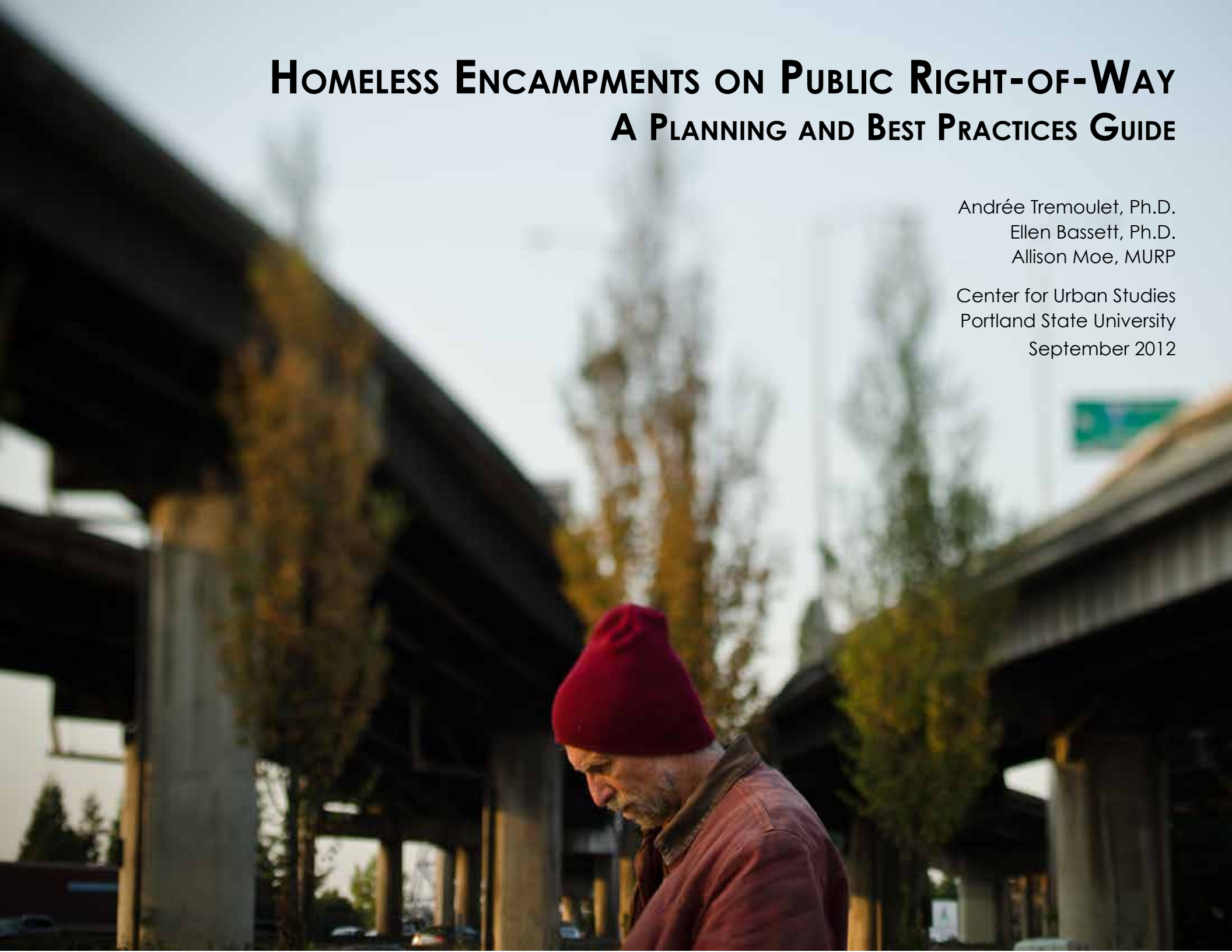

Homeless Encampments on Public Right-of-Way
A Planning and Best Practices Guide

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Homeless Encampments on Public Right-of-Way: A Planning and Best Practices Guide

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Chapter 1
Understanding the Challenge of Homelessness and Public Land

Homelessness is a societal problem. Its causes are complex, and its effects have implications for many public agencies, including those not directly responsible for providing assistance to homeless individuals. Because homeless people constantly seek safe shelter and refuges, agencies that own public land and buildings sometimes find themselves in contact with this population.

Nationally, the impact of homelessness appears to represent a substantial operational challenge for state transportation agencies and Departments of Transportation (DOTs). Two online surveys—one of state DOT managers and supervisors and the other of public sector managers of highway rest areas (DOT and other state agency staff)—conducted in 2012 found that 76% of the 24 states and one Canadian province with staff that responded reported issues with homeless encampments or individuals on rights-of-way or rest areas (Bassett, Tremoulet & Moe, 2012).

