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Moderator

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- J.D., University of Maryland School of Law
- M.P.H., Johns Hopkins University Bloomberg School of Public Health

Research interests/areas of expertise:
- Empirical Legal Research and Coding
- Injury Prevention
- Child and Adolescent Health Policy
Presenter

Emily A. Benfer, LLM, JD, Visiting Associate Clinical Professor of Law, Columbia Law School

- LLM, Georgetown University Law Center
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Research interests/areas of expertise:
- Housing & Homelessness
- Lead Poisoning Prevention
- Special Education
- Public Benefits
Presenter

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- J.D., University of Maryland
- Research interests/areas of expertise:
  - Injury Prevention and Safety
  - Tobacco Control
  - Environmental Public Health
  - Food Safety
  - Oral Health
Housing & COVID-19

Emily A. Benfer
Visiting Associate Clinical Professor of Law
Director, Health Justice Advocacy Clinic
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Poverty & COVID-19 Vulnerability

• 38.1 million people (11.8%) live below the Federal Poverty Level

• The lower a person’s socioeconomic status, the greater the risk of chronic disease

• Poor adults are 5 times as likely to be in poor health as those with incomes 400% of the Federal Poverty Line

• Race strongly influences socioeconomic factors

• Black Americans continue to have both lower incomes and shorter life expectancies than white Americans do

COVID-19 & Economic Instability

- 10 million Americans filed for unemployment in March
- 10-15% estimated unemployment rate in March compared to 3.5% in February
- 27% of Americans had to take a pay cut (40% of Latinos)
- 20% of Americans lost jobs (29% of Latinos)
- Nearly 50,000 health care industry outpatient jobs lost in March

Sources: U.S. Bureau of Labor Statistics; Justin Wolfers, University of Michigan; Pew Charitable Trust; Modern Healthcare
Eviction Prior to COVID-19

• 300,000 people face eviction in a typical month
• 2.8 million more were on the verge of eviction
• 1 out of 5 people pay over half of their income to housing
• Less than half of these households have more than $10 in savings.
• Eviction results in poor health, high blood pressure, depression, anxiety, and psychological distress

Sources: Eviction Lab; Desmond & Gershenson (2016), Vasquez-Vera, et. al (2017)
Eviction Filing Rate Before COVID-19

Source: Eviction Lab (2016)
WHEREAS, the economic impacts of COVID-19 are significant, and pose a growing threat to the housing security of many New Jerseyans; and

WHEREAS, many New Jerseyans are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments; and

WHEREAS, housing security and stability are important to public health, particularly as homelessness can increase vulnerability to COVID-19; and

WHEREAS, removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents of contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health, and

COVID-19 and Housing/Homelessness April 6, 2020

Emily A. Benfer @emilyabenfer
Moratoria by Stages of Eviction

Source: bit.ly/COVID19EvictionFreezeUS

- Suspends Notice of Eviction: 5.3%
- Suspends Filing of Eviction: 20.3%
- Suspends Hearing on Eviction: 30.5%
- Stays Order of Eviction: 22.0%
- Suspends Enforcement of New Order: 37.3%

Percent of States, Commonwealths, and Territories

COVID-19 and Housing/Homelessness April 6, 2020

Emily A. Benfer @emilyabenfer
Approaches to Eviction During COVID-19 Pandemic

Source: bit.ly/COVID19EvictionFreezeUS

- Eviction Cases & Enforcement Suspended: 21 states
- Civil Cases & Eviction Enforcement Suspended: 1 state
- Eviction Cases Suspended: 12 states
- Eviction Enforcement Suspended: 2 states
- Civil Cases Suspended: 8 states
- COVID-19 Related Eviction Cases Suspended: 4 states
- Local Discretion: 7 states
- No Order/Declaration: 4 states
Federal CARES Act Eviction Moratorium

- VAWA Covered Housing
- Rural Housing Voucher Program
- Federally Backed Mortgage (1-4) Loan
- Federally Backed Multifamily (5+) Mortgage Loan

VAWA Covered Housing Programs
34 U.S.C. § 12491(a)

- Public housing
- Section 8 Housing Choice Voucher program
- Section 8 project-based housing
- Section 202 housing for the elderly
- Section 811 housing for people with disabilities
- Section 236 multifamily rental housing
- Section 221(d)(3) Below Market Interest Rate housing
- HOME
- HOPWA
- McKinney-Vento homelessness programs
- Section 515 Rural Rental Housing
- Section 514, 516 Farm Labor Housing
- Section 533 Housing Preservation Grants
- Section 538 multifamily rental housing
- Low-Income Housing Tax Credit
CARES Act Eviction Moratorium

- Non-payment cases only
- Freezes evictions for 120 days
- After moratorium expires, requires 30 days notice of eviction
- FHA, VA, USDA, 184/184A, Fannie Mae, Freddie Mac mortgages receive 6 month forbearance (prior to CARES Act)
Shelter in Place & Healthy Housing

- Low-income people are more likely to live in homes with poor air quality, mold, asbestos, lead paint, infestations, inadequate space.
- 35 million (40%) homes in U.S. metropolitan areas have 1 or more health and safety hazard.
- Rental properties have greater prevalence of health-harming conditions than owner-occupied units.
- 2 million people live in severely inadequate homes lacking heat, water, electricity.

Source: Benfer & Wiley, Health Affairs
Recommendations: Health Justice Approach

1. Legal and policy responses must address the social determinants that threaten to exacerbate the health, financial, and social impacts of a public health emergency on low-income communities, communities of color, and other socially subordinated groups.

