

# HOUSING NOT HANDCUFFS

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## e-news update

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March 2021

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

**Follow on social media**

#HNH  

Thank you so much for your continued support. We have appreciated your patience as we have continued to advocate on behalf of people experiencing homelessness during the COVID-19 pandemic. We should be resuming regular issue of these publications.

If you have submissions for the next newsletter, please fill out [this Google form](#) **by April 21st.**

These past several months have been intense and tiring. We have seen a presidential transition and a siege on the U.S. Capitol. It is clear that we as a country and as individuals must come together to advance racial equity and to reject the white supremacy and privilege that fueled the Capitol Riot. Nonetheless, [commitments](#) by the Biden Administration and [legislative support](#) for people experiencing homelessness give us hope.

COVID-19 continues to plague the world, but the development and distribution of the many vaccines gives hope. Many communities are even prioritizing people experiencing homelessness as they distribute vaccines. Throughout the pandemic, we have witnessed unprecedented social distancing, widespread shut-down of schools and non-essential businesses, and significant uncertainty. FEMA has [reimbursed](#) communities for the costs associated with placing people experiencing homelessness in non-congregate shelter like individual hotel rooms, and has recently affirmed they would reimburse at [100% cost-share](#). Unfortunately, communities across the country continue to enforce punitive

sweeps and propose ordinances that would criminalize people experiencing homelessness.

[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. For additional updates on the Law Center, please refer to our organizational newsletter "[In Just times](#)" at and any [Press Releases](#). Be on the look out for future communications from the campaign.

## Campaign Updates

### Expanded FEMA Reimbursement for Communities Serving People Experiencing Homelessness by Offering Non-Congregate Shelter Like Individual Hotel and Motel Rooms

The Federal Emergency Management Agency ("FEMA") has recently approved waivers of both its 30-day renewal and 25% match requirements after a January 21, 2020 [executive order](#) from President Biden, offering [100% reimbursement](#) funding for non-congregate shelter for the duration of the pandemic.

On March 31, 2020, FEMA first issued a [press release](#) recognizing non-congregate sheltering as an important tool to combat COVID-19. Here, 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.** While FEMA indicated a path for state-wide approval of non-congregate shelter, communities 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.

On February 3, 2021, FEMA issued a [press release](#) which expanded its previously issued support for communities using non-congregate housing to combat COVID-19. First, FEMA will 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. This is a perfect opportunity for communities to apply to take advantage of FEMA's expanded reimbursement policy so as to open funds to individually house all people

experiencing homelessness for the duration of the pandemic at no local cost. To apply, communities will need to rely on a state or local public health order, or work with the corresponding public health agencies to issue an order.

By definition, people experiencing homelessness are at an increased risk of contracting COVID-19 or experiencing worse COVID-19 outcomes because they are less able to self-isolate. Transitioning people into individual housing units, such as the many vacant hotel rooms now available, is the best practice and would ensure they would be able to effectively socially distance themselves and have access to adequate sanitation, as well as be easily accessible to health care and other service providers.

Communities can look to states like [Vermont](#) and [Connecticut](#) when crafting their response, which have relied on FEMA reimbursement to support efforts for non-congregate housing. Additionally, [California](#) relied on FEMA reimbursement when working to procure hotel and motel rooms to safely isolate people experiencing homelessness and reduce the risk of COVID-19 spread.

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](#).

## Litigation Successes

### ***Settlement Reached in Martin v. Boise!***

In 2019, the [U.S. Ninth Circuit Court of Appeals](#) determined that people experiencing homelessness cannot be criminally punished for sleeping outside if there is no shelter available. The [National Homelessness Law Center](#), which filed the case in 2009 with co-counsel [Idaho Legal Aid Services](#) and [Latham & Watkins LLP](#), hails this decision as being essential to propose and implement constructive alternatives—instead of continuing to criminalize homelessness.

