



THE PERMANENT MISSION
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

February 4, 2016

Ms. Leilani Farha
Special Rapporteur on adequate housing
as a component of the right to an
adequate standard of living, and on the
right to non-discrimination in this context
Geneva, Switzerland

OHCHR REGISTRY

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Dear Ms. Farha:

Thank you for your letter dated September 21, 2015, requesting that Member States comment on laws, policies, and programs related to homelessness and the enjoyment of the right to adequate housing. The United States government provides the below information in response to your request for input:

1. Please explain how your government defines homelessness in various contexts, for example, when measuring the extent of homelessness or determining eligibility for programmes and services. Please explain why the definition was chosen, and whether it is formally referred to in laws, policies or programmes.

In 2010, the Obama Administration launched *Opening Doors: the Federal Strategic Plan to Prevent and End Homelessness (Opening Doors)*, which serves as a road map for joint action to address homelessness by 19 federal departments and agencies, state and local governments, and the private and not-for-profit sectors.

As outlined in *Opening Doors*, the United States government uses two main definitions of homelessness. The first definition delineates which individuals and families require shelter and housing assistance and the second definition delineates which children and youth require special educational supports and coordination.

The first definition was most recently modified by a major federal law on homelessness, the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, passed in May 2009. The HEARTH Act defines homelessness using four different categories, which are summarized as follows:

1. Those individuals and families who lack a fixed, regular, and adequate nighttime residence, meaning they are living in a place not meant for human habitation, an emergency shelter, transitional housing, or a hotel or motel that is paid for by a state or local government program or by a charitable organization. This category also includes a subset for an individual who is exiting an institution where he or she resided for 90 days

or less and who resided in an emergency shelter or a place not meant for human habitation immediately before entering that institution;

2. Individuals and families who will lose their primary nighttime residence within 14 days and who lack the resources and support networks to obtain other permanent housing;

3. Unaccompanied youth and families with children, and youth who are defined as homeless under other federal statutes and who do not otherwise qualify as homeless under this definition and who have not had a lease, ownership interest, or occupancy agreement in permanent housing in the last 60 days; and who have moved at least twice in the last 60 days; and who can be expected to continue in a state of housing instability due to employment barriers or special needs; and

4. Individuals and families who are fleeing, or are attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member and who lack the resources and support networks to obtain other permanent housing. This definition of homelessness focuses on the most urgent and severe forms of homelessness. The United States also recognizes that there are other vulnerable individuals and families who also experience a lack of stable housing and housing crises or instability in other forms, who are often eligible for additional types of affordable housing assistance.

The second major definition of homelessness used in the United States is established in Section 725 of the McKinney-Vento Homeless Assistance Act. This definition is used by the U.S. Department of Education, primarily for the purpose of determining which students require assistance with educational coordination. In this regard, the term “homeless children and youths” refers to individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and includes the following sub-groups: (1) children and youths who share the housing of other persons due to loss of housing, economic hardship, or a similar reason; live in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; live in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (2) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); (3) children and youths who live in cars, parks, public spaces, abandoned buildings, sub-standard housing, bus or train stations, or similar settings; and (4) migrant children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because these children live in circumstances described in clauses (i) through (iii) [of Section 1309].

Please see links to relevant documentation below:

HUD Final Rule:

https://www.hudexchange.info/resources/documents/HEARTH_HomelessDefinition_FinalRule.pdf;

Department of Education definition of homelessness:
<http://www2.ed.gov/policy/elsec/leg/esea02/pg116.html>.

2. How is homelessness measured in your country? What criteria and indicators are used and how is data collected and systematically updated for this purpose? Please provide available data over a period of time on the extent of homelessness in general and among particular groups (for example: children and youth, women, indigenous peoples, persons with disabilities, and others).