Homeless individuals and their encampments can raise a number of concerns for DOT managers and other staff. They include:

- Safety, including that of motorists and other users of state DOT facilities, state agency personnel and homeless individuals themselves.
- Damage to public structures, land and landscaping.
- Debris and unsanitary conditions, including an accumulation of hazardous waste that is costly to remove.
- Displacement of intended users and uses with behavior that disrupts the activities for which the site was originally developed.
- Theft of supplies and equipment.
- Public relations concerns and unwanted media attention.
- Political concerns.

Although a surprising number of state agencies report that they have to deal with impacts of homelessness on their right-of-way and facilities, there is little guidance on how to address this issue. Preliminary research indicates that very few transportation agencies have systematically examined the extent and nature of the problem in their state, developed

What you'll learn about in this chapter:

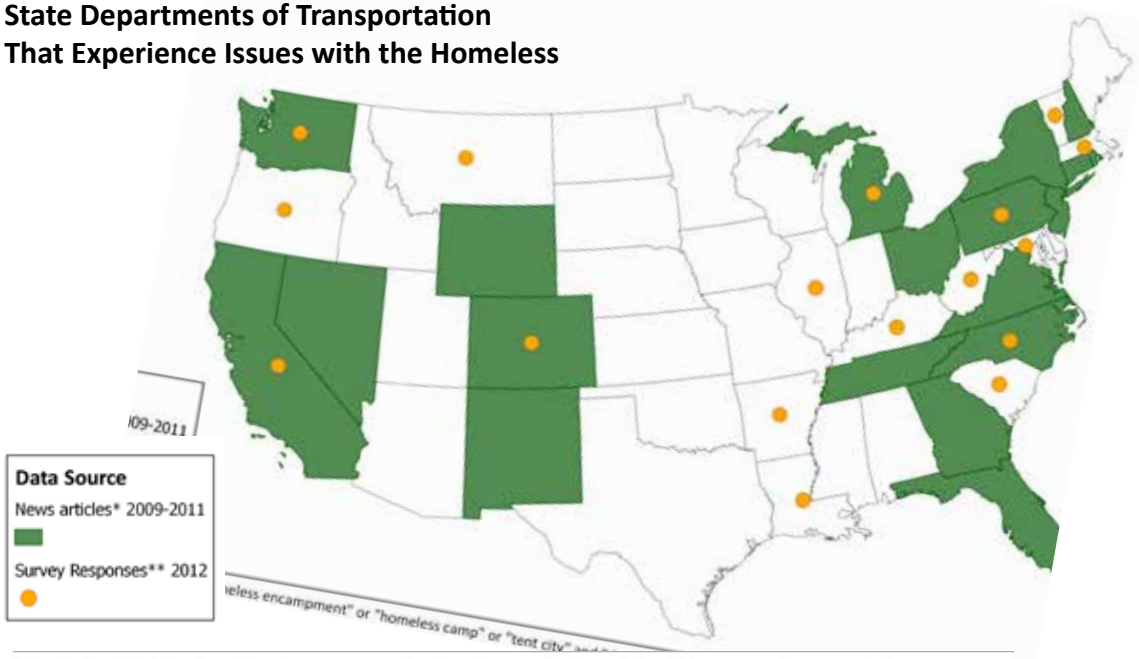
- The Challenge of Homelessness and Public Land
- Who is Experiencing Homelessness in the US Today
- An Overview of this Guide and How to Use It

This guide presents a problem-solving approach . . . based in part on the principles of problem-oriented policing.

strategies for addressing it, or provided training or assistance to the line staff who encounter the problem on a routine basis. While the problem already costs agencies staff time and other resources, current responses tend to be ad-hoc rather than systematic. Furthermore, there is little evidence to suggest that DOTs are routinely enlisting the help and resources of other entities besides law enforcement to address the problem. In recognition of these issues, this guide presents strategies and tools for agency policymakers, managers, supervisors and others to address the impacts of homelessness on public right-of-way.

Besides making good management sense, there is another reason for state transportation agencies to plan how to address the impacts of homelessness. Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority and Low-Income Populations,* directs federal agencies to "avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on… low income populations" (1994). Executive Order 12898 was issued in 1994, during the Clinton administration. But in August 2011, federal agencies signed a new Memorandum of Understanding confirming the importance of continuing to address environmental justice concerns as described in Executive Order 12898, and the US Department of Transportation (US DOT) was among the signatories. The US DOT issued *Final DOT Environmental Justice Order 5610.2(a)* on May 2, 2012. Additional information and resources on this topic are available in Appendix A.

