

Protect Unhoused Californians from COVID-19

On March 4, 2020, California Governor Gavin Newsom issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, "Shelter in Place", ordering all California residents to "stay at home or in their place of residence" State and local governments have the obligation to provide shelter for those who do not have it and to offer basic services to enable all of us to shelter in place in a manner that promotes the physical, emotional and mental well-being, public safety and welfare objectives of these mandates. Therefore, the National Lawyers Guild, San Francisco Bay Area Chapter is demanding that state, county and city municipalities take action now to protect and care for unhoused people and people who are housed but vulnerable, unsafe and/or without resources from COVID-19 and related isolation, deprivation and harm. This is the responsibility of the government at all times but particularly urgent during a State of Emergency. We also demand these decision-making bodies do everything in their power to prevent additional people becoming homeless in the face of unprecedented job losses and the economic downturn brought by the pandemic; this includes immediate and full bans on evictions and foreclosures, and the cancellation of rent and mortgage payments while the crisis lasts. Prevention is the best medicine, to borrow from an often used motto of our public health colleagues.

For people who are homeless, Shelter in Place has meant the right that unhoused people have to provide their own accommodations without criminalization or eviction when no other adequate shelter exists.¹

The Coronavirus pandemic makes it clear, beyond question or denial, that the health, fate, lives of all human beings and life on this planet are unavoidably interconnected. As such, the health and survival of all of us depends on protecting the health and lives of all of us, which is both an ethical commitment and a practical reality.

On March 18, 2020, the state of California released 150 million dollars to fund projects for homeless residents.² The governor's executive order specifically called for solutions that bring homeless residents safely indoors and maintain health and safety standards. These and other emergency funds earmarked to alleviate homelessness should be used with these demands in mind.

1. House every single homeless person in a vacant unit now.

California currently has over one million vacant units and hundreds of thousands of empty hotel rooms while an underestimated 130,000 unsheltered residents who are disproportionately elderly, chronically ill, and who have medical and mental health conditions are without homes.

¹ California Right to Rest Act 2018, *available at*

<https://wraphome.org/wp-content/uploads/2018/01/R2R-CA-Legislation-01.05.2018-1.pdf>.

² Cal. Exec. Order N-32-20, *available at* <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.18.20-EO.pdf>.

State and local governments have an obligation to provide housing for those residents experiencing homelessness.³ Despite this obligation and the current public health crisis created by the pandemic spread of Covid-19, the state of California and local governments are doing little to nothing to provide shelter for the unhoused population. Current solutions such as San Francisco's mass congregate shelter at Moscone West will most certainly only aid the spread of Covid-19. Solutions must be as individualized as possible and must allow unhoused residents the dignity and humanity of a place where they can self-isolate according to [state-wide](#) and [CDC guidelines](#).

We call on the state and local governments to house every single unsheltered resident in a vacant housing unit immediately and to make available parking lots, parks, and university dorms for this purpose. Under a State of Emergency, public land, buildings and lots can and must be used for these purposes.⁴ This effort must prioritize those who fall into the high-risk category. State and local governments must also expend emergency funds to secure hotel rooms and make them available immediately, whether or not a resident exhibits symptoms of illness. Each of these solutions must allow residents to bring with them or store their belongings and reside with their pets. Denying unsheltered residents the opportunity to retain their belongings and pets is not only inhumane, but it will make state and local government efforts ineffective. Rightfully, homeless people are unwilling to sacrifice these in exchange for a temporary bed. Whenever possible, residents should be given the option of hotel location and those they want to relocate with.

Moving into housing and living in isolation can be a frightening and even traumatizing experience for people who have been homeless. Therefore, efforts to house people who are homeless in response to the State of Emergency and "shelter in place" order requires trauma-informed wrap around support and services. Personal property that is not moved into housing needs to be itemized and secured for their future access.

