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## Testimony of Eric Tars, Senior Policy Director

### Serving the Homeless in the Wake of the Grants Pass Ruling (JOINT)

PA Joint Democratic Policy Committee Hearing

Lancaster City Hall, 120 N Duke St, Lancaster, PA 17602

September 13, 2024

Thank you to State Senators Katie Muth and Nikil Saval, State Representative Ismail Smith-Wade-El, and their staff for organizing this hearing today.

My name is Eric Tars and I serve as the Senior Policy Director of the National Homelessness Law Center, and while our organization is based in DC, I work from home in Philadelphia, so although I bring national expertise, I have a special interest in seeing Pennsylvania adopt the best, most effective policies on homelessness—and avoid adopting the worst—in the wake of the disastrous [Johnson v. Grants Pass](#) decision from the Supreme Court. Today, I'll give you a short summary of the case, provide a national overview of how it's accelerated the pace of communities [arresting and ticketing homeless people for sleeping outside](#), which only makes homelessness worse and disparately impacts Black, Brown, LGBTQ+, and disabled communities, and then talk about the Law Center's template legislation to codify the protections struck down by the Court.

The *Johnson v. Grants Pass* case, decided on June 28, 2024, started many years earlier in Grants Pass, Oregon. Like many communities here in Pennsylvania, Grants Pass has seen a dramatic increase in population – almost doubling in size in the past 20 years – but has not built enough affordable housing to keep pace with the population growth, resulting in skyrocketing rents, a less than 1% vacancy rate, and, when people can't afford the rent or find new housing, they end up homeless. Rather than meeting the affordable housing needs of its citizens, or even provide emergency shelter, Grants Pass chose instead to demonize its homeless residents and pass ordinances that literally made it a crime to so much as wrap a blanket around yourself to protect you from the cold if you don't have any other place to go. Gloria Johnson and several other homeless plaintiffs brought the city to court to demand their right to be free from this cruel and unusual punishment under the 8<sup>th</sup> Amendment, and, building on the ruling from our 2018 *Martin v. Boise* case in the 9<sup>th</sup> Circuit, they won. They won again when the city appealed to the 9<sup>th</sup> Circuit, but this year the case finally made its way to the Supreme Court, and the Court sided with the city, and as Justice Sotomayor states in her dissent, “leaves the most vulnerable in our society with an impossible choice: Either stay awake or be arrested.” The majority did say that no one has to criminalize homelessness, and homeless persons may still have other constitutional protections, and they noted that cities are free to take other, more constructive approaches that will actually help end homelessness.

Unfortunately, despite those caveats, in just the two months since the decision, [more than three dozen cities](#) across the country have already taken the Court's permission and run with it, passing new, more punitive measures against homeless people, with another two dozen measures pending. Here in PA, just a few exits down the Turnpike from Lancaster, [Pottstown](#) is currently fighting litigation that stopped its plans to arrest its homeless residents for needing to sleep outside in a city that has actively prevented homeless shelters from being established. A few exits further is [Norristown](#), which closed its shelter and had a city councilor threaten to bus the community's homeless members to Villanova University as a political stunt to protest a professor's defense of their encampment. And a few stops further on, in [Philadelphia](#), the lack of treatment beds has not stopped the sweeps of homeless persons facing addiction in the Kensington neighborhood. None of these criminalizing practices actually help address the [public health](#) or [public safety](#) issues cities claim they are trying to remedy, and in fact, they make them worse, keeping people and tents on the streets for longer.

These stories repeat all across the Commonwealth, and the country, often with communities engaged in a downward-spiraling "[race to the bottom](#)" to try to make their ordinances harsher and reduce services under the theory this will drive homeless people elsewhere (ignoring research that shows most people are homeless in the communities where they were once housed). And speaking of [race](#), because homelessness disparately impacts Black and Brown communities, as well as LGBTQ individuals, particularly youth, and people with disabilities, criminalizing homelessness has deeply inequitable impacts. In fact, studies show Black people experiencing homelessness are close to 10 times more likely to be targeted for enforcement of these low-level citation offenses than white people, and more than half the people in some counties' jails are there because of homelessness, so this is the entry point for so many into the criminal legal system. Moreover, each one of these unnecessary police encounters is a potential source of violence – in some communities more than a third of all use-of-force incidents were against unhoused persons. If you want to stop over-incarceration of, and police violence against Black and other marginalized people, you couldn't do much better than stopping criminalization of homelessness.

The best way to stop criminalization of homelessness is to make sure that no one is homeless on the street to be criminalized in the first place, by ensuring everyone enjoys their human right to safe, decent, affordable housing. The public is with us on this, with three out of four Americans agreeing that we all need a safe place to sleep, and housing, not handcuffs, is the best solution to homelessness.

But until that happens, the next best way to stop this race to the bottom is for states to pass our [template legislation](#) which reinstates and clarifies the protections lost in the *Johnson* case and sets a ground floor stopping enforcement of such laws unless there is

an adequate alternative place where people can go. This legislation is grounded in [surveys](#) of unsheltered people, and addresses many of the concerns raised by directly impacted individuals, such as the need to bring their pets, partners, and possessions with them whenever they are moved from an encampment. There are a few examples of other so-called [homeless bills of rights](#) that have passed in other states, and people may be aware of an [Oregon law](#) that requires communities to only put in place “reasonable” restrictions on where homeless people can sleep, but in our view, none of these are strong enough to actually stop the harms of criminalization, and our template is designed to avoid those mistakes. This bill can’t end homelessness on its own, but it can help stop the most harmful practices communities are engaging in and redirect their energies to the steps that will.

Until housing is recognized and protected as the [human right](#) that it is, we must at least protect the basic civil rights of the people whose right to housing has already been violated. Communities are already passing these harmful bills, so we need to act with urgency to stop the race to the bottom. As a Pennsylvanian, I would love to see us here leading the charge to stand up for people’s rights and correct the Supreme Court’s awful mistake. It’s time for our elected officials to do their jobs and ensure everybody has a safe place to call home. I am happy to answer any questions and be of any service to your teams that I can be.