

PUBLIC INTEREST

Phila. City Council Should Pass Bill of Rights for People Experiencing Homelessness

BY MICHAEL TAUB;
ALLISON NASSON
AND AVA LA PLACA OBRECHT

Special to the Legal

Homeless encampment closings, or “sweeps,” have become a regular occurrence in Philadelphia. Every week, members of the police department and other city agencies determine which encampment locations will be closed, and within a specified period of time—usually several days—they show up at these sites and demand that residents come out from their tents, cardboard boxes, or other make-shift residences, gather their belongings, and leave.

These sweeps do nothing to solve the root causes of homelessness. In fact, they often create barriers to housing for encampment residents. When a sweep occurs, belongings are inevitably thrown away, no matter what precautions are taken. There is no getting around this fact.

Belongings that encampment residents can't take with them on their backs either end up in storage or thrown into a garbage truck. Sometimes it is medication that ends up in the trash, other times irreplaceable photographs or momentos. Oftentimes, it is the very essential documents that encampment residents need to exit homelessness, so time that should be dedicated to getting into housing must then be spent replacing those documents, a process that frequently takes months.

Sweeps are also financially unsustainable. Executing sweeps costs hundreds of thousands of dollars per year, as shown through studies conducted in Washington, D.C., and Honolulu. Moreover, any action—or inaction—that fails to address the root causes of homelessness perpetuates city spending on preventable costs. Studies show that the costs associated with chronic homelessness, like policing and health care, are far greater than the cost of providing supportive housing for chronically homeless people. In fact, an analysis conducted by Creative Housing Solutions concluded that providing permanent housing and case managers would save millions of dollars per year. Spending on sweeps is a lost opportunity to spend on what actually works: permanent housing with support for those who need it.

Several cities have taken legislative steps to ensure that when sweeps do occur, harm to encampment residents is minimized by,

MICHAEL TAUB is an attorney and the advocacy director at Homeless Advocacy Project (HAP) in Philadelphia. **ALLISON NASSON** and **AVA LA PLACA OBRECHT** are second-year law students at the University of Pennsylvania Carey Law School and summer interns at HAP.

among other protections, providing sufficient notice of upcoming sweeps and protecting residents' personal belongings. Such cities' steps, while imperfect, demonstrate that harm-reduced sweeps are possible, and that advocacy efforts in this area can have a meaningful impact for unhoused people.

Chicago passed a Homeless Bill of Rights (HBOR) ordinance that prohibits government discrimination against people experiencing homelessness. According to the Chicago Coalition for the Homeless, this includes “the requirement that the property belonging to a homeless person be treated the same as that of a person who is stably housed.” Since it was passed, advocates have brought several lawsuits against the city after its employees threw away the belongings of unhoused people without sufficient notice. In this sense, the HBOR protects encampment residents' property rights and acts as a deterrent to harmful city sweeps.

In 2016, Indianapolis City Council passed General Ordinance No. 2, the “Indianapolis Encampment Ordinance.” As stated in The National Center on Homelessness & Poverty 2018 study, “Tent City, USA,” the ordinance requires the city to “provide at least 15 days' notice to encampment residents before they are displaced (except in cases of emergency); catalog and provide storage for all personal items of encampment residents for up to 60 days; and coordinate with other service providers to ensure that transitional or permanent housing is available to displaced persons together with ‘wrap-around services’ for which they are eligible.” Additionally, except in cases of emergency, it “specifically prohibits evictions if not enough housing and

other services are available for all encampment residents.”

Charleston, West Virginia, has a similar policy regarding homeless encampments. Charleston's policy requires at least two weeks' notice to encampment residents on public property before an eviction may take place, and notification to outreach providers and a legal aid organization within 48 hours. According to “Tent City, USA,” additional requirements include: “outreach workers on-site to assist residents with temporary shelter and emergency service needs ... transportation to such shelters and emergency services ... specific procedures for documenting and cataloging unclaimed personal items at the encampment and providing for the storage of those items at an established location for at least 14 days after the eviction.”

Philadelphia's current encampment closure policy includes some but not all of these

protections. In addition, Philadelphia's encampment policies have not been legislatively enacted, so there is nothing that prevents the city from amending these policies and eliminating certain protections. This needs to change. City Council should follow in the footsteps of these other cities by passing an ordinance that protects the rights of encampment resi-

dents, with provisions relating to notice, collaboration, storage, low-barrier shelter, and permanent housing options.

Providing adequate advance notice of eviction to encampment residents, local outreach providers, and designated third party watchdogs is essential for connecting encampment residents with available services and protecting their personal belongings. The National Law Center on Homelessness and Poverty recommends a minimum of 30 days' notice. Philadelphia adhered to the thirty-day recommendation during its 2018 Encampment Resolution Pilot (ERP), in which the city oversaw the closure of two outdoor homeless encampments in Kensington.

As long as Philadelphia fails to adequately invest in low-income and supportive housing, homelessness and encampments will persist.

Homelessness

continued from 7

However, the city's current policy only provides for thirty days' notice in limited circumstances and most commonly provides for less than seventy-two hours. As a result, when the police and other city agencies show up to clear an encampment, most residents do not know where they are going to sleep that night or where they will store their belongings.

Effective solutions to homelessness and encampments require collaboration among community stakeholders, including people who are experiencing homelessness. Encampment residents must be treated with respect and dignity throughout the process of an encampment eviction and consulted for their insight as to which services and protections must be guaranteed.

Without such collaboration, proposed solutions are unlikely to succeed. As stated in "Tent City USA," people experiencing homelessness "are the experts of their own condition." Their insight is critical to designing solutions that will work and genuinely meet their needs.

Jaqueline Chapman, a member of the HAP board who has lived experience with

homelessness, has advocated for easily accessible storage facilities where unhoused people can keep their belongings. She believes that one reason people are afraid to stay in shelters is that they fear that their belongings will be stolen or discarded. Reliable, long-term storage locations also support the maintenance of essential documents like birth certificates, state ID, and items of sentimental value. It is key that such facilities are open beyond normal business hours and can be easily accessed by public transit. Ideally, there should be multiple storage facilities throughout the city in locations with high levels of street homelessness.

Philadelphia's Homeless Bill of Rights should also follow the lead of cities whose ordinances prohibit encampment evictions when adequate shelter is unavailable. It should go further, however, by defining "adequate" in a manner that accounts for the wide variety of individual needs that exist among the homeless population. According to The Nation journalist Malcom Harris, many people who join encampments cite "shortcomings in the shelter system, a sense of safety and community within encampments, and a desire for autonomy and privacy" as their primary reasons for doing so. Without providing permanent housing

or a sufficient number of shelter beds that meet the unique needs of people living in encampments, evicted residents of encampments are likely to gather elsewhere, or return to the same location after the sweep. At the Kensington encampment discussed in the Final Report on the ERP, 56% of residents "expressed willingness to go to shelter," but "that number climbed to 91% when respondents were asked whether they would go to a shelter with minimal rules ... Reducing barriers to getting services increased the likelihood that targeted persons would follow through with accessing services. For housing, this meant implementing low-demand approaches that include better accommodating pets and possessions, not requiring identification, no sobriety requirements, and exit and entry at will." The provision of a sufficient number of shelter beds with such accommodations in areas of the city preferred by people living in encampments should be required under any future Philadelphia Homeless Bill of Rights.

As long as Philadelphia fails to adequately invest in low-income and supportive housing, homelessness and encampments will persist. Until then, a Homeless Bill of Rights is needed to protect the rights of people living in encampments. It is time for City Council to step up and pass such a law. •