There are three core indicators that the U.S. government uses to measure homelessness:

1. The National Point-in-Time (PIT) helps to identify individuals and families residing in emergency shelters, transitional housing, and safe havens (sheltered) as well as individuals and families sleeping in places not meant for human habitation (unsheltered). HUD requires sub-national entities to count persons experiencing sheltered and unsheltered homelessness on a single night in January. The number of unsheltered and sheltered individuals and families identified on that night provides an annual estimate of people who experience homelessness. Limited demographic information is collected from the individuals and families identified on the night of the count, which provides details about sub-populations of people experiencing homelessness, including people who experience chronic homelessness, veterans, families with children, and unaccompanied youth.

2. The 2015 Annual Homeless Assessment Report (AHAR) is a HUD report to the U.S. Congress that provides nationwide estimates of homelessness, including information about the demographic characteristics of homeless persons, service-use patterns, and national and local capacity to house homeless persons. This report is released in two parts, the first of which focuses on PIT count data and the second of which based primarily on Homeless Management Information Systems (HMIS) data on persons who experience homelessness during a 12-month period. The report is available to download at the following link: <https://www.hudexchange.info/hdx/guides/ahar/>.

3. The U.S. Department of Education requires schools, local educational agencies, and states to collect and report data on the number of students who experience homelessness and housing instability in other forms. This data includes all students who are identified as experiencing homelessness or housing instability over the course of the school year and is reported on annually by the federal government.

HUD provides a publicly accessible website

(<https://www.hudexchange.info/homelessness-assistance/>) with a searchable database that provides access to the most current Point in Time count and AHAR data available. The Department of Education's National Center for Homeless Education (NCHE) provides reports on students who experience homelessness and housing instability on its publicly accessible website

(http://center.serve.org/nche/pr/data_comp.php). The Department of Veterans Affairs, in collaboration with HUD, provides a publicly accessible website

(<http://homelessnessanalytics.org>), which provides information about homelessness among veterans.

Please see links to relevant documentation below:

AHAR PART I:

<https://www.hudexchange.info/resource/4074/2014-ahar-part-1-pit-estimates-of-homelessness/>;

AHAR PART II:

<https://www.hudexchange.info/resource/4404/2013-ahar-part-2-estimates-of-homelessness-in-the-us/>;

NCHE Federal Data Summary: http://center.serve.org/nche/pr/data_comp.php.

3. What population groups are most affected by homelessness in your country? How have their experiences been documented and by whom (whether officially by national or subnational governments, National Human Rights Institutions, or by non-governmental or other organizations, charities, etc.)? If studies exist, please indicate or share a link, a reference or a copy.

As noted above, instances of homelessness among veterans, people experiencing chronic homelessness, families and children, and youth sub-populations are documented in the PIT count, AHAR, and Department of Education data. Those documents can be accessed via the links above.

According to HUD's 2015 AHAR, people of color make up approximately one-third of the U.S. population but just over half of all sheltered persons who experience homelessness.

While African-Americans make up 12 percent of the U.S. population, they represent an estimated 41 percent of all sheltered persons who experience homelessness. These data indicate that African-Americans are more than five times as likely to experience homelessness that white non-Hispanics.

While the share of Hispanics in the total U.S. population increased from 14.8 percent in 2007 to 16.9 percent in 2013, the share of Hispanics among sheltered persons who experience homelessness dropped from 21.6 percent to 16.4 percent during the same time period. While minority populations in the United States increased 15.2 percent between 2007 and 2013, the share of minorities in the sheltered population dropped 3 percent. Those among the sheltered population who identify as white and non-Hispanic increased slightly, from 36.4 percent to 37.6 percent over the last six years, while the number of African-Americans increased from 39.6 percent to 41.8 percent.

While we are still working to improve our data on homelessness on tribal lands, the data that we do have indicate that while Native Americans make up 1.2 percent of the total U.S. population, they constitute 2.3 percent of the population that experiences sheltered homelessness on non-tribal lands.

The 2015 AHAR report indicates that people with disabilities make up 38.9 percent of the total population of persons who experience homelessness. Homeless persons were reported to be 2.6 times more likely to have a disability than individuals who are not defined as homeless.

