

City of New Haven

Homeless Advisory Commission

August 24, 2018

Tyisha Walker- Myers
President Board of Aldermen
City of New Haven
165 Church St – 2nd Floor
New haven, CT 06510

Dear President Walker-Myers:

Per statutory obligations, which define the powers and duties of the City of New Haven Homeless Advisory Commission, I am pleased to submit to you and the Board of Alders for your consideration and the attached sets of recommendations: Resolution Concerning the De-Criminalization of Homelessness in New Haven, Connecticut and Bill of Rights for New Haven Residents Experiencing Homelessness which were passed at the Commission's September 14, 2017 regular meeting. These documents have been submitted to the Mayor, as statutory required.

We are requesting that a hearing be held before the appropriate alder committee on this Resolution and Bill of Rights which is consistent with Public Act 13-251.

Extensive research, guidance and input from Yale University Law students of the Allard K. Lowenstein International Human Rights Clinic in New Haven including their report "Forced into Breaking the Law" The Criminalization of Homelessness in Connecticut, November 2016 and input at Commission meetings aided in the development of these documents.

The Resolution and the Bill of Rights:

- Outlines a comprehensive framework dealing with issues which are associated with homelessness and which are consistent with past and current homeless policies and programs fostered by the City of New Haven.
- Are revenue neutral, do NOT require additional funding, with additional data collection requirements, well within existing capabilities.
- Are NOT new programs but clarify existing ones. These ARE policy recommendations. Existing statutes and ordinances are referenced.
- Requires close interaction with the Chief Administrator's Office and appropriate Department of Police Services personnel to review protocols, training and type of response taken when confronting residents who are homeless and may be in violation of statutes or ordinances associated with homelessness.

The Commission strongly urges your input and support so that challenges of issues related to those in New Haven, who are homeless. Hopefully, we will continue on an on-going basis, to address with clarity and unity these issues, with the purpose of reducing and hopefully eliminating the causes and the existence of homelessness within our communities.

Sincerely,

John Huettner

John Huettner
Chair

cc: Dr. Dakibu Muley, Community Services Administrator

Velma George, Homeless Coordinator

RESOLUTION CONCERNING THE DE-CRIMINALIZATION OF HOMELESSNESS IN NEW HAVEN, CONNECTICUT

WHEREAS individuals and families experiencing homelessness in New Haven must fulfill basic needs, including sleeping, bathing, and existing, in public spaces.

WHEREAS city ordinances which could prohibit behaviors essential to those who are experiencing homeless, including those prohibiting loitering, panhandling, occupying and sleeping in public spaces, camping, and creating shelter.

WHEREAS enforcement of city ordinances that are overly broad, such as those prohibiting loitering, disproportionately impact people who are experiencing homelessness.

WHEREAS the "criminalization of homelessness" constitutes both laws that prohibit or regulate behaviors associated with homelessness as well as the practices (such as issuing arrests, citations, warnings, and requests to move along) that are used to enforce such laws.

WHEREAS enforcement of ordinances that criminalize homelessness can lead to devastating consequences for those experiencing homelessness, including arrests, nights in jail, losing work, belongings, shelter, and the interruption of social services.

WHEREAS enforcement of ordinances that criminalize homelessness further entrench homelessness and poverty.

WHEREAS enforcement of ordinances that criminalize homelessness raise risk of challenge under the U.S. Constitution, including the First Amendment, which protects the freedom of speech, the Fourth Amendment, which protects the right to privacy, the Eighth Amendment, which prohibits cruel and unusual punishment, and the Fourteenth Amendment, which requires equal treatment under the laws, as well as under Article First, 4, 5, 7, 8, 9, and 20 of the Connecticut Constitution.

WHEREAS the United Nations ("U.N.") Special Rapporteur on Extreme Poverty and Human Rights stated, "penalizing certain behaviours and actions, which are associated with living on the street such as sleeping, sitting, lying, littering, lodging, camping or storing belongings in public spaces; public drunkenness; public urination; or jaywalking...have serious adverse physical and psychological effects on persons living in poverty, undermining their right to an adequate standard of physical and mental health and even amounting to cruel, inhuman or degrading treatment," and other U.N. bodies including the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, and the U.N. Independent Expert on the Right to Water and Sanitation have condemned the enforcement of ordinances that criminalize homelessness.