2. Stop the Sweeps.

Unsheltered residents living outdoors are at constant risk of harassment by law enforcement, confiscation of belongings by city workers, and orders to move along — when they have nowhere else to go. Under normal circumstances, such conduct by city and state workers is unlawful.⁵ However, during this unprecedented public health crisis, there are known and dire consequences to such enforcement efforts, including exposure to the virus and exposure to the elements. The state of California and local government may not take affirmative steps that put

³ Universal Declaration of Human Rights art. 25, § 1, Dec. 10, 1948. ("Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.")

⁴ Cal. Exec. Order N-32-20 ("the emergency of COVID-19 necessitates a more focused approach, including emergency protective measures to bring unsheltered Californians safely indoors, expand shelter capacity, maintain health and sanitation standards and institute medically indicated interventions[.]; Cal. Gov't Code § 8698.2(b) ("Upon a declaration of a shelter crisis pursuant to subdivision (a), the political subdivision may allow persons unable to obtain housing to occupy designated public facilities during the duration of the state of emergency.")

⁵ *Lavan v. City of Los Angeles*, 693 F.3d 1022, 1032 (9th Cir. 2012)

unhoused residents in danger, including removing or destroying shelters.⁶ Law enforcement may not issue any citation or arrest any unhoused resident for a violation of shelter in place orders when there is no safe place for people to go.⁷ Shelters and other congregated living spaces are not safe during this current public health crisis.

We call for a stop to all homeless sweeps including property confiscation, a moratorium on the enforcement of anti-homeless ordinances, and allowing those without housing to shelter-in-place on all public lands. This includes a moratorium on the confiscation of tents, vehicles or RVs as well as threats of fine and fees. These fees can become a threat to the confiscation of their home, during a shelter in place order.

In connection with finding temporary individual shelter solutions, the state and local governments must implement effective storage solutions and must not force residents to choose between retention of their belongings and a safe place to shelter themselves.

We also call for a stop to all parole and probation checks during law enforcement contacts. Parole and probation violations such as failure to check in with supervising officers must be forgiven given the challenges in staying connected to parole or probation officers during this crisis, particularly for those without mobile communication or access to the internet. Law enforcement must refrain from all unnecessary contact with unhoused residents, including contact predicated on public sitting, lying and sleeping and parking in areas or manners that are not permitted. Where there is a legitimate law enforcement need for contact, all efforts must be made to resolve the situation without taking individuals into custody, as jails are at extreme risk for rapid spread of Covid-19.

3. Provide comprehensive support to those “sheltering-in-place” outside.

Surviving in public space already presents a number of individual and public health risks. During this public health crisis, until all homeless residents are housed, the city should immediately provide:

- Tents,
- Port-a-potties, handwashing stations, and on-site or close-by showers and toilets,
- Distribution of food, water and propane
- Trash pickup,
- Solar phone-charging stations and batteries,
- Medical testing and on-site medical care and/or access to medical facilities, and
- Basic face masks for all people who are homeless and N95 masks for those showing symptoms.

⁶ *Kennedy v. City of Ridgefield*, 439 F.3d 1055, 1062 (9th Cir. 2006) (“[S]tate actors may be held liable where they affirmatively place an individual in danger by acting with deliberate indifference to a known or obvious danger in subjecting the plaintiff to it.” (internal quotations, citations, and modifications omitted)); *Sanchez v. City of Fresno*, 914 F. Supp. 2d 1079, 1101 (E.D. Cal. 2012) (destruction of shelters at onset of winter may be substantive due process violation).

⁷ *Martin v. City of Boise*, 920 F.3d 584, 617 (9th Cir.), cert. denied sub nom. *City of Boise, Idaho v. Martin*, 140 S. Ct. 674 (2019) (“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.”)

Accessibility requires facilities that are in close proximity to where unhoused residents and people living in RVs and vehicles shelter, including installing facilities at encampments. Protective equipment should be made available to all those supporting and providing services to our unhoused communities.

