homelessness, and makes targeted investments in communities at disproportionate risk of homelessness.

As stated by Rep Jayapal in a [press release](#) issued by her office, "[e]xperiencing homelessness is not a moral failure of individuals, but a structural failure on the part of a country that has long refused to make safe and affordable housing a priority. The crisis of housing instability is human-created but that means we can fix it—and we must."

Congresswoman Meng, who introduced the bill with Representative Jayapal, affirmed that "[h]ousing is a human right, and everybody in our country deserves a safe and affordable place to live."

The National Homelessness Law Center has [worked with](#) Representative Jayapal to develop the Housing is a Human Right Act. "To effectively address the dual crisis of homelessness and housing instability, we must implement the human right to housing, and we believe this bill will do that," said Antonia Fasanelli, Executive Director at the National Homelessness Law Center. "We

hope the Housing is a Human Right Act propels more lawmakers to discuss the homelessness crisis, housing affordability, and combating the criminalization of homelessness.”

### ***Ending Homelessness Act of 2021***

Representatives Maxine Waters (CA-43), Emanuel Cleaver (MO-05), and Ritchie Torres (NY-15) introduced a [discussion draft](#) of the Ending Homelessness Act of 2021. Though it has not been formally introduced, the Ending Homelessness Act will emphasize universal housing vouchers as one of its key provisions. The Ending Homelessness Act is [expected](#) to propose a universal housing voucher program, direct \$10 billion to build affordable housing, and ban discrimination based on source of income and veteran status by landlords against voucher holders.

Congresswoman Waters released the discussion draft after leading the U.S. House Committee on Financial Services’ [virtual hearing](#) on universal vouchers on June 9, 2021. The hearing featured several expert voices including Ann Oliva of the Center on Budget and Policy Priorities, Mary Cunningham of the Urban Institute, Ben Metcalf of the Turner Center for Housing Innovation, and Chancela Al-Mansour of the Housing Rights Center. These speakers highlighted the negative effects of housing discrimination based on source of income, the need for improvement in the annual Point-In-Time counts, and the dire necessity to provide housing vouchers to families with back rent who are at risk of experiencing homelessness, especially once the eviction moratorium ends. At the [conclusion of the hearing](#), Congresswoman Waters emphasized “the need to move forward urgently on legislation to make Housing Choice Vouchers universally available.”

The Law Center has met with Congresswoman Waters’ staff and offered suggestions and language to combat the criminalization of homelessness for this bill. We look forward to the official introduction of the Ending Homelessness Act.

## **Litigation Updates**

### ***Motion for Preliminary Injunction Granted in Warren v. City of Chico***

In *Warren v. City of Chico*, plaintiffs challenged ordinances in the City of Chico that targeted people experiencing homelessness for “sleeping, sitting, lying, resting and simply existing in the City of Chico.” Because of these ordinances, people experiencing homelessness were subject to criminal prosecution anywhere in Chico for existing outside.

Chico is under the jurisdiction of the Ninth Circuit, which ruled in [Martin v. Boise](#) that the 8th Amendment prohibits criminalizing a person experiencing homelessness for sleeping outside when there is no alternative to doing so. In response, Chico constructed an outdoor temporary shelter facility at the Chico Municipal Airport. The City alleged that this shelter facility was sufficient to accommodate people experiencing homelessness in Chico and satisfied its *Martin* requirements.

Judge England rejected Chico's argument and found that the airport facility did not constitute "practically available shelter." Because of this, Judge England

granted the motion for preliminary injunction, as there were insufficient shelter options in Chico to fully house the city's homeless population. In obtaining this injunction, Housing Not Handcuffs endorser [Legal Services of Northern California](#) received clarification that an outdoor lot where people are allowed to erect tents does not necessarily satisfy a community's *Martin* requirements.

### ***Amicus Brief Filed in Blake v. City of Grants Pass***

In [Blake v. City of Grants Pass](#), a class of homeless plaintiffs represented by the [Oregon Law Center](#) successfully challenged a combination of city policies that punish unhoused people for resting and taking necessary steps to stay warm and dry in public space even though Grants Pass lacks an emergency shelter. The U.S. District Court for the District of Oregon found that Grants Pass' policies violate the Eighth Amendment's Cruel and Unusual Punishments clause. This case is the first to clarify that the Eighth Amendment, as interpreted in [Martin v. City of Boise](#), prohibits cruel and unusual punishment whether the punishment is designated as civil or criminal.