State Departments of Transportation That Experience Issues with the Homeless



This guide presents a problem-solving approach to addressing the impacts of homeless populations public on right-of-way based in part on the principles of problem-oriented policing (Braga, 2008; Goldstein, 1990). It involves enlisting the support and help of partners, each with different areas of expertise. It also involves framing the problem in a different way. It is based on the premise that the most effective way to deal with the impacts of homelessness on right-of-way in the long term is by combining the "push" provided by law enforcement agencies and the criminal justice system with the "pull" provided by social service and housing providers who can help homeless individuals reassess their options and move on with their lives. It involves forming long-term working relationships and building trust among collaborators, who can thus be called upon to coordinate and innovate as incidents and issues surface.

A Brief Primer: Who Is Experiencing Homelessness in the US Today?

Homelessness is a condition; it does not define who a person is. For the vast majority of individuals experiencing homelessness, the condition is transitory and related to a temporary setback in their lives, such as the loss of a job or a divorce. For others, the condition is a lasting state, either occurring frequently or existing continuously. While there have been numerous definitions of homelessness promulgated by various agencies over time, essentially a person is considered homeless when he or she lacks a permanent place to live. Thus, people who live in their cars, on the street, in an abandoned building, in short-term shelters or in transitional housing are considered homeless.

The US Department of Housing and Urban Development's Point-In-Time homeless count conducted in January 2011 indicated that there were approximately 636,000 people experiencing homelessness in the US, or 21 per 10,000 people in the general population (National Alliance to End Homelessness & Homelessness Research Institute, 2012). Of these, approximately 17% were considered to be experiencing chronic homelessness.

The US Department of Housing and Urban Development defines the condition of chronic homelessness as having these characteristics: living alone, the presence of a disabling condition (mental or physical), and either continuous homelessness for at least a year or at least four episodes of homelessness in the last

Key Sub-Populations Experiencing Homelessness

Chronically Homeless Individuals: Underlying the homelessness of this population is another chronic condition: a persistent physical or mental disability. Chronically homeless individuals are either in and out of homelessness on a frequent basis or they experience homelessness as a long-term condition. This population is typically the public face of homelessness. While less than a fifth of the total homeless population, they utilize a majority of the homeless assistance system's resources.

Veterans: War-related problems, including physical disabilities, mental anguish, and post-traumatic stress, make it hard for some veterans to readjust to civilian life. As a result, some lapse into unsafe behaviors, including addiction, abuse, and violence. The combination of war-related problems and resulting behaviors can create a path to homelessness. Some prevention measures, such as job placement services, medical and mental health services and housing assistance, have been proven effective at mitigating the likelihood that veterans with war-related problems will experience homelessness.

Homeless Families: In most cases, some unforeseen economic crisis—a death or divorce, a job loss, a medical emergency—sends a family into homelessness. Most are able to quickly recover and only require short-term or one-time assistance. Typical services include rent assistance, housing placement and job assistance.

Unaccompanied Youth: Family conflict, including divorce, neglect or abuse, is the primary cause of homelessness among young people. Most return home or to family and friends and thus only experience short-term homelessness. A small minority – an estimated 50,000 youth nationally– experience long-term homelessness.

Source: National Alliance to End Homelessness, http://www.endhomelessness.org/section/about_homelessness/snapshot_of_homelessness

A Snapshot of Who Was Experiencing Homelessness in January 2011	Count	Percent
Homeless persons in the US	636,017	100%
Chronically homeless persons	107,148	17%
Homeless veterans	67,495	11%
Homeless persons in families	236,181	37%
Homeless individuals (not in families)	399,836	63%

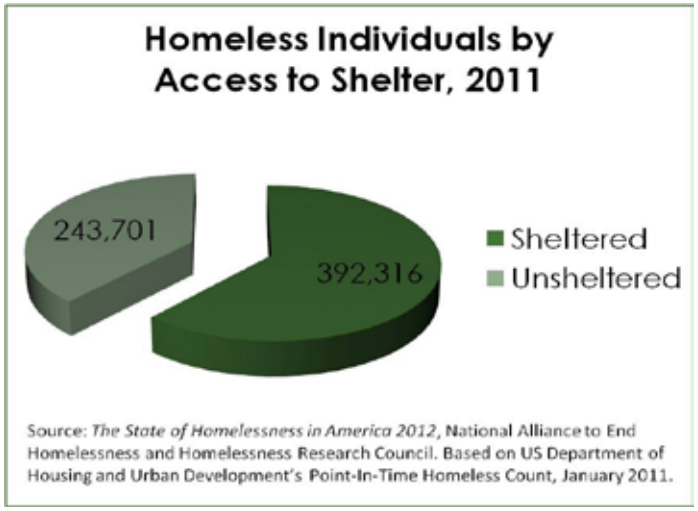
Source: *The State of Homelessness in America 2012*, National Alliance to End Homelessness and Homelessness Research Council. Based on US Department of Housing and Urban Development's Point-In-Time Homeless Count, January 2011

