

Case No 21-55395
(Consolidated with Case Nos. 21-55404 & 21-55408)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

LA ALLIANCE FOR HUMAN RIGHTS, *et al.*,

Plaintiffs-Appellees,

v.

CITY OF LOS ANGELES, *et al.*,

Defendants-Appellants.

Appeal from the United States District Court
For the Central District of California
Case No. 2:20-cv-02201-DOC-KES
The Honorable David O. Carter

**BRIEF OF CITYGATE NETWORK AND TEXAS PUBLIC POLICY
FOUNDATION AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

**FILED WITH CONSENT FROM ALL PARTIES
[Fed. R. App. P. 29(a)]**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), the undersigned counsel certifies that no party to this brief is a publicly held corporation, issues stock or has a parent corporation.

Amicus counsel authored this brief in whole and without assistance. No party or party's counsel authored this brief or contributed money to fund the preparation or submission of this brief. No one other than amicus contributed money to fund the preparation or submission of this brief.

All parties have consented to the filing of this brief.

DATED: June 24, 2021

/s/Robert Henneke

ROBERT HENNEKE

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STATEMENT OF INTEREST AND INTRODUCTION

Amici Citygate Network (jointly Citygate Network and Texas Public Policy Foundation is herein “*Amici*”) also known as Association of Gospel Rescue Missions is a 106-year-old national network of crisis shelters, transitional housing programs, and life-recovery centers which seek to move people in desperate situations and destitute conditions from human suffering to human flourishing. Union Rescue Mission and Los Angeles Mission located in Los Angeles, California and more than 300 similar organizations are members. It also includes those who provide services and resources for organizations and individuals serving this population in our society. These organizations have experienced first-hand the increase in the homeless population, the growing challenges, and the need for a multi-faceted approach.

Amici The Texas Public Policy Foundation (the “Foundation”) is a non-profit, *non*-partisan research organization dedicated to promoting liberty, personal responsibility, and free enterprise through academically sound research and outreach.

Since its inception in 1989, the Foundation has emphasized the importance of liberty, personal responsibility, limited government, and free enterprise through academically sound research and advocacy. In accordance with its central mission, the Foundation has hosted policy discussions, authored research, and presented

legislative testimony. Specifically, the Foundation seeks to transform policy to support those experiencing homelessness in healing, growing, and achieving their full potential.

ARGUMENT

I. THE HOMELESSNESS CRISIS IN THE LOS ANGELES REGION NEEDS A MULTI-FACETED APPROACH THAT INCLUDES PARTICIPATION IN SERVICES TO ADDRESS THE REAL UNDERLYING ISSUES THAT LEAD PEOPLE TO HOMELESSNESS.

A. The one-size-fits all approach of Housing First has failed.

Underlying the homelessness crisis in the Los Angeles region is a one-size-fits-all approach to homelessness known as “Housing First,” that Los Angeles County and Los Angeles City adopted in 2016.¹ This approach treats all who experience homelessness with the same plan— meaning a severely mentally ill male receives the same treatment as a single-mother-led family—a permanent house to address their homelessness. However, this one-size-fits all approach has severely limited the options available to the homelessness by shifting all public resources to the funding of permanent housing and, at the same time, defunding transitional

¹ Housing Policy Studies, “Los Angeles Proposition HHH,” Local Housing Solutions, January 23, 2021, 7:34pm. <https://www.localhousingsolutions.org/housing-policy-case-studies/los-angeles-proposition-hhh/#:~:text=Proposition%20HHH%20authorized%20a%20%241.2,risk%20of%20or%20experiencing%20homelessness.>

housing, shelters, and the health services required to address the underlying issues that lead people to homelessness.

Under this one-size-fits-all approach, all struggling with homelessness are to receive a permanent housing as “the solution” to the often very complex challenges they are facing which are most often the reason(s) they are homeless— challenges such as substance abuse disorder, mental illness, trauma from physical or sexual abuse, and physical disabilities. Indeed, California Policy Lab data shows that in its study across 15 states, including California, over 75% suffer from one or more of these illnesses.² Accountability to address underlying issues of those experiencing homelessness, including sobriety, are expressly prohibited as a condition of this housing, meaning that issues such as addiction, mental illness, and a lack of life skills and/or employment training are not addressed once they are housed.

B. Provision and participation in services for the underlying issues that lead people to homelessness must be part of the approach.