The case is currently on appeal to the Ninth Circuit, and the Law Center joined with the [National Coalition for the Homeless](#) and the [Homeless Rights Advocacy Project](#) to submit an amicus brief in support of Plaintiffs-Appellees. The amicus brief, prepared with pro bono support from [Dechert LLP](#), argues that Grants Pass' policies punish involuntary homelessness, jeopardize public health and safety, and worsen the homelessness crisis while wasting public resources. The Law Center also joined with the [University of Miami School of Law Human Rights Clinic](#) and Leilani Farha, former United Nations Special Rapporteur on the Right to Adequate Housing, to submit an amicus brief arguing that punishing homelessness violates fundamental human rights.

If summary judgment is affirmed on appeal, this case will build on the success of *Martin v. City of Boise*—precedent established in litigation by the Law Center, [Idaho Legal Aid](#), and [Latham & Watkins](#)—to limit punitive approaches to homelessness and, instead, encourage constructive solutions to the crisis.

### ***Amicus Brief Filed in Support of 10th Circuit Denver Homeless Out Loud Injunction***

In [Denver Homeless Out Loud v. Denver](#), Denver Homeless Out Loud and a group of people experiencing homelessness represented by [Kilmer, Lane, & Newman, LLP](#) successfully obtained a preliminary injunction to stop Denver from conducting sweeps of homeless encampments without at least 48-hours' advance notice, even when Denver alleges a public health justification for the sweep. Denver appealed the order to the Tenth Circuit.

On June 16, 2021, the Law Center, with support from visiting law professor Joseph Mead, submitted an amicus brief in support of Plaintiffs-Appellees. The brief argues that Denver's practice of conducting sweeps of homeless encampments without advance notice violates due process under the Fourteenth Amendment and results in erroneous and harmful deprivation of homeless people's survival gear and other personal property. The brief also argues that the injunction is in the public interest because Denver's sweeps practice threatens public health and wastes public resources in the process.

If the preliminary injunction is upheld on appeal, it will establish critical new precedent in the Tenth Circuit to protect the basic rights of homeless people.

## Federal Policy Updates

### **Supreme Court Allows CDC Federal Eviction Moratorium to Remain Until 7/31**

The Biden Administration extended the Centers for Disease Control & Prevention (CDC) eviction moratorium, which was going to expire at the end of June, to July 31, 2021. In doing so, the Biden Administration expressed that it was [not planning to extend](#) the moratorium further. Before the moratorium expires, the Biden Administration is working to distribute critical [emergency rental assistance](#) that has been authorized during the pandemic.

There have been several challenges to the CDC's authority to instate a national eviction moratorium. On May 5, 2021, the U.S. District Court for Washington, D.C. [ruled](#) that the CDC overstepped its statutory authority in issuing the moratorium, but on May 14, 2021 [granted](#) a motion that would stay its initial ruling and keep the eviction moratorium in effect throughout the appeals process. On June 2, 2021 the U.S. Court of Appeals for D.C. [ruled](#) to keep this stay in place.

The Supreme Court of the United States reviewed this decision to keep the stay in place. On June 29, 2021, the Supreme Court [ruled](#) 5-4 to keep the stay in place until it naturally terminates on 7/31. Significantly, the Supreme Court did not rule on the validity of the program—this ruling and the holding on 6/2 by the U.S. Court of Appeals for D.C. were in response to a motion to vacate the stay and immediately terminate the program. Justice Kavanaugh, who issued the fifth vote to keep it in place, wrote this [concurring opinion](#). In this opinion, Justice Kavanaugh stated that the CDC overstepped its authority in issuing the eviction moratorium, but because it will end naturally in a few weeks and those few weeks are crucially important, he will allow the moratorium to stay in place.

Though Justice Kavanaugh's opinion gives us room to speculate how the Supreme Court would rule on the validity of the CDC's eviction moratorium, the ruling should assuage concerns that the moratorium will be prematurely canceled before its termination date on 7/31.

### **CDC Offers Further Guidance Regarding "Considerations for a Long-Term Infection Prevention Strategy for People Experiencing Unsheltered Homelessness"**

For most of the pandemic, the Centers for Disease Control & Prevention (CDC) has issued a [recommendation](#) that "if individual housing options are not available, allow people who are living unsheltered or in encampments to remain where they are." We advocated for this language and have relied on this guidance in much of our local advocacy, such as when submitting letters to local city councils conducting sweeps of homeless encampments in violation of this guidance. On June 7, 2021, the CDC included additional [recommendations](#) regarding long-term guidance for infection prevention, including but not limited to COVID-19 prevention.