Metropolitan Areas with Highest Rates of Homelessness Ranking Based on 100 Most Populous MSAs		
Rank	Area	Homeless Persons per 10,000 Residents
1	Tampa-St. Petersburg-Clearwater, FL	57
2	New Orleans-Metarie-Kenner, LA	56
3	Fresno, CA	56
4	Las Vegas-Paradise, NV	50
5	Honolulu, HI	47

Source: *The State of Homelessness in America 2012*, National Alliance to End Homelessness and Homelessness Research Council. Based on US Department of Housing and Urban Development's Point-In-Time Homeless Count, January 2011

three years. Thus, the stereotypical image of a homeless person—a single person, typically with mental illness—is by far the exception rather than the rule because only one in six homeless individuals in the US is experiencing chronic homelessness.

Approximately 38% of homeless people were without shelter when the Point-In-Time homeless count occurred in 2011. Some of these unsheltered homeless individuals and families lived in encampments. The remaining 62% had some kind of short-term shelter for the evening or lived in transitional housing.



Source: *The State of Homelessness in America 2012*, National Alliance to End Homelessness and Homelessness Research Council. Based on US Department of Housing and Urban Development's Point-In-Time Homeless Count, January 2011.

It is extremely difficult to produce an accurate count of the number of people experiencing homelessness at any one time. Part of the challenge arises from the fact that there are many different definitions of who is homeless; for example, the US Department of Housing and Urban Development and the US Department of Education have different definitions. Another part of the difficulty arises from the fact that many homeless people hide their condition or hide their location, and thus go undetected. Finally, there are wide variations in how thoroughly jurisdictions conduct the "street count," which typically involves finding volunteers willing to approach homeless individuals living on the street or in out-of-the-way camps in the evening, when they are settling down for the night. Thus, these figures should be regarded as estimates that likely represent undercounts of the actual population.

There are a number of societal and individual conditions that can combine to result in sending an individual into a homeless situation. A shortage of living wage jobs and a lack of affordable housing are key economic factors affecting the incidence of homelessness. The lack of decent, safe housing alternatives for adults experiencing mental illness is another. Certain populations in transition, such as children aging out of foster care or people leaving incarceration, are particularly vulnerable to experiencing homelessness. Young people who experience violence or severe dysfunction in their home environments may end up on the street. The challenges associated with returning to a civilian life after experiencing the ravages of war present another factor that can send people into homelessness.

Advocates for the homeless encourage the public to think of people experiencing homelessness not as a monolithic population, but instead, as a diverse group of individuals. The condition of homelessness does not fully define who a person is any more than having a home defines the remainder of the population. Not having a home, however, does place a significant amount of stress on a person's mental and physical health and sense of wellbeing. Maintaining personal safety is an ongoing challenge. Many have no place to keep their possessions—even their identification papers—safe. Imagine trying to hold down a job or attend school while homeless—a number of people do. Some are ashamed of their condition, see it as temporary, and work hard to keep up appearances so that they are more accepted in society. They may live in their vehicles and thus have a place to stay out of the elements and store possessions. Others have fewer resources at their disposal and are more likely to slip into chronic homelessness.

Contrary to common belief, most people experiencing homelessness are not mentally ill or dangerous. They are simply people without housing. As a result, they rely heavily on public buildings and spaces—libraries, parks, bridges, underpasses—for shelter. In your own community, local social service agencies and the criminal justice system are valuable sources of information for understanding the issues. Not only will they know about homeless populations (and perhaps the names and stories of some of the chronically homeless individuals you see frequently), they will also know what resources are already available to serve them.

Photo credit: © Jumay Designs, http://www.iStockphoto.com

The condition of homelessness does not fully define who a person is any more than having a home defines the rest of the population.

An Overview of This Guide and How to Use It

This guide is written for state transportation agency managers and supervisors responsible for setting policy and overseeing staff who maintain or inspect rights-of-way. These line staff members are the ones most likely to encounter homeless individuals or their camps as part of their routine jobs. While

written expressly for state DOT staff, this guide may be useful to staff from other public agencies (e.g., local public works departments, state or local parks departments) whose primary mission does not include providing housing or services to homeless individuals but who may encounter homeless populations in the course of conducting business.