2. Interventions mandating healthy behaviors—such as social distancing—must be accompanied by immediate legal, social, and financial protections and supports to facilitate those behaviors.

3. Legal and policy responses must address root problems in addition to immediate needs.
Recommendations: Moratoria

- Extend eviction moratoria for at least six months after emergency declarations end
- Prohibit utility shut-offs and require universal service
- Require landlords to waive or suspend fees for missed or late rental payments
- Adopt rent control ordinances
- Treat unpaid rent and mortgage payments like an unsecured debt unrelated to the tenancy
- Strict enforcement against landlords who violate moratoria
Recommendations: Court Processes

• Provide civil Gideon for any tenants served an eviction notice in the year following the pandemic
• Permit out-of-state lawyers and supervised law students to provide pro bono services in other states
• Mandate payment plans or mediated settlement negotiations
• Adopt community court models to divert tenants from eviction
• Seal eviction records and expunge past records
• Bar retaliatory eviction and require “clean hands” eviction
Recommendations: Investments

- Create or expand emergency rental and mortgage assistance fund
- Create and distribute housing subsidies
- Cover legal fees for low-income tenants
- Provide case management and housing counseling services
- Study interventions
- Fund healthy homes interventions
- Invest in the rejuvenation of low-income communities
- Provide property tax relief
Homelessness & COVID-19
U.S. HOMELESSNESS + COVID

People Experiencing Homelessness (PEH)

- Approx. 600k PEH (likely under-measured)
- Aging PEH population
- More likely to have underlying medical conditions, chronic
- Insufficient access to medical care, nutritious food, sufficient sleep, showering, hand-washing, public health messaging

PEH with COVID-19

- 2 times more likely to be hospitalized
- 2-4 times more likely to need critical care
- 2-3 times more likely to die
CARES ACT (COVID Stimulus)

$4 Billion

HUD Emergency Solutions Grants (ESG) Program to state and local governments for services for PEH and those at risk of becoming homeless

- Eliminates need for matching funds and local planning and releases some procurement rules
- Eliminates cap on shelter funding and the need for habitability and environmental review standards
- **PEH may not be required to seek treatment or undertake other activities to receive shelter**

*HUD may waive almost any requirement for ESG if the flexibility in CARES is not sufficient.*
COMMUNITY BLOCK GRANTS

$5 Billion
Distributed to state and local governments
• May be used to keep people experiencing homelessness safe
• May be used to prevent homelessness

CORONAVIRUS RELIEF FUND

$150 Billion
Distributed to state and local governments
• Available for broad public health purposes
State Stay-at-Home or Shelter-in-Place Orders

Four Approaches + 1

• Silent on Applicability to PEH
• Exempt PEH
• Exempt PEH urge them to find shelter
• Exempt PEH urge them to find shelter urge governmental and other entities to provide shelter meeting CDC guidelines

Virginia: All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.
Best (Good) Practices: Shelters

Providing Separate Living Spaces in Shelters

• “Appropriate” for well, low-risk persons
• Shelter space modifications to meet CDC recommendations
• Screening new residents before entry
• Cleaning and disinfecting at highest level possible
• Establishing isolation area for COVID+ or exposed
• Challenges: shared bathrooms; communal eating; will reduce # served; may close temporarily if COVID-19+ client/staff (i.e. Catholic Charities in Las Vegas)
Best Practices: Shelter Diversion

Shelter Diversion (Single/Family Occupant Residence) Preferred

- Secure hotel/motel/FEMA trailer space
- Place in potential permanent housing (expedite process)
- Priority for symptomatic not in need of hospital, people with underlying health conditions, as respite care after hospital discharge, families with children, humans.
- Challenges: $; NIMBY; access to food, laundry, health care, other services, strains staff that serve PEH

Good Examples: Connecticut; Portland

California: Newsom $50M for SOR as Project Roomkey
Best Practices: Encampments

Encampments

• Do not clear. Stay enforcement of laws and educate PEH and law enforcement.
• Encourage tents/sleeping areas w/ 12’X12’ per person.
• Provide portable handwashing stations and toilets.

City of Los Angeles: Council voted to stay enforcement of law prohibiting tents between 6 a.m. and 9 p.m. in certain areas, providing h/w, toilets, dumpsters.

Many jurisdictions formal or informal stay of enforcement of anti-homeless laws to stop clearing and arrests. MUST communicate to law enforcement.
Anti-Homeless Laws

Anti-Homeless Laws: Those that prohibit possession of certain items (tents) in certain places, prohibit sitting/sleeping/panhandling in public places:

- Ineffective at reducing homelessness
- Effective at increasing PEH interactions with law enforcement and criminal justice system
- Leads to neighborhood shifting
- Loss of property (on arrest/confiscation) harms PEH well-being

*Best Practice? Repeal them*

*Short-term? Stay enforcement*
Related Issues

- Public Education Targeted to PEH
- Children Experiencing Homelessness
- People with SUD (incl. alcohol and tobacco)
- PEH Pets
COVID-Related Resources on Homelessness

U.S. Interagency Council on Homelessness

CDC

National Alliance to End Homelessness (NAEH resources and extensive list of other resources)

National Healthcare for the Homeless Council
Ending Homelessness
Time for Q&A

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Slides and the recording will be available on the Network’s website soon.
How to Use WebEx Q & A

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COVID-19: Focus on Emerging Constitutional Challenges
1:00 – 2:00pm EST | April 15

COVID-19: Real-Time Guidance, Resources and Information
View resources & request assistance at networkforphl.org/covid19