

MEMORANDUM

TO: Regional Steering Committee on Homelessness and Housing

FROM: HomeBase

DATE: January 25, 2008

RE: Federal and State Legislative Updates

Background

The RSC customarily reviews the state and federal budgets, as well as appropriations and substantive legislation. Items that HomeBase has paid particularly close attention to on behalf of the RSC are funding for HUD and Health and Human Services programs that affect homeless and/or low-income individuals. In addition to appropriation legislation, the RSC also examines recent and pending legislation that affects the communities we serve. For reference, the RSC has completed budget and legislative analysis in the January 2007, July and March 2006 meetings.

Current Status

State Senate Bill 122: Hate crimes: homelessness

The problem

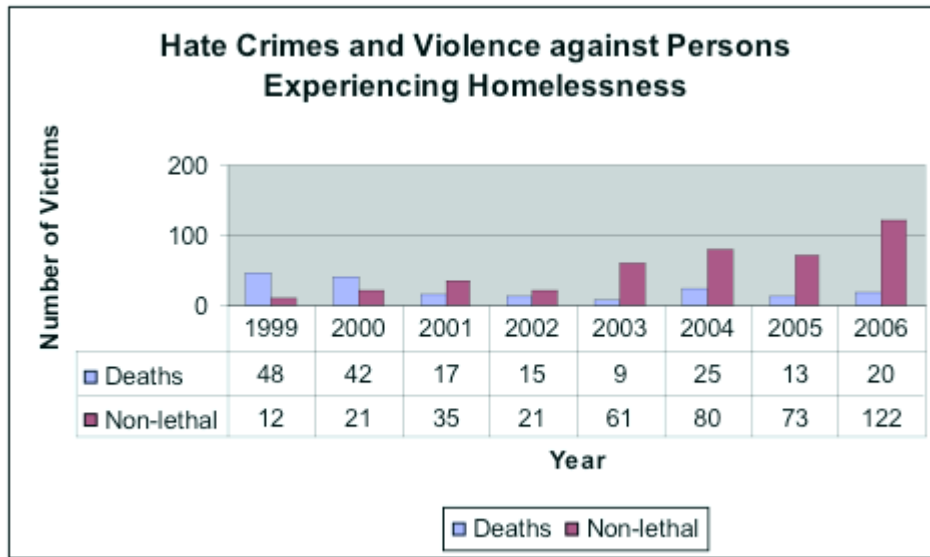
Homeless men, women, and children, especially those who sleep outdoors, are extremely vulnerable to a variety of factors. While too many to enumerate, they are vulnerable to harsh weather conditions, to insensitive systemic policies and procedures, and, though frequently unconsidered, to other members of society who cruelly victimize people who are down and out. Over the past eight years, advocates, shelter workers, and police have noted a startling increase in reports of hate crimes against the homeless. The violent attacks and murders, frequently referred to as “bum bashing,” are directed against individuals specifically because they are homeless, thereby constituting a “hate crime.”

Crimes against homeless people are similar to hate crimes against people based on other legally protected statuses (e.g. ethnicity, religion), in so much as the homeless victims are stereotyped, offenders often act on prejudices, offenders seek thrills through the crime or feel superior to their victims, and a mob mentality often trumps caution.¹ Advocates and lawmakers speculate that the prevalence of hate crimes against homeless people arises due to the negative stereotypes reinforced by the media and intolerant people.