On February 8, 2021, a settlement was reached in *Martin v. Boise*, ending over 12 years of litigation. This settlement embodies important steps towards protecting the rights of unsheltered residents in Boise—and towards real solutions to end homelessness in the City. The City is updating two ordinances to protect people experiencing homelessness from being arrested, imprisoned, or fined for sleeping or camping outside if no overnight shelter is available to them. The City is also dedicating \$1.3 million in additional funds to serve Boise's homeless community; at least one-third of which shall be committed to rehabilitating or creating additional overnight shelter space. The parties have also agreed to continue working together to ensure that individuals experiencing homelessness within the City have needed access to resources, services, and—where appropriate—medical and mental health care.

### ***Ordinances Restricting Panhandling Found Unconstitutional in Fall River, MA, Jacksonville, FL, and Chicago, IL!***

In *Massachusetts Coalition for the Homeless v. City of Fall River*, two people experiencing homelessness sued the City of Fall River. The two plaintiffs had collectively been cited over 40 times by the Fall River Police Department pursuant to alleged violations of G.L. c. 85A, § 17A. §17A made stopping a vehicle for the purpose of “soliciting any alms” an offense subject to a \$50 fine. The plaintiffs argued that §17A was unconstitutional because it was a content-based restriction on protected speech. For example, the statute specifically penalized persons for stopping a vehicle and requesting personal charity but not for asking for directions.

The Law Center in partnership with the Mintz Law Firm submitted an amicus curiae brief in support of the plaintiffs. In this brief, the Law Center explained the state of homelessness in the United States, described the general increase in laws criminalizing homelessness across the country and in Massachusetts, argued that criminalizing homelessness is cruel and ineffective, suggested alternatives to criminalizing homelessness like providing housing, and identified other instances of courts across the country striking down statutes restricting panhandling like §17A as unconstitutional.

The Massachusetts Supreme Judicial Court struck down the statute in its entirety on December 15, 2020. In its [slip opinion](#), the Court acknowledged the Law Center’s amicus curiae as influential in its decision. We are proud to have participated in this legislation and are excited to have contributed to a victory preserving the rights of people experiencing homelessness in Fall River.

Additionally, the Law Center in partnership with Southern Legal Counsel [obtained a First Amendment victory](#) in Jacksonville, FL. In *Vigue v. Shoar*, the U.S. District Court for the Middle District of Florida has declared Florida Statutes [316.2045](#) and [337.406](#)—which prohibit the solicitation of charitable contributions on Florida roadways except by charitable organizations or when a local government permit has been issued— unconstitutional. The plaintiff, Peter Vigue, was repeatedly arrested by the St. Johns County Sheriff’s Department and the Florida Highway Patrol (FHP)—and spent time in jail for violating these statutes—by holding up signs with “God bless. Be safe.” and asking for help along the roadside. On October 12, 2020, summary judgment was granted for the plaintiffs, declaring the two statutes facially unconstitutional under the First and Fourteenth Amendments, and enjoining the Sheriff from enforcement. The Defendant filed an appeal in the 11th Circuit. We submitted a response to the appeal on February 26, 2021, and are awaiting a response.

Finally, advocates in Chicago, IL [obtained a permanent injunction](#) against a similar ordinance on January 11, 2021. Two men experiencing homelessness in Chicago “were charged under an Illinois statute that makes it a misdemeanor to stand on a median to solicit contributions.” A Chicago federal district court [issued a permanent injunction](#) prohibiting enforcement of the unconstitutional ordinance. Lawyers from the ACLU of Illinois, the Chicago Coalition for the Homeless, and the Chicago office of Schiff Hardin represented the plaintiffs.

***Open Lodging Ordinance Ruled Unconstitutional in Ocala, FL***

The ACLU of Florida, Southern Legal Counsel, and pro bono attorney Andy Pozzuto [filed a federal class action](#) lawsuit against the City of Ocala challenging the “city’s use of police practices and arrests under unconstitutional ordinances and policies to criminalize people experiencing homelessness for engaging in necessary, life-sustaining conduct essential to survival.” [Specifically](#), people experiencing homelessness were arrested under Ocala’s “open lodging ordinance for sleeping outside and experiencing homelessness.”

[Under Ocala’s enforcement](#), a homeless plaintiff spent almost seven months in jail and through fines and collection fees was wringed by the city for over \$4,000. The plaintiffs presented evidence showing that as a class 264 people experiencing homelessness in Ocala “were arrested and sentenced to 5,393 nights in jail and assessed more than \$300,000 in court costs for open lodging.”

