

# The Anti-Encampment Ordinance Will Exacerbate Homelessness and Unfairly Penalize Our Community's Most Vulnerable Residents

*"There are some activities so fundamental to human existence that it defies common sense that they might be treated as crimes. Falling asleep, standing still, and sitting down, are all necessary actions for any human being's survival. While ... unquestionably legal when performed indoors, more and more communities across the country are treating these life-sustaining behaviors as criminal acts when performed in public places by people with nowhere else to go."*

- National Law Center on Homelessness & Poverty

As of January 2020, Florida has an estimated 27,487 people experiencing homelessness on any given day (USICH, 2019) – with **Miami-Dade consistently ranking number one for the highest homeless population** (FLHealthCHARTS, 2021). More exposed than ever, the proposed anti-encampment ordinance<sup>1</sup> will place individuals experiencing homelessness and members of our community at a greater risk, directly going against CDC guidelines which declares that **"municipal and government agencies should refrain from clearing homeless encampments due to the risk that presents to the public health"** (Bojnansky et al., 2021). With the homeless protections afforded under the Pottinger Agreement<sup>2</sup> long gone, people who are experiencing homelessness, specifically in Miami-Dade, are yet again targeted (Bojnansky et al., 2021), and subjected to discriminatory and punitive measures.

Punitive measures serve no productive purpose (LA Downtown News, 2019) as people experiencing homelessness are not there by choice, but rather because of a lack of choices. Perpetuating the cycle of homelessness, criminalization laws and policies place additional barriers in the way of escape (Urban Institute, 2020). Specifically, arrests, unaffordable tickets, and other consequences of having a criminal record increase the chances of failing background checks for employment and housing, and often prevent people from qualifying for public benefits, all of which make it more difficult for people to exit out of homelessness (Tars, n.d.). **This new ordinance proposes to impose a \$500 fine and up to 60 days in jail** (Kaiser et al., 2021), **effectively criminalizing homelessness**. In addition to a criminal record, fines and legal fees can amount to significant costs, which left unpaid can result in the suspension of driver's privileges, further criminal penalties and even additional jail time (Tars, n.d.). The added burden of a criminal record and outstanding fees and fines will only make it more difficult for those experiencing homelessness to find employment, secure housing, financial stability and transition out of homelessness. **Thus, an ordinance to effectively ban homelessness only exacerbates the problem.**

**Exactly where will persons without homes be able to sleep? If not the sidewalks, the middle of the street? We do not have enough shelter bed capacity in our community to shelter everyone.** The Lotus House Women's Shelter, by way of example, which is already sheltering up to 500 women, youth and children nightly, is regularly forced to turn away women and children in need due to lack of capacity. The simple fact is that the combined available shelter beds of all the shelters in our community are insufficient for all those persons now regrettably on the street. Having just completed its new and expanded facilities three years ago at a cost of over \$28 Million, with no financial assistance from the City, it is apparent that the capital investment required to actually increase the overall shelter bed capacity of our community is unlikely to be forthcoming

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<sup>1</sup> Proposed Amendment to Chapter 37 of the Code of the City of Miami, Florida, as amended, titled "Offenses-Miscellaneous" to add a new section prohibiting encampments on public property.

<sup>2</sup> Pottinger v. Miami, 810 F. Supp. 1551 (S.D. Fla. 1992) (concluding that the homeless' request for declaratory and injunctive relief, which prohibited police and city from arresting homeless individuals when engaged in harmless activities, shall be granted. Reaching this decision, the Court reasoned that the arrests were cruel and unusual and in direct violation of the Eighth Amendment to the US Constitution, the City had infringed on the fundamental right to travel and the City violated the Fourth Amendment by unlawfully seizing and destroying the personal property of homeless individuals.)

any time soon. Indeed, the funds needed to run our existing shelter system are woefully wanting and inadequate.

Moreover, **the right to use and move freely in public places should not be based on housing status, and the personal property of people experiencing homelessness should not be subject to unreasonable searches and seizures** (Housing Not Handcuffs, 2017). Anti-encampment ordinances cannot solve this public health issue because there are inadequate shelter beds in our community wide system. Struggling to keep their sheltered guests safe and doors open with rising costs of operating, shelters are experiencing hardships. In the wake of this ongoing pandemic, shelters are extremely underfunded as additional financial resources are desperately needed to maintain basic operations, food and meals, supportive services, and safety for our most vulnerable community residents. If the City is concerned about homelessness, it needs to invest more deeply in the shelter system and related financial resources to end homelessness to assure safe shelter in times of need and swift successful transitions to housing as persons exit to housing.

**This anti-encampment ordinance neglects the larger issue – the universal cause of homelessness is the lack of truly affordable housing** (WRAP, 2010). Individuals experiencing homelessness are merely engaging in life-sustaining activities and, therefore, should not be targeted and disproportionately penalized when there is limited access to truly affordable housing. A home is as fundamental to the dignity, health, wellbeing and prosperity of children and families as food, education and health care, and should be recognized as a fundamental human right. Combined with pervasive historical and persistent racial and ethnic discrimination, gender based violence, disparities in access to health/mental health care, education and meaningful employment opportunities, the lack of affordable housing and safe, supportive shelter renders many in our community suffering the ravages of homelessness on our streets. Left with the most basic needs (i.e. food, shelter, clothing, etc.) unmet, people experiencing homelessness are simply trying to survive. Making life more difficult for those on the street only exacerbates homelessness rather than contributing to its resolution. Blaming the victim is not the solution. **Rather than proposing ways to punish people for engaging in life sustaining activities, the conversation needs to be shifted to real world, practical solutions like greater financial assistance, supportive shelter with deep protective factors, a safe downtown drop in center to connect those in need to supportive services, truly affordable housing, and community based resources that can actually help bridge the gap and allow people to successfully exit out of homelessness.**

Supporting this anti-encampment ordinance based on the claims that residents are unable to maneuver through sidewalks (Kaiser et al., 2021), blatantly fails to realize that people experiencing homelessness are our residents too. By prioritizing the needs of one resident over another because of housing status and aesthetics, **this ordinance not only fails to address this public health crisis, but ultimately contributes to homelessness making it more difficult for those in need to end homelessness. It dehumanizes our most vulnerable neighbors and fails to recognize our responsibility as a community to provide adequate resources for those in need.**

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