The National Coalition for the Homeless tracked violent crimes conducted against homeless people throughout the nation between 1999 and 2006. The following represent the findings of the National Coalition for the Homeless. It is vital to note, however, that the vast majority of

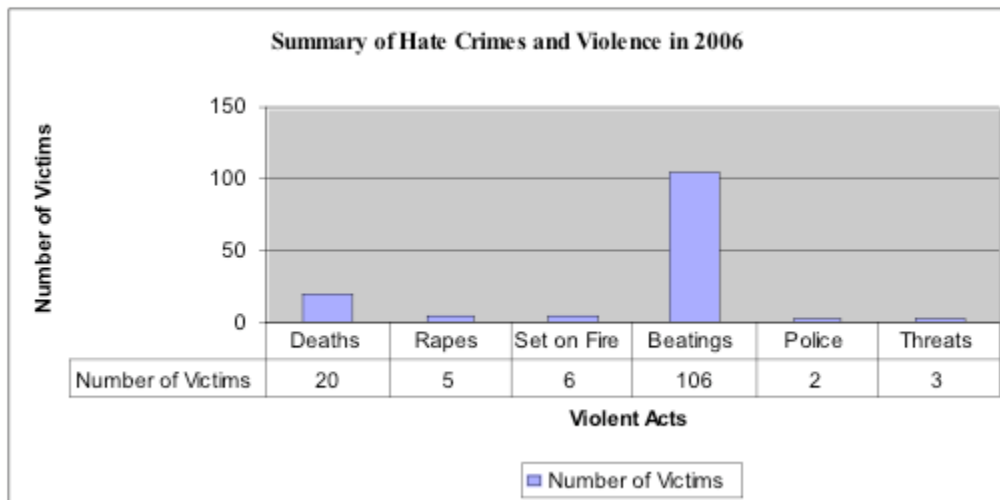
¹ Los Angeles Coalition to End Hunger and Homelessness: “SB 122 (Steinberg) Homeless Hate Crimes” 2007.

violent crimes against homeless people go unreported, and thus these facts and statistics do not accurately reflect the true magnitude of the problem.



Total number of violent acts of 8 years: 614
Total number of deaths over 8 years: 189
Total number of non-lethal attacks over 8 years: 425
Total Number of cities where crimes occurred over 8 year: 200
Total number of states where crimes occurred over 8 years: 44 plus Puerto Rico
Age range of the accused/convicted: 11 to 75 years of age
Age range of the victims: 4 months old to 74 years of age
Gender of victims: male: 359 **female:** 48

Source of Chart: National Coalition for the Homeless: "Hate, Violence, and Death on Main Street USA" February 2007.



Total Number of Lethal Attacks: 20
Total Number of Non-Lethal Attacks: 122
Total Number of Violent Acts in 2006: 142

Source of Chart: National Coalition for the Homeless: "Hate, Violence, and Death on Main Street USA" February 2007.

The Los Angeles Coalition to End Hunger and Homelessness recounts the casual, brutal, inhumane nature of a few of the attacks that occurred in California in 2006:

- February 8, 2006 in Berkeley, Maria Catherine King, 48, less than 100 pounds and struggling with mental illness, was killed by two 18-year olds after 15 seconds of being kicked in the head enough to shift her brain 5 centimeters. One suspect, arrested with blood on his shoes, bragged, “I really kicked her ass.”
- April 14, 2006 in San Francisco, six homeless individuals are hurt after being shot with BB guns in four separate incidents between 2:00 and 3:30 a.m.
- June 25, 2006 in Sacramento, four homeless people are injured after suspects drive up to victims and ask for directions and then shoot victims at close range.
- August 16, 2006 in Los Angeles, two 19-year-olds, inspired by the “Bumfights” videos, roamed the streets of downtown Los Angeles hitting sleeping people with aluminum baseball bats.
- August 16, 2006 in Fairfield, a homeless father was beaten, stomped on and left in a pool of blood in a church parking lot. The three male suspects under the age of twenty blinded the man and left him neurologically damaged.
- October 25, 2006 in Sacramento, two teenage males dressed like ninjas accosted a homeless man and shot him with a pellet gun.

In response to the alarming rate of crimes aimed at homeless people, in January 2007 SB 122 was introduced in the California State Senate. The bill would add “homeless status” to the list of actual or perceived characteristics qualifying as a hate crime.