The Court ruled with the plaintiffs and found this practice to be unconstitutional, heavily relying on the ruling in *Martin v. Boise*. The court [enjoined](#) the city from “arresting, citing, or otherwise enforcing the open lodging ordinance against someone identifying as homeless,” before inquiring about the availability of shelter space. As a result of the ruling, the City of Ocala can no longer arrest those experiencing homelessness under the ordinance without first looking into the availability of shelter space.

“As long as there are a greater number of homeless individuals than the number of available beds in shelters, cities are prohibited from prosecuting individuals for involuntarily sleeping in public. Courts across the country have recognized this and cities should immediately conform their practices to adhere to these basic constitutional principles,” said Jacqueline Azis, staff attorney at the ACLU of Florida. We thank the Southern Legal Counsel, the ACLU of Florida, and pro bono attorney Andy Pozzuto for their hard work in this case.

## **Federal Policy Updates**

Under the Biden Administration, there have been several substantial changes that uplift people experiencing homelessness, people at risk of experiencing homelessness, and those advocating on their behalf. The Law Center and other housing advocates celebrate these victories and look ahead with anticipation for further changes at the federal level and an end to homelessness once and for all.

### ***American Rescue Plan Act of 2021***

On March 11th, Congress passed President Biden’s [American Rescue Plan](#). In this bill, Biden took his first steps to fulfill his campaign promise of making [housing a human right](#). The American Rescue Plan [allocates \\$21.6 billion](#) in emergency aid for low-income renters who have lost income or are otherwise experiencing hardship due to COVID-19 and risk losing their housing. It also provides \$5 billion for Housing Choice Vouchers for people exiting homelessness and renters at greatest risk of homelessness if they lose their current housing. An additional \$5 billion is being provided for homelessness

assistance through the HOME Investment Partnerships Program. Biden has also directed incoming Department of Housing and Urban Development Secretary Marcia Fudge to lead a task force on making housing a right for all.

### ***Extension to Federal Eviction Moratorium***

President Biden also extended the [federal eviction moratorium](#) to March 31, 2021, offering an additional few months of relief for struggling renters at risk of eviction during the winter months. However, even this extended date is quickly approaching. While extending the federal eviction moratorium was a critically important step, it is insufficient to fully protect renters. The National Homelessness Law Center joined the National Low Income Housing Coalition and over 2,000 other organizations across the country in a [letter](#) sent to President Biden that outlines the necessary additional steps that must be taken to protect renters.

### ***New Executive Director at USICH***

President Biden appointed [Anthony Love](#) to head the United States Interagency Council on Homelessness. Appointed by former President Trump, Robert Marbut, the previous executive director of USICH rejected the Housing First model considered by many experts to be the most effective way to end homelessness.

### ***Federal Diversity Trainings***

President Biden [rescinded](#) a harmful executive order by the Trump Administration that prohibited the federal government and federal contractors from participating in diversity trainings on systemic racism, racial equity, and gender equity. In doing so, President Biden “reaffirm[ed] the federal government’s commitment to diversity, equity and inclusion, and accessibility.”

### ***Public Charge Rule Permanently Blocked!***

On March 10th, Donald Trump’s Public Charge Rule was [blocked permanently](#) at the national level. The [Public Charge Rule](#) would have prevented legal immigrants and their families from pursuing permanent residency if they or someone in their household legally uses federal public assistance programs including Medicaid, nutrition-related resources, or subsidized housing.

## **Connecticut Human Right to Housing Bill**

On March 4th, the Connecticut Committee on Housing held a [public hearing](#) on S.B. 194—a landmark piece of legislation expressing the state’s commitment to progressively implement policies to respect, protect, and fulfill a right to affordable, decent, safe, and stable housing. A similar bill passed the Housing Committee last year but lapsed after the unexpected closing of the General Assembly due to the COVID-19 pandemic.