California and the L.A. County Board of Supervisors chose to adopt a “low barrier approach to homelessness” called Housing First for all homeless in the region that compelled the use of all available homelessness funding to the Housing First

² Rountree, Janey, Hess, Nathan, and Lyke, Austin, *Health Conditions Among Unsheltered Adults in the U.S.*, Policy Brief, California Policy Lab, October 2019, page 4.

approach exclusively.³ This resulted in many non-profits shifting to Housing First's low barrier model to be eligible for government funding.⁴

For the vast majority of the homeless population, homelessness is a symptom of many deep-rooted issues and unaddressed traumas, often further mired by substance abuse, domestic violence, emotional and mental health challenges, as well as the vicious cycle of multi-generational poverty and homelessness. This is underscored by recent research with the Journal of Health Care for the Poor and Underserved in its findings that homeless adults in California's Santa Clara County reported severely traumatic childhoods.⁵

³ The federal Department of Housing and Urban Development (HUD) is the largest single funder of homelessness in the nation and thus, the driver of policy. Based on its apparent success in New York City³ in the 1990's, in 2008, HUD instituted the Housing First approach to a small but rising segment of the homeless population-- the severely and chronically homeless, mostly those living on the streets. At that time, they represented between 10-15% of the total homeless population. In 2011-2013, with little evidence it was working for the population for which it was designed, and without any reasonable evidence it would work for all struggling with homelessness, HUD rolled it out to all segments of the population, promising it would end homelessness in a decade... some officials even asserted five years.

⁴ "Low barrier" is a common term used for the removal of expectations and requirements for receipt of housing or services. These can include such requirements as program participants are required to remain drug-free or complete attendance requirements at a program.

⁵ Bymaster, Angela, et al. "A Pediatric Profile of a Homeless Patient in San Jose, California." Journal of Health Care for the Poor and Underserved, vol. 28 no. 1, 2017, p. 582.

- 78 percent grew up in a household with a person experiencing drug or alcohol dependence;
- 64.6 percent endured psychological abuse as a child; and
- 37.5 percent experienced homelessness as children.

Under this shift, non-profit organizations that supported the homeless in addressing their underlying issues were now considered to be “too high barrier,” meaning that they required the homeless to engage in services and/or in sobriety thus rendering them ineligible for HUD, state, and local funding. It is important to note that this shift had nothing to do with prior outcomes, but with process only.

Accountability to address key underlying causes of homelessness, including sobriety, are expressly prohibited as a condition of this housing, meaning that issues such as addiction, mental illness, a lack of life skills and/or employment training are not addressed once they are housed. Even if a “housed” person were to request these services, these services are extremely difficult to access given the mental state of the client, the distance in between the housing and services and the limited availability of the services overall.

The 2020 HUD data pre-pandemic shows a 37% increase in homelessness since Housing First was embedded in a state statute in California in 2016⁶ and a 55% increase in homelessness in Los Angeles County since the L.A. County Board of

⁶ California Welfare and Institutions Code, Section 8255 (January 1, 2019)

Supervisors formally adopted the approach.⁷ According to HUD, pre-COVID 2020 data shows 64,000 people struggling with homelessness in Los Angeles County—a 55% increase over 2015 when the singular rule of Housing First was instituted. In 2020, 1,383 people experiencing homelessness died in Los Angeles County according to Sarah Ardalani, a spokesperson for the Los Angeles County Department of Medical Examiner-Coroner.⁸ This is a 9% increase over 2019, and an 87% increase since 2015.

C. Transitional housing and shelters which were largely dismantled under Housing First must be used to get people off the street so they can work on underlying issues and toward being sustained.

Also dismantled under Housing First were a vast majority of transitional housing units and shelter units which were replaced by permanent housing beds—‘housing for life’ beds.⁹ The sole focus on permanent housing, versus transitional housing and shelters, means that the homeless are not exiting the system. There is