Existing law

Existing law defines “hate crime” as a “criminal act committed, in whole or in part, because of one or more specified actual or perceived characteristics of the victim.” The law prohibits a person from “willfully injuring, intimidating, interfering with, oppressing, or threatening any other person in the free exercise or enjoyment of any legal right because the victim has, or is perceived to have, one of those specified characteristics.” Existing law protects people from being victimized based on traditional categories, such as race, ethnicity, and religion.

Effect of SB 122

If SB 122 is enacted, “homeless status” would be on the list of actual or perceived characteristics qualifying as a hate crime. “*Homeless status*” is defined under SB 122 as: “an individual’s lack of a fixed, regular, and adequate nighttime residence, or an individual’s use of a primary nighttime residence that is one of the following: (1) A supervised shelter, either publicly or privately operated, that is designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters, and transitional housing for the mentally ill. (2) An institution that provides a temporary residence for individuals intended to be institutionalized. (3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.”

Benefits to designating crimes against homeless people as a hate crime

- Signals to victims that these crimes are unacceptable.
- Hate crimes and violent acts toward people experiencing homelessness will be more appropriately handled and prosecuted.
- Encourages victims to report in greater frequency because there is a system in place to prosecute such crimes.

Opponents' Arguments

- Creates a troubling anomaly, as it protects a class (the homeless) that does not enjoy protection under current state or federal civil rights laws.
- The bill, which is concerned primarily about the spate of violent attacks, would not go far enough to protect the homeless from what they see as daily harassment by local police and other organizations.

Discussion:

- Have you been involved with these problems in your community?
- Is any community education happening in your community regarding this proposed legislation?
- What action do you think is needed?

Reforms in Foster Care²

AB 1331

- Governor Schwarzenegger signed this legislation on October 11, 2007.
- Ensures foster youth with disabilities access to critical services that will support them in their transition to adulthood.
- It requires counties to screen foster youth between the age of 16 ½ and 17 ½ to determine their potential eligibility for federal Supplemental Security Income (SSI) disability benefits and to make applications for those who may be eligible.

Discussion:

- Are your communities screening foster youth between 16 ½ and 17 ½ to determine eligibility for SSI benefits?
- What can we do to ensure local program adherence?

² Source: Office of the Governor, Press Release, 10/11/07 "Governor Schwarzenegger Signs Legislation to Protect California Foster Youth"

Governor's 2007-08 budget

- Includes \$4.1 billion to support child welfare. Major investments in the child welfare system include an increase of \$20.2 million General Fund to increase participation in the Transitional Housing Plus Program, which provides services to youth between 18 and 24 years of age emancipating from the foster care system.

Consolidated Appropriations Act, 2008

While complete details as to how this federal legislation will be implemented are currently unknown, the Consolidated Appropriations Act, 2008, includes:

- A \$25,000,000 set aside to conduct a demonstration program for the rapid re-housing of homeless families.
- \$1,250,000 of the \$25,000,000 may be used to conduct an evaluation of this demonstration program.
- The funding made available for this demonstration program shall be used by the Secretary, expressly for the purposes of providing housing and services to homeless families in order to evaluate the effectiveness of the rapid re-housing approach in addressing the needs of homeless families.

These details were released in the USICH newsletter: “The new resources will be awarded competitively as part of the annual HUD funding competition. A limited number of sites will be chosen based on experience in rapid re-housing, performance in the HUD continuum of care, and geographic diversity. Families will receive housing placement services, short-term housing assistance including up to 18 months of rental assistance, and appropriate services. An evaluation component will include cost benefit analysis of both direct and indirect benefits of the demonstrations, and housing stability of the families.”

Stay tuned for more information when the NOFA is released!