Furthermore, the State, counties and cities, under permissions granted by the State of Emergency, should immediately open up parks and parking lots to provide more sanitary services and centralized places to provide the services above.

4. Protect People in Shelter: Deconcentrate and Stabilize Shelters and Protect Workers.

While the priority is to use all available housing units, including hotels, university dorms and open rental units, public health protections are urgently needed at shelters. Homeless shelters are mass congregate settings, some with more than 300 people where the virus will spread rapidly. Shelters that remain open must adjust their policies to stay open 24 hours a day, add additional meals, and sanitize all shared spaces daily.

We call on the state and local governments to facilitate providing the shelter, resources and services needed to uphold CDC guidelines for unhoused residents in shelters and provide up-to-date information to shelter residents regarding the risk of contracting COVID-19 in these settings.⁸ We are calling on the state and local governments to provide protection to workers providing services and care in these settings, but especially to people who are unsheltered or housed but vulnerable. Personal property that is not allowed into shelters with its owner needs to be itemized and secured for future retrieval by the owner.

5. Leave no one hungry: Provide food assistance to shelters, encampments, quarantined units and people who are housed but without access or the ability to acquire food, water and basic household goods.

Homeless residents alike suffer from the same economic constraints that are impacting all state and local residents. This impacts their ability to safely and adequately get food, clean water, and sanitization supplies.

We call on state and local governments to effectively deliver food and water for those residing outdoors, in hotel rooms, and in shelter and those who cannot access food or resources due to poverty, loss of employment, disability, chronic illness or underlying health issues, age or single-parent households.⁹ Providing food will reduce their needs to move about the city, acquiring food and resources to live. Food assistance will in turn reduce their risk to COVID-19 and prevent wider community spread. Existing organizations and infrastructure for providing

⁸ Interim guidance for homeless service providers to plan and respond to coronavirus disease 2019 (COVID-19), March 25, 2020, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

⁹ Cal. Health & Safe. Code § 101060 (county health officer may designate a nonprofit food distribution agency to coordinate and facilitate the donation of food and food products to nonprofit, charitable corporations, from available sources).

food and water to unhoused and housed people should be supported and funded to expand this work.

6. Prevent homelessness: Ban all evictions and foreclosures and forgive all rent.

Homelessness will rise as a result of this public health crisis unless immediate and comprehensive measures are put in place to prevent evictions and forgive rent obligations. In order to prevent homelessness, the state and local governments must ensure that all evictions are stopped, proceedings are halted and that a rent suspension is implemented.

We call on state and local governments to create a financial assistance fund to assist with back rental payments, mortgage payments for homeowners and other debt incurred during the crisis. To ensure that homeowners remain housed, the state should also stop foreclosures for homeowners and freeze mortgage payments without any penalty or additional interest.

State and local governments should also pass real eviction moratoriums, protecting tenants from displacement. These moratoriums must prevent landlords from serving new eviction notices for any reason or filing new eviction cases as well as invalidate existing unexpired notices. Moratoriums must not include administrative requirements like presenting evidence of current hardship that tenants may not have access to and that would prevent tenants from accessing protections later. In Oakland, the local moratorium in place is one best practice for cities¹⁰; the state should go beyond this example to also ban evictions under the Ellis Act. State and local governments must also ban sheriffs from executing existing eviction judgments to remove currently-housed tenants from their homes.

7. Create clear guidelines for unsheltered residents from public health authorities.

The state and local shelter in place orders do little to provide meaningful guidance to unsheltered residents about how to comply with public health initiatives to slow the spread of Covid-19. In addition to prioritizing units where individuals may self-isolate *prior* to any expression of illness, public health authorities must craft specific information tailored to the needs and resources of those who are homeless. Guidance materials must also provide meaningful information on access to healthcare and Covid-19 testing. When healthcare is needed, it should be provided and unsheltered residents need to be transported for treatment with the greatest care for their dignity, anxiety, civil and human rights and humanity including information on where they are being taken and with the greatest amount of choices possible.

