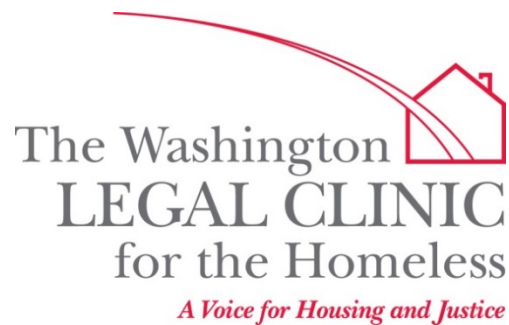


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JOINT PUBLIC OVERSIGHT ROUNDTABLE ON DMHHS
ENCAMPMENTS PILOT PROGRAM
NOVEMBER 9, 2021
TESTIMONY OF ANN MARIE STAUDENMAIER
WASHINGTON LEGAL CLINIC FOR THE HOMELESS

Thank you for the opportunity to testify today. I have been an Attorney at WLCH for 25 years, where my focus has been on the decriminalization of homelessness. The Legal Clinic envisions – and since 1987 has worked towards – a just and inclusive community for all residents of the District of Columbia, where housing is a human right and where every individual and family has equal access to the resources they need to thrive. Today we ask the Council to 1) pass emergency legislation to stop no tent zones and encampment clearings, 2) allow housing to do its work to clear encampments the humane way, and 3) engage the community in developing permanent legislation to ensure trash removal, bathroom access other common concerns of both encampment residents and housed neighbors are met.

The Legal Clinic believes that every unhoused resident of D.C. should be offered permanent affordable housing and we believe that the best way to reduce street homelessness and encampments is with housing. In fact, encampments were the subject of much testimony and debate during the budget this year, and the D.C. Council made a deliberate decision to reduce homelessness and encampments through historic investments in permanent supportive housing.

What the Legal Clinic does not support is the approach taken by the CARE Pilot, which uses what DM Turnage calls a “carrot and stick approach” to couple limited housing with broad threats of displacement and property loss. While there is never justification for the government to target people based on their housing status for harm, it is particularly cruel to do so only to speed up an outcome that will arrive if they just wait—as there are enough housing resources to humanely and effectively lower the census of street homelessness. If DMHHS continues to carry out mass evictions from the largest encampments in the city, and follows through on its threat to permanently ban anyone from staying in these safe spaces in the future, it will endanger countless lives by forcing our unsheltered neighbors into more dangerous situations, on the cusp of Hypothermia season and while Covid cases are still on the rise in shelters.

For context, I want to give a brief history of encampment policy in D.C. As you are all aware, DMHHS is governed by its own Protocol for Disposition of Property on Public Space, the most recent version of which was adopted under DM Turnage’s direction in Dec. 2019. However, the key protections of this Protocol were first drafted by a consortium of

government officials and advocates like myself, convened by Mayor Anthony Williams in **2005**. What started as an MOU created to protect the belongings of our unhoused neighbors when public spaces were being cleaned, ultimately morphed into a cudgel used by the Deputy Mayor to evict residents of encampments whenever they got too many complaints from housed neighbors. There have since been 4 versions of the Protocol drafted by various Deputy Mayors, in 2007, 2012, 2016 and 2019, but it wasn't until the Bowser Administration that DMHHS began to use it to aggressively dismantle and shut down encampments in politically sensitive areas of the city. This started with one located in a field across from the Watergate in Nov. 2015, and ultimately led to repeated but generally futile efforts to clear out and fence off large swaths of public space so no one could use it. This was a huge departure from the original intent of the Protocol, which was previously used on rare occasions, and always was suspended during hypothermia season.