Health and Human Services Budget: Substance Abuse and Mental Health Services Administration

The 2008 Health and Human Services Budget includes \$56.9 million for the Substance Abuse and Mental Health Administration’s (SAMHSA) programs for homeless services. The following chart is a snapshot of just a few of SAMHSA’s programs. *Note that dollars are in thousands.*

Program	FY 2006	FY 2007	FY 2008
Mental Health	883,283	883,858	807,228
Substance Abuse Prevention	192,767	192,902	156,461
Substance Abuse Treatment	2,156,100	2,157,540	2,110,681
Grants for the Benefit of Homeless Individuals		43,009,000 (actual)	37,018,000 (actual)

Below is a summary of Section 505 of the Public Health Services Act, which authorizes the Substance Abuse and Mental Health Services Administration (SAMHSA) portion of the Health and Human Services budget. Section 505 specifically addresses grant guidelines for supportive services for homeless individuals. SAMHSA, in explaining the purpose of Treatment for Homeless grants, states that the grants “enable communities to expand and strengthen their treatment services for homeless individuals with substance abuse disorders, mental illness, or with co-occurring substance abuse disorders and mental illness.” The “Treatment for Homeless” program began in FY 2001. Currently, there are 50 projects participating in this program.

- Section 505(a): Grants for Treatment and Recovery for Homeless Individuals
 - In awarding grants, contracts, and cooperative agreements to community-based and public and private nonprofit entities that provide mental health and substance use disorder services for homeless individuals, the Secretary must give a preference to:
 - ♣ Entities that provide integrated primary health, substance use disorder, and mental health services to homeless individuals.
 - ♣ Entities that effectively serve runaway and homeless youth.
 - ♣ Entities that have experience in providing substance use disorder and mental health services to homeless individuals.
 - ♣ Entities that have experience in providing housing for individuals in treatment for or in recovery from mental illness or substance use disorders.
 - ♣ Entities that demonstrate effectiveness in serving homeless veterans.
 - The Secretary, in awarding grants, contracts, and cooperative agreements, expressly cannot prohibit the provision of services to homeless individuals who are suffering from a substance use disorder and are not suffering from a mental health disorder.
 - The Secretary expressly cannot make payments to any entity that has a policy of excluding individuals from mental health services due to the existence or suspicion of substance use disorder, or has a policy of excluding individuals from substance use disorder services due to the existence or suspicion of mental illness.

Discussion

- What action can we take in order to align the entities in our communities with the federal priorities?

- Section 505(b): Grants for Services to End Long Term Homelessness
 - The Secretary can make grants to qualified entities in order to provide the following services to chronically homeless individuals who are either in permanent supportive housing or scheduled to be in permanent supportive housing within 90 days:

- ♣ Services that promote recovery, resiliency, and self-sufficiency and address barriers to housing stability, including:
 - Mental health services
 - Substance use disorder treatment and recovery support services
 - Integrated, coordinated treatment and recovery support services for co-occurring disorders
 - Health education
 - Services designed to improve self-sufficiency (benefits advocacy, money management, life-skills training, self-help programs, etc.)
 - Parental skills and family support
 - Case management
 - Other supportive services that promote an end to chronic homelessness (catch-all provision)
 - Coordination or partnership with other agencies, programs, or mainstream benefits to maximize services and resources
 - Data collection and measuring performance outcomes
- ♣ Qualified Entities:
 - A State or public or nonprofit private entity
 - A consortium composed of State or public or nonprofit private entities, provided a public or nonprofit entity serves as the lead applicant and has responsibility for fiscal management, program management, and coordinating the activities of the consortium.
- ♣ Priorities in making grants to applicants who have demonstrated that they:
 - Target services to individuals or families who (1) have been homeless for longer periods of time or have experienced more episodes of homelessness than are required to meet the definition of chronic homelessness, (2) have high rates of utilization of emergency public systems of care, or (3) have a history of interactions with law enforcement and the criminal justice system.
 - Have greater funding commitments from State or local government agencies responsible for overseeing mental health treatment, substance use disorder treatment, medical care, and employment.
 - Will provide for an increase in the number of units of permanent supportive housing that would serve chronically homeless individuals as a result of an award of a grant.
 - Have experience providing services to address the mental health and substance use disorder problems of chronically homeless individuals living in permanent supportive housing.
- There is a match requirement:
 - ♣ For initial grant awards: \$1 for each \$3 of Federal funds
 - ♣ For renewal grant awards: \$1 for each \$1 of Federal funds
- Fund uses:
 - ♣ No more than 10% can be used on administrative expenses.
 - ♣ No more than 20% of the individuals served by a grantee may be homeless individuals who are not chronically homeless.