WHEREAS ordinances that criminalize homelessness are counterproductive because they keep people experiencing homelessness in a detrimental cycle of citations, imprisonment, poverty, and homelessness.

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NOW THEREFORE BE IT RESOLVED that the Board of Alders of the City of New Haven, Connecticut affirms the rights of those experiencing homelessness and condemns the criminalization of homelessness.

BE IT FURTHER RESOLVED that the Board of Alders calls upon all City officials, employees, and private citizens to respect the rights of individuals experiencing homelessness, to include the review of police protocols and responses to ordinances affecting those who are homeless, with the involvement of the Chief Administrator's Office and appropriate New Haven Police Department personnel in the development of any changes, revisions or recommendations regarding such ordinances.

BE IT FURTHER RESOLVED that the Board of Alders calls upon the Mayor of New Haven to issue a moratorium on the enforcement of laws criminalizing homelessness, pending the aforementioned review of ordinances affecting those who are homeless.

BE IT FURTHER RESOLVED that the City Clerk communicate this resolution to all City Departments, the Courts, the Governor and Attorney-General of the State of Connecticut, and the Connecticut Congressional delegations.

BE IT FURTHER RESOLVED that the provisions of this Resolution shall be severable, and if any phrase, clause, sentence or provision of this Resolution is declared by a court of competent jurisdiction to be contrary to the the Constitution of the United States or of the State of Connecticut or the applicability thereof to any agency, person, or circumstances in held invalid, the validity of the remained of this Resolution and the applicability thereof to any agency, person or circumstances shall not be affected thereby.

Approved unanimously by the City of New Haven
Homeless Advisory Commission on: 09 114/2017

BILL OF RIGHTS FOR NEW HAVEN RESIDENTS EXPERINCING HOMELESSNESS

A policy document concerning a New Haven Homeless Person's Bill of Rights.

SECTION 1. Declaration of Policy and Purpose. - People throughout New Haven are experiencing homelessness. Many lack a permanent residence as a result of economic hardship, a shortage of safe and affordable housing, and other personal circumstances. The 2013 Homeless Person's Bill of Right's ("HPBR")-Public Act 13-251 enshrines basic rights retained by all Connecticut residents, regardless of their housing status. Building on the Connecticut HPBR, it is the intent of these recommendations to ameliorate the adverse effects visited upon families, individuals, and our communities when New Haven residents lack permanent housing and to create a society where all people, regardless of their housing status, are valued and treated with dignity and respect and where their human, legal, and civil rights are protected.

SECTION 2. Definitions

Homeless - For the purposes herein, "homeless" means lacking a fixed, regular, and adequate residence; or having a primary residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human habitation, or in substandard apartments or dwellings; or staying doubled up temporarily with friends or families; or staying in transitional housing programs; or staying anywhere without tenancy rights; or staying with one or more children of whom they are the parent or legal guardian in a residential hotel or motel whether or not they have tenancy rights.

Criminalization of homelessness - "The criminalization of homelessness" means laws that prohibit or regulate behaviors in which people experiencing homelessness must engage to survive and enforcement of laws that disproportionately impact people who are experiencing homelessness, as well as the practices--such as issuing arrests, citations, warnings, and requests to move along--that are used to enforce such laws.

SECTION 3. Bill of Rights

Every person, regardless of their housing status, has the following rights:

a) The Right to Enjoy Public Space. The right to use and move freely in public spaces, including sitting, lying down, sleeping, or resting in public spaces, both individually and while assembling in groups, which shall include but not be limited to public sidewalks, public parks, public transportation, and public buildings, in the same manner as any other person or groups and without discrimination on the basis of his or her housing status;