The bill would require state agencies and municipalities to consider the impact on the right to housing when adopting or revising policies and regulations. Although the bill does not direct the state to take specific policy actions to achieve the right to housing, it declares the state’s intention to advance the

right and requires consideration of the right to housing in governmental decision making. The bill would also create a right to housing committee to review the state's overall approach and to identify the needs of populations at greater risk of homelessness, housing insecurity, and their associated impacts.

On March 9th, the [bill passed](#) out of committee with a 12-3 vote. If approved by the legislature, S.B. 194 would make Connecticut the [first state](#) in the country to formally acknowledge the human right to housing. Stay tuned for further updates on the status of this bill.

## Announcements

### **National Homelessness Law Center Appoints New Executive Director!**

Last summer, the Law Center launched a national search for our next Executive Director, and we are pleased to [announce](#) that long-time friend of the organization and homeless and housing rights advocate Antonia Fasanelli has been named. With vast expertise and an incredible reputation in the field, Antonia will carry on the mission passed to her, stepping in as the first Executive Director after 31 years of leadership under Founder Maria Foscarinis. Please consider donating to the [Foscarinis Fund](#), a fund created by the Law Center to honor and commemorate Maria's work. We are incredibly grateful for Maria's leadership, and are excited for our next chapter.

### **National Homelessness Law Center Has a New Address!**

We've moved, but not far! To ensure that Law Center staff can stay safe and keep working remotely, we've moved to a new suite in the same building. Please reach us at: 2000 M St NW, Ste. 750-E. Though we will continue to work remotely, we are able to receive checks and other documents at our new address.

### **Over 3,000 Endorsements!**

Over the summer, the Law Center hosted a webinar series aimed to help advocates promote the needs of people experiencing homelessness during and after the COVID-19 crisis. We are grateful to the over 1,000 new endorsers from the webinar series, and to the over 3,000 public officials, law enforcement and criminal justice professionals, organizations, and individuals from across the nation who have joined their voice with the Housing Not Handcuffs Campaign. All past webinars as well as information for upcoming webinars can be found on our [website](#).

## 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.

## 2020 State Index on Youth Homelessness

The National Homelessness Law Center (the Law Center) and True Colors United are excited to announce the release of the [2020 State Index on Youth Homelessness](#). This is the third consecutive year that these two organizations have come together to evaluate all 50 states and the District of Columbia on their efforts to prevent and end youth homelessness. The 2020 State Index on Youth Homelessness was authored by Brandy Ryan of the Law Center and Dylan Waguespack of True Colors United.

## HNH Campaign 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](#). To stay up-to-date on resources, news, and initiatives by the Law Center regarding Coronavirus, make sure to check 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**

## In the News

Herald Net (3/18/2021) [Everett City Council Passes "No Sit, No Lie" Law in 5-1 Vote](#)

OPB (3/16/2021) [Homeless Advocacy Groups Criticize Medford's Proposed Camping Restrictions](#)

ACLU Delaware (3/8/2021) [ACLU of Delaware Calls for Repeal of Panhandling Statute](#)

City of Boise (2/8/2021) [Settlement Reached in Groundbreaking Martin v. Boise Case](#)

Boulder Daily Camera (1/18/2021) [Boulder City Council to Talk Homelessness, Encampments](#)

Mintz (1/11/2021) [Pro Bono Work at Mintz: Massachusetts Coalition for the Homeless](#)

Phoenix New Times (1/6/2020) [Private Sidewalk Proposal Spurs Concerns About Homeless Crackdown Near Downtown](#)

Street Sense Media (12/16/2020) [Anti-Discrimination Law to Protect People Experiencing Homelessness Dies in Council, Again](#)

Shelterforce (12/8/2020) [In Trump's Lame Duck Period, Nonprofits Still Face "Chaotic" Effect of His Orders](#)

Southern Poverty Law Center (11/24/2020) [Settlement Reached with City of Montgomery in Lawsuit Challenging Criminalization of People Asking for Assistance](#)

Thomson Reuters Foundation News (10/29/2020) [No Address? Voting While Homeless is Challenging in U.S. Election](#)

Ponte Vedra Recorder (10/22/2020) [U.S. District Court Sides with St. Augustine Panhandler](#)



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