- Few of the conditions for receipt of a grant:
 - ♣ There is a mechanism in place for determining whether residents are chronically homeless.
 - ♣ The applicant participates in a local, regional, or statewide Homeless Management Information System (HMIS).
- Duration of grants:
 - ♣ Initial grant: 3-5 years, subject to annual approval
 - ♣ Renewal grant: not more than 5 years, subject to annual approval

Discussion:

- What action can we take in order to align the entities in our communities with the federal priorities?

Reference Note: Some of you may notice that this legislation reads similarly to that of the “Services to End Long-Term Homelessness Act” (SELHA), formerly known as “Ending Long-Term Homelessness Services Initiative” (ELHSI). That is because 505(b) is SELHA. The RSC has parsed through these pieces of legislation numerous times over the years. You can find more information in the RSC meeting materials for: November 2003, March 2004, March 2005, and July 2005. See the HomeBase website: www.homebaseccc.org.

HUD’s Budget

Despite fears that political leaders would cut HUD’s budget, Congress passed and the President signed the appropriations legislation to fund HUD at \$37.6 billion, which is 4 percent more than current funding and 6 percent more than the President initially requested.³ Highlights of the final budget include:

- 10 percent increase for the McKinney-Vento homeless assistance program
- \$16.4 billion for the Section 8 Tenant-Based Rental Assistance program, which will allow for an additional 14,300 new vouchers, including \$75 million for Veterans Administration Supportive Housing (HUD-VASH) vouchers.

Please see the attached chart, produced by the National Low Income Housing Coalition, which compares the HUD budget from FY 04 – FY 08, broken down by program.

McKinney-Vento Reauthorization

The focus of the debates surrounding the McKinney-Vento Reauthorization is on two issues: (1) how “homeless” should be legislatively defined, and (2) whether there should be set-asides and

³ Source: Corporation for Supportive Housing Newsletter

bonuses for predetermined, specific purposes.

1. Definition of who is homeless:

Each of the bills expands HUD’s current definition of who is homeless to:

CPEHA – Senate – S. 1518 (Reed)

- Include people who move from place to place frequently and are doubled up with another family or living in a hotel (specifically, move three times in one year or twice within twenty-one days).

HEARTH – House - HR 840 (Carson)

- Include people who are sharing the housing of other persons due to a loss of housing, economic hardship or similar reason.

Analysts’ comments include:

- CPEHA will hurt family stability by encouraging families to move frequently to qualify as homeless.
- HEARTH will increase local flexibility in responding to unmet need.
- HEARTH will spread the dollars too thin.

2. Set-asides and Bonuses

The contested question is whether the legislation should say that some of the Congressional money should be set aside for permanent housing. As delineated below, the current McKinney-Vento legislation has an overt bias in favor of permanent housing. CPEHA has some biases in favor permanent housing as well, though fewer than the current Act. HEARTH does not have any biases. Rather, HEARTH leaves decision-making to localities.