We call on state and local governments to provide unsheltered and sheltered homeless Californians with clear, specific, and updated guidelines to follow and for those guidelines to be widely distributed in languages commonly spoken in the areas in which it is distributed.

8. Protect emergency workers.

¹⁰ Oakland Rent Moratorium, *available at* <https://oakland.legistar.com/LegislationDetail.aspx?ID=4406542&GUID=EAF35294-F356-4895-A87A-0C1B9CE4D0C3&Options=&Search=>

In order to prevent and contain the spread of COVID-19, emergency workers (of all kinds) must have access to protective equipment, such as masks, gloves, sanitation and sterilized testing equipment. Emergency workers should be focused on protecting all members of our communities (including unsheltered and sheltered homeless people), without being distracted by fearing for their own personal well-being.

We call on state and local governments to ensure that people delivering food and supplies and making home visits to vulnerable people have the necessary protective gear.

9. Direct funds reserved for homelessness services and emergency relief towards meeting these demands.

Various municipalities have public funds earmarked and reserved for alleviating homelessness, providing services to people without housing, supporting people with disability, including chronic illness, providing income for people who have recently lost their income, and providing for other emergency relief.

We call on the state and local governments to protect all resources available for these purposes and deploy and expand the resources now to meet these demands, including funds made available through California Executive Order N-32-20.¹¹ Protecting vulnerable populations, such as those without housing, reduces sickness and death among those most vulnerable and can slow the spread of the virus thus making us all safer.

10. Include unsheltered residents in those eligible for income relief

Income relief should not be limited to those who can afford housing in the Bay Area. People without housing still have incomes, and they should be entitled to income relief as well.

We call on the state and local governments to designate staff and/or fund a community organization to support unsheltered residents in accessing resources that are becoming available for income relief. We are demanding that any income relief be made available to anyone who needs it, regardless of housing status.

Any emergency housing provided in response to the COVID-19 pandemic must lead to transitional and permanent housing for all those who are homeless and desire it. In addition, designated public lands should be committed for long-term, self-organized encampments and RV/vehicle dweller communities and should provide comprehensive sanitation and services for the residents.¹²

Endorsements:

¹¹ Cal. Exec. Order N-32-20, *available at* <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.18.20-EO.pdf>.

¹² Community agreements with developers often include affordable housing unit fees. These fees have not been collected by many municipalities and should be during the COVID-19 crisis toward transitioning people into transitional and permanent housing following the public health crisis.

Berkeley Friends on Wheels
Centro Legal de la Raza
Do No Harm Coalition
East Bay Community Law Center
Homeless Action Center
Human Impact Partners
National Lawyers Guild - Los Angeles
National Lawyers Guild – San Francisco Bay Area
The East Oakland Collective
The Village
Where do we go?, Berkeley

Alliance of South Asians Taking Action
Anakbayan East Bay
Anti Police-Terror Project - Oakland
Anti Police-Terror Project - Sacramento
Arab Resource and Organizing Center
Asians for Black Lives (A4BL)
Asylum Sponsorship Project
Bay Area Asylum Support Coalition (BAASC)
Bay Resistance
Berkeley CopWatch
Black and Pink
California Coalition for Women Prisoners
Catalyst Project
Center for Political Education
Ella Baker Center
Flying Over Walls
Freedom for Immigrants
GABRIELA
Haiti Action Committee
Health Justice Commons
Justice Teams
Incarcerated Workers Organizing Committee
Interfaith Movement for Human Integrity
Kehilla Community Synagogue
Love & Justice in the Streets
No Jails Coalition
Prisoner Advocacy Network
Public Health Justice Collective
Punks with Lunches
Restore Oakland
Root and Rebound
Sister Warriors Freedom Coalition
St. James Infirmary

VietUnity - East Bay
Young Women's Freedom Center