Several studies of homeless youth in the United States have concluded that approximately 20 percent of homeless youth identify as Lesbian, Gay, Bisexual, Transgender, or Intersex (LGBTI). This figure is disproportionately high when considering that roughly 10 percent of the U.S. population identifies as LGBTI.

Please see the link below for relevant documentation:

UCLA Williams Institute Homeless Youth Survey:

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>.

4. Please provide information and details on the primary systemic and structural causes of homelessness in your country and explain how these are being addressed.

Homelessness is exacerbated by multiple factors ranging from domestic violence, untreated addiction and mental health conditions, institutionalization and incarceration, and chronic poverty. However, the primary cause of homelessness is the lack of access to safe, stable, and affordable housing and the adequate resources and services needed to sustain that housing.

Opening Doors identifies challenges and drivers of homelessness, as well as strategies to end homelessness. The U.S. Interagency Council on Homelessness (USICH) and its 19 constitutive member agencies meet regularly to assess progress nationally and commit to undertake the action necessary to meet the goals of the plan.

To address the causes of homelessness and explore possible solutions to end it, this strategic plan identifies strategies for the achievement of 10 objectives, which are organized into the five themes below:

1. *Increase leadership, collaboration, and civic engagement.*

Objective 1: Provide and promote collaborative leadership at all levels of government and across all sectors to inspire and energize Americans to commit to preventing and ending homelessness.

Objective 2: Strengthen the capacity of public and private organizations by increasing knowledge about collaboration, homelessness, and successful interventions to prevent and end homelessness.

2. *Increase access to stable and affordable housing.*

Objective 3: Provide affordable housing to people experiencing or most at risk of homelessness.

Objective 4: Provide permanent supportive housing to prevent and end chronic homelessness.

3. *Increase economic security.*

Objective 5: Improve access to education and increase meaningful and sustainable employment for people experiencing or most at risk of homelessness.

Objective 6: Improve access to mainstream programs and services to reduce people's financial vulnerability to homelessness.

4. *Improve health and stability.*

Objective 7: Integrate primary and behavioral health care services with homeless assistance programs and housing to reduce people's vulnerability to and the impacts of homelessness.

Objective 8: Advance health and housing stability for unaccompanied youth experiencing homelessness and youth aging out of systems such as foster care and juvenile justice.

Objective 9: Advance health and housing stability for people experiencing homelessness who have frequent contact with hospitals and criminal justice.

5. *Retool the homeless crisis response system.*

Objective 10: Transform homeless services to crisis response systems that prevent homelessness and rapidly return people who experience homelessness to stable housing. Please see the link below for relevant documentation:

Opening Doors: <https://www.usich.gov/opening-doors>.

5. Please provide any information available about discrimination and stigmatization of people who are homeless, including laws or policies that may be used to remove homeless persons from public spaces or to prohibit activities in public spaces such as sleeping, camping, eating, sitting, or asking for money. Please explain whether such discrimination is prohibited by law at national and/or local levels.

Local jurisdictions have purview over the laws and policies referenced in this question. Some cities are adopting policies that criminalize behaviors that people experiencing homelessness are often forced to take, including: living in vans and camping, public sitting or lying down, panhandling, sleeping in cars, and loitering.

Recent research indicates a high prevalence of past criminal justice involvement among people experiencing homelessness, with estimates ranging from 25 to 50 percent of persons who experience homelessness showing a history of previous incarceration. Nearly 50,000 people who enter shelter annually come from correctional facilities. The incidence of criminal justice involvement is high for every demographic that experiences homelessness. In a study of almost 15,000 veterans enrolled in the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program, as many as 66 percent reported having been previously incarcerated. Another series of studies estimated that 20 to 30 percent of unstably housed youth have been arrested. As much as 15.3 percent of all people in U.S. jails report having experienced homelessness in the year prior to incarceration. There is also a higher rate of serious mental illness for people experiencing both homelessness and criminal justice involvement. Nearly one million adults with serious mental illness are booked into jails annually and many of these individuals have histories of homelessness.