LIMITATIONS ON FUNDING

Current McKinney-Vento Legislation/2007 NOFA	CPEHA (Reed)	HEARTH (Carson)
<p><u><i>\$1.6 billion for FY 2008</i></u></p> <p><i>Priority Given to Chronic Homelessness</i> 2006 NOFA sets forth a minimum of 10% of all Homeless Assistance Grants funding (sum of ESG <i>and</i> Continuum of Care grants), to go towards projects serving chronically homeless people. New or renewal projects that are transitional housing, safe havens, or permanent housing that have at least</p>	<p><u><i>\$2.2 billion for FY 2008</i></u></p> <p><i>Priority to Permanent Housing</i></p> <ul style="list-style-type: none"> ♣ At least 30% used for permanent housing for individuals and families who are disabled ♣ At least 10% used for permanent housing for families with children ♣ Incentive funding for 	<p><u><i>\$2.5 billion for FY 2008 and such sums as may be necessary for 2009-2012.</i></u></p> <ul style="list-style-type: none"> ♣ Of the amount allocated for ESG and Continuum of Care programs (\$2.5 billion in FY 2008), not more than an amount 15% will be allocated for the Emergency Shelter

<p>70% of their clients who are chronically homeless will count towards this minimum of 10%. HUD is mandated to annually award 10% of all Homeless Assistance Grants funding allocation to projects that qualify as ones that serve predominantly (at least 70% of clients) chronically homeless individuals.</p> <p>In the last two Continuum of Care competitions, the Samaritan Initiative could be used only for a project that serves exclusively “chronically homeless” people.</p> <p><i>Priority to Permanent Housing</i></p> <p>Through the last several annual appropriations bills, HUD has been mandated to annually award at least 30% of all Homeless Assistance Grants funding (sum of Emergency Shelter Grants and Continuum of Care grants), but excluding Shelter Plus Care Renewal funds, to permanent housing projects.</p> <p><i>Incentives to Create New Permanent Housing</i></p> <p>This 30% mandate spurred the annual “permanent housing bonus”/”Samaritan Initiative” that HUD has offered CoC’s for each of the last few years. This bonus is <i>additional</i> funding that is made available for a #1 ranked new permanent housing project in each community. The 2005 Samaritan Initiative could be used only for a project that serves exclusively “chronically homeless” people. Per 2005 NOFA, eligible activities included rental assistance, acquisition, new</p>	<p>implementation of proven strategies</p> <ul style="list-style-type: none"> • Permanent supportive housing for chronically homeless individuals and families • For homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent coupled with performance measure emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family services systems such as TANF and child welfare services 	<p>Program</p> <ul style="list-style-type: none"> ♣Of the amount allocated for Continuum of Care programs, up to 3% can be used for prevention activities ♣Of the total amount available for all Continuum of Care grants, the amount as may be necessary shall be designated for the purpose of renewing expiring grants (which might impact the funds available to a Continuum of Care to fund “new” projects) <p>Otherwise, communities expend the funds for people who are homeless (they need not be disabled)</p>
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<p>construction, rehabilitation, leasing, operating costs, and for SHP projects only, administration and case management.</p> <p>For the last several years, Shelter Plus Care renewal projects have been annually funded without competition.</p> <p><i>Homeless Families</i></p> <p>At least 25% annual allocation to projects funded through Supportive Housing Program will go to projects serving primarily homeless families.</p> <p><i>Persons with Disabilities</i></p> <p>At least 25% annual allocation to projects funded through Supportive Housing Program will go to projects serving primarily homeless persons with disabilities. (See also priorities for serving people who are considered “chronically” homeless, above.)</p> <p><i>Supportive Services Only</i></p> <p>At least 10% annual allocation to projects funded through Supportive Housing Program will go to projects funding supportive services <i>not</i> provided in conjunction with supportive housing.</p>		
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Discussion

- How do you think the reauthorized legislation should define “homeless”?
- Should there be federally defined set-asides and bonuses, or should localities make those decisions?

The RSC has reviewed the McKinney-Vento Reauthorization a few times over the years, specifically at the following meetings: January 2007, September 2006, July 2006, March 2006, January 2006, and November 2005. Please see the HomeBase website for the accompanying memos: www.homebaseccc.org.

*For more information, please contact Tara O'Neill, HomeBase Staff Attorney,
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