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- b) The Right to Employment Fairness. The right not to face discrimination in seeking, obtaining, or maintaining employment due to the lack of a permanent residence or a permanent mailing address, or because the mailing address is that of a homeless shelter, or a homeless or social services provider;
- c) The Right to Medical Care and Dignity in Meeting Basic Needs. The right to medical care, free from discrimination based on housing status. The opportunity to perform basic needs, such as to defecate, urinate, and to access clean water and other living necessities, in public locations and facilities, which includes public parks and buildings, with dignity and relative privacy under hygienic circumstances and conditions, in clean, safe, highly accessible facilities, free to all persons regardless of housing status;
- d) The Right to Vote. The right to vote, register to vote, and receive any documentation required by law to prove identity for voting, without discrimination due to housing status;
- e) The Right to Personal Property and Privacy. The right to protection of personal property includes: 1) the right to a reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence; and 2) the preservation and safeguarding of un-housed peoples' property, including personal identification and records, including documentation of government benefits, legal proceedings, and familial records;
- f) The Right to Personal Safety. The right to personal safety, which shall include protection from violence based upon housing status and effective law enforcement response to such incidents; 2) the right to temporary shelter during extreme (hot or cold) weather; and 3) the right for families to stay together in shelters.
- g) The Right to Sit. The right to sit, rest or sleep in temporary shelter, such as any legally-parked motor or recreational vehicle or a self-erected shelter (e.g., a tent), on private property with the owner's permission, for the purpose of immediate survival of persons, and their pets, without harassment by law enforcement officers or others; and 2) the right to reasonable notice before encampments illegally created are swept.
- h) The Right to Social Exchange. The right to give and accept food, beverages, and shelter, in public spaces or elsewhere, and to connect persons experiencing homelessness with organizations that provide shelter or transitional housing and social services, such as mental health or substance abuse counseling, medical care, and employment assistance. The right also to panhandle in public spaces, and to communicate to others in other reasonable ways for other similar purposes.
- i) The Right to Equal Treatment. The right to equal treatment under the law by all New Haven municipal agencies, without discrimination on the basis of housing status or source of income, and equal protection of the laws and due process by law enforcement and prosecuting agencies and the courts;

j) The Right to Housing Fairness. The right to obtain housing free from discrimination including based on housing status, source of income, arrest record, conviction, or lack of a fixed or permanent mailing address;

k) The Right to Housing. The right to safe and affordable emergency and/or transitional shelter and permanent housing for people experiencing homelessness, because housing is a basic human right, as stated in Article 25 of the Universal Declaration of Human Rights: "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."

SECTION 4. Posting.

A notice entitled "DECLARATION OF NEW HAVEN HOMELESS PERSON'S BILL OF RIGHTS" and containing the text in this resolution should be conspicuously posted in all public parks and on the notice boards of all municipal buildings.

SECTION 5. Application of this "HOMELESS BILL OF RIGHTS."

This "DECLARATION OF NEW HAVEN HOMELESS PERSON'S BILL OF RIGHTS" shall apply to New Haven municipal agencies and employees, including all law enforcement officers and officials, as well as private actors.

SECTION 6. Documentation of Incidents.

To ensure equitable and cost effective enforcement of the New Haven Homeless Person's Bill of Rights, every local law enforcement agency should annually compile, review, and make available to any inquiring party, the number of citations, arrests, and other enforce activities made pursuant to laws and ordinances criminalizing homelessness, including at a minimum laws and ordinances prohibiting the following:

- New Haven Municipal Code sec. 17-35 (loitering);
- New Haven Municipal Code sec. 19-5 (16) (park curfew);
- New Haven Municipal Code sec. 19-5 (5) (camping);
- New Haven Municipal Code sec. 18-39 (public consumption of alcohol);
- Conn. Gen. Stat. 53a-110a (simple trespass)
- Conn. Gen. Stat. 53a-109 (third degree trespass)
- Conn. Gen. Stat. 53a-108 (second degree trespass)
- Conn. Gen. Stat. 53a-107 (first degree criminal trespass)
- Conn. Gen. Stat. 53a-182 (disorderly conduct)
- Conn. Gen. Stat. 53a-181a (creating a public disturbance)

- Conn. Gen. Stat. 53a-182a (obstructing free passage)
- Conn. Gen. Stat. 53a-181 (second degree breach of peace)
- Conn. Gen. Stat. 53a-180aa (first degree breach of peace)
- Conn. Gen. Stat. 51-164r (failure to pay or plead)

Such documentation should include the housing status of each person subject to law enforcement action. Documentation shall ensure protection of individuals' privacy.

SECTION 7. Severable.

The provisions of this policy is severable.

SECTION 8. Enforcement.

Under the provisions of Public Act 13-251 any person who claims to be aggrieved by a violation of the provisions of these rights may bring an action in the supreme court for the Judicial District of New Haven. The court for the Judicial District of New Haven may grant, as it deems appropriate, any permanent or temporary injunction or other order, and may award to the plaintiff compensatory and punitive damages, together with court costs and reasonable attorney fees.