Specifically, the CDC recommendeds that communities consider the availability of housing in the community before conducting an encampment sweep. Additionally, the CDC recommends that adequate sanitation and access to medical care should always remain available.

The guidance reads: “Any modifications to approaches to encampments or people experiencing unsheltered homelessness should be conducted with an awareness of housing availability and homeless service capacity. Closing encampments can lead people to disperse and result in increased crowding at other encampments or in shelters, which can increase the risk of spreading infectious disease, including COVID-19. Encampment disbursement should only be conducted as part of a plan to rehouse people living in encampments, developed in coordination with local homeless service providers and public health partners.”

These changes were welcome. Advocacy regarding COVID-19 specific guidance inevitably had a shelf life, so the CDC’s long-term guidance—that is not just to contain and prevent the spread of COVID-19—will be valuable moving forward.

### ***Letter from Associate Attorney Vanita Gupta Encouraging Eviction Diversion***

On June 24, 2021, United States Associate Attorney General Vanita Gupta circulated a [letter](#) to state courts across the country encouraging them to implement eviction diversion strategies. In this letter, ASG Gupta acknowledges the millions of Americans currently behind on rent and whom will likely face eviction after the expiration of the CDC eviction moratorium. She also acknowledges the disproportionate effect evictions have on women and people of color.

ASG Gupta recommends that courts adopt the following specific diversion steps: 1) require landlords to apply for rental assistance before filing for eviction; 2) extend time in pending cases so that litigants can apply for federal rental assistance; 3) modify summonses and other form filings to alert litigants of eviction diversion programs and available rental assistance; and 4) partner with Community-Based Organizations and Legal Services Providers to raise awareness of available rental assistance and to ensure that people are offered the necessary assistance.

## Announcements

### **Biden Affirms That Housing Will Be Part of Reconciliation Process**

President Biden affirmed his commitment to housing and [confirmed](#) to House Financial Services Committee Chairwoman Maxine Waters that housing funding will be included as part of the Reconciliation Budget Process.

## **Bring America Home Now: A Comprehensive Grassroots Campaign to End Homelessness in the U.S.**

[National Coalition for the Homeless](#) spearheaded the launch of the [Bring America Home Now](#) Campaign. Led by people who have themselves experienced homelessness, the Campaign will focus on the passage of federal legislation aimed at addressing the interconnected solutions to the decades-long epidemic of homelessness in the United States. The Law Center helped kick off the campaign during its virtual launch event on June 17, 2021. Please consider endorsing the campaign [here](#).

## **Multiple Letters Sent to Communities to Combat Criminalization of Homelessness!**

Each week, the National Homelessness Law Center, often in partnership with local advocates and partners, submits letters to local governments across the country, contesting proposed ordinances criminalizing homelessness and planned sweeps. Click [here](#) to keep up with the Law Center's impact.

## **Stay Up to Date!**

Check out the [Law Center in the News](#) section of our website to see coverage of our staff and of our work in communities across the country. Additionally, make sure to subscribe to our organizational news letter [In Just Times](#), to see any [op-eds](#) and [press releases](#) from the Law Center, and our [social media](#)!

## **HNH Campaign / Organizational Resources**

This [one pager](#) provides an overview of the HNH Campaign and outlines concrete ways for people to get involved. It also includes a fact sheet on the criminalization of homelessness. This tool is useful to share with people who are already familiar with homelessness issues and are looking for more information about the HNH Campaign. Additional resources can be found [here](#).

For more information on applying for FEMA reimbursement for non-congregate shelter, watch NLIHC's informative webinar [here](#). Additionally, please refer to our [FEMA Fact Sheet](#).

To see our evaluation of recommendations made to the Biden-Harris Administration, check out our [First 100 Days Scorecard](#).

Resources, news, and initiatives by the Law Center regarding Coronavirus can be found at our Coronavirus [hub](#).

## **Campaign Branding**



We encourage campaign endorsers to link relevant events to the national Housing Not Handcuffs campaign. Please see the guidelines for branding your materials [here](#).

**HOUSING**  
**NOT HANDCUFFS**



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