The federal government has taken steps to combat the criminalization of homelessness and promote alternatives to criminalization. For example, HUD has incorporated questions about criminalization in its Notice of Funding Availability, the mechanism the agency uses to fund homelessness programs in communities. Recently, the Department of Justice (DOJ) filed a brief in a Boise, Indiana case, explaining that anti-camping

ordinances that effectively criminalize the status of being homeless violate the Constitution. Furthermore, the United States supported or supported in part each of the three recommendations related to housing or homelessness that it received through the UN Human Rights Council's Universal Periodic Review process in 2015. Finally, the federal government is working to provide support to communities that seek alternatives to criminalization through the provision of resources, like "Searching out Solutions," and the recently released report, "Ending Homelessness for People Living in Encampments: Advancing the Dialogue."

Please see links to relevant documentation below:

Searching out Solutions:

https://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf;

Ending Homelessness for People Living in Encampments: Advancing the Dialogue:

<https://www.usich.gov/tools-for-action/ending-homelessness-for-people-in-encampments/>.

6. Has homelessness been recognized as a human rights violation by courts or by national human rights institutions in your country, and if so, on the basis of which human rights (for example: right to adequate housing, right to life, etc.)?

Homelessness has not been characterized as a human rights violation by U.S. courts. The United States is neither a party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), nor to its Optional Protocol, and interprets references to any rights related to housing in this survey as applicable only to the extent that States have assumed such obligations, and with respect to States Parties to the ICESCR, in light of its Article 2(1). The rights contained in the ICESCR are not justiciable as such in U.S. courts.

However, anti-criminalization ordinances, driven primarily by local government, have been under scrutiny by DOJ in the past. In August 2015, DOJ filed a statement of interest arguing that enforcing city ordinances that make it a crime for people who are homeless to sleep in public places when there is insufficient shelter space in the city punishes those individuals for being homeless, in violation of the Constitution. The statement of interest was filed in federal district court in Idaho in *Bell v. City of Boise et al.*, a case brought by people experiencing homelessness who were convicted under Boise city ordinances that criminalize sleeping or camping in public.

The brief relied on Supreme Court precedent, holding that to convict a person of a crime based on his or her status amounts to cruel and unusual punishment is in violation of the Eighth Amendment.

7. What legal or administrative procedures are available to challenge actions or inaction by governments or private actors on the grounds that they lead to or fail to address homelessness?

As noted above, DOJ filed a statement of interest arguing that it is unconstitutional to make it a crime for people who are homeless to sleep in public places, when there is insufficient shelter space in a city.

Additionally, federal homelessness assistance, including targeted homelessness programs as well as other mainstream programs, along with other funding (e.g., state and local government funding and foundation grants), are tied to community needs as well as to a community's response and performance with respect to eliminating homelessness.

8. Please provide information about any strategies or legislation in place at the national, sub-national or local levels to reduce or eliminate homelessness, explain any goals or timelines that have been adopted for this purpose, describe how progress is monitored and provide information on results to date.

Through the coordinated implementation of the *Opening Doors* strategies at the national, state, and local levels, the United States has made significant progress toward ending homelessness. This coordination has resulted in a number of positive outcomes, including the widespread adoption of evidence-based practices, such as developing a coordinated housing crisis response system that prioritizes the delivery of housing and services resources to those who need it the most.

Since 2010, the United States federal government has increased funding to targeted homelessness programs and services by 34 percent. Currently, the President's 2015 budget request proposes a number of investments that would: (1) contribute to ending chronic homelessness in 2017; (2) make significant progress toward ending homelessness among families, children and youth in 2020; and (3) sustain efforts to end veteran homelessness in 2015.

Between 2010 and 2014, the United States has reduced overall homelessness by nearly 10 percent, including a 25 percent reduction in unsheltered homelessness. The United States has decreased homelessness among veterans by 33 percent, chronic homelessness by 21 percent, and homelessness among families by 15 percent, including a 53 percent decrease in the number of families living in unsheltered situations. These data derive from the annual PIT count. Additional interim reports that provide updates on progress are provided by communities to state, national, and federal partners via the Homeless Management Information System.

Sincerely,



Pamela K. Hamamoto
Ambassador