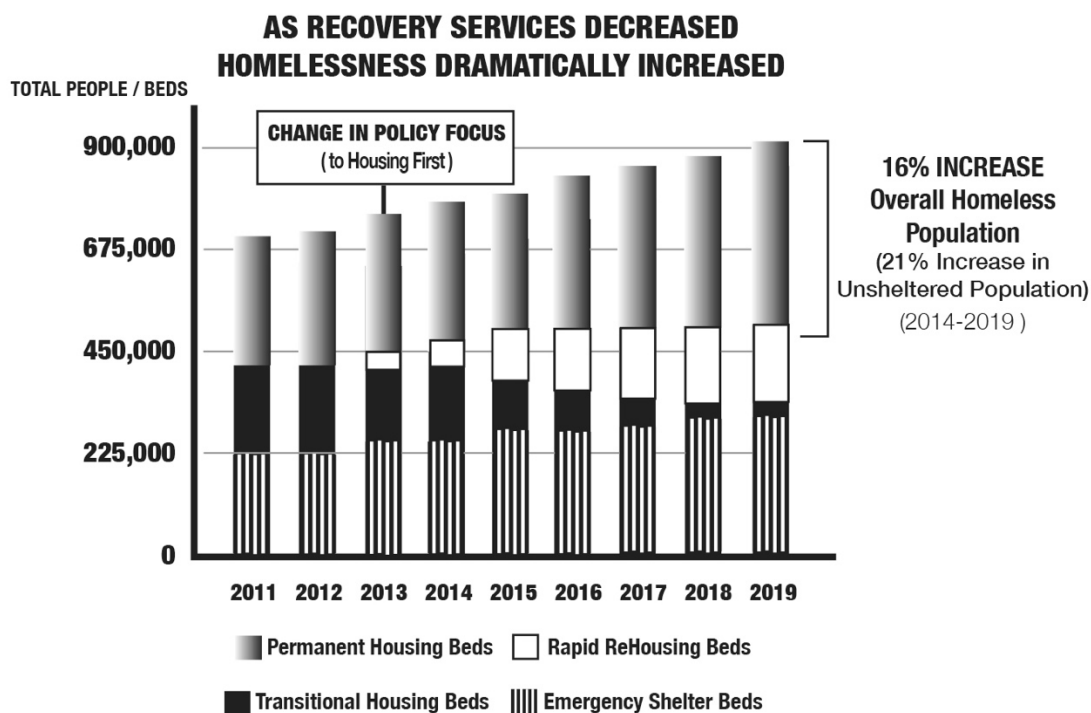
⁷ Henry, Meghan, de Sousa, Tanya, Roddey, Caroline, Gayen, Swati, Bednar, Thomas Joe, The 2020 Annual Homeless Assessment Report (AHAR) to Congress, Part 1: Point-in-Time Estimates of Homelessness, The U.S. Department of Housing and Urban Development, January 2021, p. 17.

⁸ Ward, Ethan, *They were homeless, now they're dead*, LA By the Numbers, Impact, Feb. 10, 2021. <https://xtown.la/2021/02/10/homeless-deaths-los-angeles/>

⁹ Expanding the Toolbox: The Whole-of-Government Response to Homelessness, United States Interagency Council on Homelessness, October 2020. https://www.usich.gov/resources/uploads/asset_library/USICH-Expanding-the-Toolbox.pdf

no incentive for them to do so. Even if they tried, it is unlikely they would succeed due to having never addressed root causes of their homelessness.

Because new people enter homelessness each day, and because people are not exiting the homelessness system, those entering are forced to wait their turn for permanent housing which has, in turn, has fueled the rise in street homelessness... which is essentially the line out the door. Despite a 16% increase in the number of permanent housing units, and despite a 200% increase in spending over the period, homelessness rose by at least 16% across the country. The unsheltered population—the population for which this approach was ironically developed—grew by 21%.



See Expanding the Toolbox: The Whole-of-Government Response to Homelessness, United States Interagency Council on Homelessness, October 2020. https://www.usich.gov/resources/uploads/asset_library/USICH-Expanding-the-Toolbox.pdf

CONCLUSION

Amici support this Court affirming the trial court's order to allow for immediate action to address the homelessness crisis for many living dangerously on the streets, while new policy and approach is implemented. New policy must focus on supporting the homeless in addressing the underlying issues that led them to homelessness to help them heal, grow, and realize their full potential. It must include a focus on creating a mix of diverse shelters and transitional housing programs, which can be more easily constituted in the immediate term but that will serve a long-term purpose as well. The focus on building permanent housing should be minimal until the structural barriers around the creation of affordable housing, both at the state and local levels, are addressed. An approach that utilizes multiple pathways to shelter and transitional housing, while providing services that meet the needs and address the underlying issues and causes of homelessness. The approach must be based on compassion, effectiveness, and accountability at the government, community, and individual levels.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing *Amici Curiae* brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionately spaced typeface using Microsoft Word in Times New Roman 14-point font.

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 1,638 words.

/s/Robert Henneke

ROBERT HENNEKE

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/Robert Henneke

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