These increasingly destructive efforts by DMHHS to eradicate any visible signs of poverty did nothing to address the underlying causes of the homelessness Mayor Bowser pledged to end when she was first elected, but only made life more dangerous and miserable for the targets of DMHHS's twice-weekly clearings. What is particularly troubling about the clearing methods employed by the Bowser Administration is the dehumanizing and unnecessary use of bulldozers and hazmat suits, which endanger human lives, and feed into stereotypes that people who are homeless are dangerous, filthy, and less than human. The gentleman in NoMa who was almost killed when a bulldozer picked up his tent on Oct. 4th wasn't the first to be endangered by encampment clearing protocols, or even the first to be picked up by construction equipment in a tent—yet the Bowser Administration is doubling down on this practice despite the expense, danger, and collective outrage over this incident. DMHHS did briefly suspend this aggressive encampment clearing process when the pandemic hit. While housed people all over the world “sheltered in place”, our unhoused neighbors had to make the terrible choice between staying in large, congregate shelters that were dangerous even before Covid, or sleeping on the streets, which many made the rational choice to do. However, despite very clear Guidance issued by the CDC in May 2020, and reissued in July 2021 (“Interim Guidance on People Experiencing Unsheltered Homelessness, July 8, 2021), directing local governments to leave encampment residents alone, “unless individual housing options can be offered to every resident”, we started to see an uptick in full clearings over the past year, followed by the rollout of the CARE Pilot Program in August.

In addition to our serious concerns that the pilot program is prematurely forcing unsheltered residents out of the only safe place they have to stay while they await housing, we are extremely concerned about DM Turnage's recent decision to significantly ramp up the number of MPD Officers at every clearing. This not only increases the trauma of these evictions, but creates a far more dangerous and volatile situation for everyone involved. I was present at the closure of L and M Streets NE on Oct. 28th, and witnessed 20 or more Officers aggressively guarding the area where people's tents and sole possessions were located, including one Officer who backed up his MPD vehicle in the middle of L Street, and hit a female encampment resident on a bike. Being knocked off a bike is the least dangerous thing I can imagine happening when countless Officers with guns are guarding an area where multiple people are experiencing a mass eviction. This also directly contravenes the clear recommendations of the Police Reform Commission to limit police interactions with the homeless community, and invest in safe and permanent housing instead of increasing the presence of law enforcement to police low-income communities.

While this Administration has openly spurned the collective opposition to the initial rollout of this pilot program, from groups as disparate as the Greater Washington Community Foundation and the ACLU, they have also apparently ignored the USICH Report issued in July (“Exploring

Homelessness Among People Living in Encampments and Associated Costs”), which found that the costs of encampment clearings far outweigh the benefits to cities. DM Turnage and his predecessors have for years resisted requests to share the costs of these clearings with the Council and the public, but we know they are quite high, given the large number of government employees and equipment present at every single clearing, large or small.

Another concern for the Council and the Administration should be the potential legal liability the CARE Pilot creates for the city. As the ACLU recently warned, this pilot raises constitutional concerns under the 5th Amendment, as it threatens to deprive people of their property without due process of law. What the pilot proposes to do by creating “no tent zones” in the public spaces outlined in the CARE program, is to seize and destroy any property left on those public spaces in the future, without warning and without requiring evidence that those items pose a health or safety hazard, which may also implicate the 4th Amendment of the Constitution. Furthermore, by enlisting increasing numbers of police officers to enforce the closure of these public spaces, the city could potentially trigger an 8th Amendment claim, under the precedent set by *Martin v. Boise*. By moving forward with this pilot, the Administration is not only violating the provisions of its own Protocol, which does not allow or envision use of the “immediate disposition” provisions without an actual and immediate health or safety emergency, but may violate the US Constitution as well, which could potentially lead to costly and damaging litigation.

Displacement of low-income, primarily Black residents of D.C. has been a problem in this city for generations. This has been particularly true in the homeless community under the Administration of Mayor Bowser. We join the many other organizations demanding that this Pilot be suspended for at least a year, to enable government and outreach workers alike to connect with both encampment and shelter residents and complete the lengthy process necessary to permanently house each and every individual who wants it. If this is done in the right way and *not rushed*, I am confident that we will see a huge decrease in the number of people living on the street, and large encampments could become a thing of the past.

