

February 23, 2021

To: Frances Suarez, Mayor, City of Miami
Ken Russell, Vice Chair, City of Miami Commission
Victoria Méndez, City Attorney, City of Miami
Daniella Levine Cava, Mayor, Miami-Dade County
Ron Book, Chair, Miami-Dade County Homeless Trust

We – the Greater Miami ACLU, the Florida Justice Institute, David Peery, Pottinger Class Representative, and other organizations and advocates concerned for the rights of persons experiencing homelessness – write to demand that the City immediately cease its ongoing wave of cruel and destructive sweeps of homeless encampments throughout the City.

At least one sweep was already conducted in Overtown on NW 17th Street on Wednesday, February 10, between NW 5th and 9th Avenues. We understand the City intends to carry out similar sweeps in the very near future near the Miami Rescue Mission and in Overtown, near NW 1st Place between NW 13th and 14th Streets. We also understand that further sweeps are planned, with the aim of eliminating all encampments throughout the City.

The City’s conduct inflicts serious trauma and property loss on those affected, violates their constitutional rights and the City’s own regulations, and disrespects the solemn assurances the City gave in federal court that it would continue to observe the Pottinger protections even after termination of the Consent Decree.

Eliminating all encampments would do nothing to address the City’s failure to ensure an adequate supply of affordable housing. Further, at a time when police and other official violence against Blacks is under increasing scrutiny nationwide, the City cannot help but be aware that the population it is targeting and threatening with arrest is largely Black. Finally, closing encampments when the City knows that shelters (typically always full) are currently operating at reduced capacity because of Covid goes against express CDC guidance.

We insist that the City immediately put aside plans for any further encampment sweeps, and focus instead on constructive measures to address the real needs of those experiencing homelessness.

In addition, we make a time-is-of-the-essence Public Records Act request, pursuant to Chapter 119, Florida Statutes, and Article 1, Section 24 of the Florida Constitution, for a copy of the document on homeless encampment clean-ups shared by Milton Vickers, head of the Department of Human Services, with the City Commission at its February 3, 2021, meeting.

I

We have spoken with individuals who were present at the February 10 “clean up.” The way it was conducted was unacceptable. Little or no advance notice was given. The outreach workers were rude and aggressive. City workers seized and destroyed people’s belongings, including their tents. One person reported sustaining injuries while being

dragged in the street inside his own tent as it was being taken to be placed in the garbage. People were told to leave and not return to the area. While at least some were offered hotel rooms, they were not given any information about how long they could stay or what would happen after their stay at the hotel room ended.

Given the City's past practices, including the Overtown sweep in May 2020, we have every reason to believe that future sweeps will be done in the same way. Destroying the belongings of homeless persons is a violation of their property rights and rights against unreasonable search and seizure, and inflicts great trauma on them. Ordering people to stay away from public space simply because they are homeless is equally a violation of the Constitution, which prohibits criminalizing homelessness. And because there aren't enough shelter beds to house everyone who is on the streets (as the City well knows), the sweeps violate [CDC Guidance](#), which is to leave encampments in place and offer appropriate services to those living in them.¹

Equally cruel and misguided is the City's effort – through its “Large Group Feeding” ordinance – to cut off or greatly restrict a vital source of food for those forced to live on the streets. Citing public health concerns, the City treats those living on the streets as a public health nuisance – a source of contagion and filth endangering others. In reality, it is the City that has created the public health problems, which afflict those forced to live on the streets as well as the public more generally: The City has consistently and deliberately refused to provide adequate sanitation services (such as trash cans and port-a-potties) to those forced to live on the streets, out of an unfounded fear that doing so will “enable” homelessness.

We further understand that the City intends to ramp up enforcement of Florida Statute 506.509 concerning possession of a shopping cart. This one-sided statute essentially presumes guilt. Further, inflicting arrest on homeless individuals makes it *more* difficult for them to find housing and jobs. We also understand that the City intends to deploy cameras to monitor homeless individuals, apparently as part of an effort to keep encampments from returning. This Orwellian monitoring raises serious privacy concerns, especially for people who have no choice but to live in public.

II

Homelessness in Miami is not a choice, but the inevitable product of the City's own failure to meet its obligation to all the citizens of Miami to ensure an adequate supply of affordable housing. Forty percent of Miami metro households spend more than 30 percent of their income on housing.² At the same time, the Miami metro area – home to 30 full-time resident billionaires – is the second worst city in the nation for income inequality, and the third ranked metro area in the nation for the lowest median wages.³

¹ “If individual housing options are not available, allow people who are living unsheltered or in encampments to remain where they are.

“Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.”

<https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>

(last visited Feb. 23, 2021)

² [Miami's Housing Affordability Crisis](#) (Miami Urban Future Initiative 2019).

³ [Toward a More Inclusive Region](#) (Miami Urban Future Initiative 2019).

With the impending end of eviction moratoriums, we face the real prospect of a wave of newly homeless individuals evicted from their homes, unable to find any other place to live. As reported in the Miami Herald, 5,840 residential evictions have been filed in court since September 1, 2020, and over 2,500 residential writs of possession were issued between March 13, 2020 and February 5, 2021.⁴ The residential eviction moratoriums are scheduled to expire at the end of this March. Attempting to make homeless people invisible by dispersing encampments and scattering people throughout the City is not only cruel but will be ineffective.

We call on the City to take a more constructive approach. The first order is providing basic services to those living in encampments. These include providing trash cans and frequent collection, handwashing stations, and an adequate number of port-a-potties (with sufficient servicing to keep them sanitary), and information and guidance on pandemic safety. The City should prioritize offering housing (not temporary shelter) to individuals, using a Housing First approach. Where temporary shelter is offered, its terms should be clear, and the alternative for those who do not accept the offer should be to remain where they are until housing is offered, with supportive services from the City. Finally, City outreach workers should meet with people living in encampments, not to tell them to leave and not return (while forcing them to rush to pack up their belongings or have them seized), but to engage with them as to what services would truly help them.

Please respond to us with the immediacy demanded by the situation.

Sincerely,

Nicole Sinder, President, Greater Miami Chapter
of the ACLU

David Peery, Pottinger Class Representative
Benjamin Waxman, ACLU Cooperating Attorney
Stephen Schnably, ACLU Cooperating Attorney
Anna Neill, ACLU Cooperating Attorney
Dante Trevisani, Executive Director, Florida Justice Institute

Kirsten Anderson, Litigation Director, Southern
Legal Counsel

Gabriela Cordell, Choose Love Foundation
Armen Henderson, Dade County Street Response
Maya Ragsdale, Executive Director, Beyond the
Bars

Jeff Weinberger, Founder, October 22nd Alliance
to End Homelessness

cc: Arthur Noriega, City Manager, City of Miami
Victoria Mallette, Executive Director, Miami-Dade County Homeless Trust
Daniel Tilley, Legal Director, ACLU of Florida
Annie Lord, Executive Director, Miami Homes For All

⁴ Douglas Hanks and Rene Rodriguez, [Evictions in Miami-Dade: End of moratorium for businesses, home renters getting help](#), Miami Herald, Feb. 8, 2021.

Erik Bojnansky, Biscayne Times
Joey Flechas, Miami Herald
Jessica Lipscomb, Miami New Times
Noreen Marcus, Florida Bulldog
Elisa Posner, Journalist
Daniel Rivero, WLRN
Brenda Wintrode, Journalist