The approach outlined in this guide is distilled from lessons learned from state DOTs and other public agencies that have responded effectively to situations in their own communities. It is not a precise science; this approach requires individuals with authority to exercise their best professional judgment in responding to situations. This guide is intended to equip decision makers with the information and tools they need to make the best choices possible.

The following six principles guide this problem-solving approach:

1. Homelessness is a societal issue with complex causes and effects that spill over and affect many different sectors, including transportation agencies, hospitals, the criminal justice system, nearby businesses, etc.

2. One of the most effective ways to address the issue is through a problem-solving approach that involves partners in both social service and law enforcement agencies (push/pull approach).

3. Moving homeless individuals from one site to the next through the use of law enforcement and physical barriers alone is costly, doesn't solve the problem and tends to generate hostility and further desperation among those being moved.

4. Line employees in the field should not be expected to deal with homeless camps and individuals unaided. Higher-level management needs to get involved.

5. Every situation is unique. There is no one-size-fits-all strategy that works in every context. Thus, transportation agency managers need to be empowered and equipped with skills, information and flexibility that enable them to craft a solution that works for their situation. The level of effort invested in developing a response should fit the nature and scope of the issue being addressed.

6. The problem did not arise overnight, and it will not disappear overnight. That is why building ongoing relationships with partners is so important.

Photo credit: © TA Craft Photography, http://www.iStockphoto.com

Chapter 2 provides a guide on how to assess and respond to a particular problem in your area. It provides a step-by-step approach to assist with understanding the situation, identifying potential partners, evaluating potential strategies and crafting a response that meets the unique demands of the problem that you are facing. It is written with the understanding that situations involving different populations with different needs are likely to call for different kinds of responses. This chapter also includes four brief profiles of actual cases and how agencies responded.

Chapter 3 describes how to develop an overall agency policy dealing with homeless encampments on right-of-way. It is premised on the notion that managers and supervisors need both latitude to craft responses that fit unique situations and also some guidelines and underlying structure backed by resources so that they can move forward expeditiously with the confidence that they have overall agency support.

The appendices provide additional information and resources to assist with planning and implementation.

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Agencies need to be cognizant of state and local policies and laws that may affect their ability to engage in a problem-solving approach. Thirty states prohibit the use of gas tax revenue for purposes other than road construction and maintenance (Puentes & Prince, 2005). There appear to be widely differing interpretations of what constitutes road construction and maintenance among these states. For example, in one state, a public dispute regarding the use of state gas tax fund revenue led to the promulgation of a set of prescriptive guidelines that significantly limits how agency personnel funded solely through gas tax revenues can interact with human service agencies. Thus, it is important to for agencies to understand whether similar limitations are in effect in their state.

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Chapter 2
Responding to a Problem in Your Area

The scope of homeless camps on right-of-way can range from a single person living in an abandoned vehicle to a homeless community of more than a hundred people. The duration can range from a single night to a community that is so longstanding that a bus routinely picks up kids for school.

Preliminary research has found that right-of-way near urban areas tend to have larger camps, and rural areas are more likely to have occasional isolated individuals or families. Typically, cold-weather states have smaller populations (except in urban areas) or only occasional seasonal issues compared to warm weather states, which may have more of an ongoing problem. The local political environment, including the presence or absence of assistance and the degree to which a locality criminalizes activities in which homeless people typically engage (such as sleeping in parks or sitting on public sidewalks) may also affect the size and character of the homeless population in your area. The scope of your response should correspond to the nature and magnitude of the issue you are addressing in your area.

In most cases, the employees who encounter homeless people are either line staff from maintenance crews or professionals who spend a significant amount of time in the field, such as bridge inspectors or rest area managers. Preliminary research suggests that most transportation agencies do not offer training on how to deal with such situations safely to these staff. One bridge inspector reported entering a bridge support and discovering that a homeless man was living inside, in darkness. While they startled each other, the man was not dangerous, and the situation was resolved without incident .[1]

Let's say that members of a state DOT maintenance crew encounter a section of right-of-way that has been transformed into a camp for homeless individuals, and the DOT does not have a policy in place for how to respond. What typically happens?

Some transportation agencies have a standard response for all situations: call the police, remove the people, and clear the site. If homeless individuals are not present at the time the site is cleared, the agency may dispose of all of their possessions. However, one issue with this approach is that what may appear to be trash—random papers, photographs, letters, a smelly sleeping bag, a worn pair of shoes—may be all

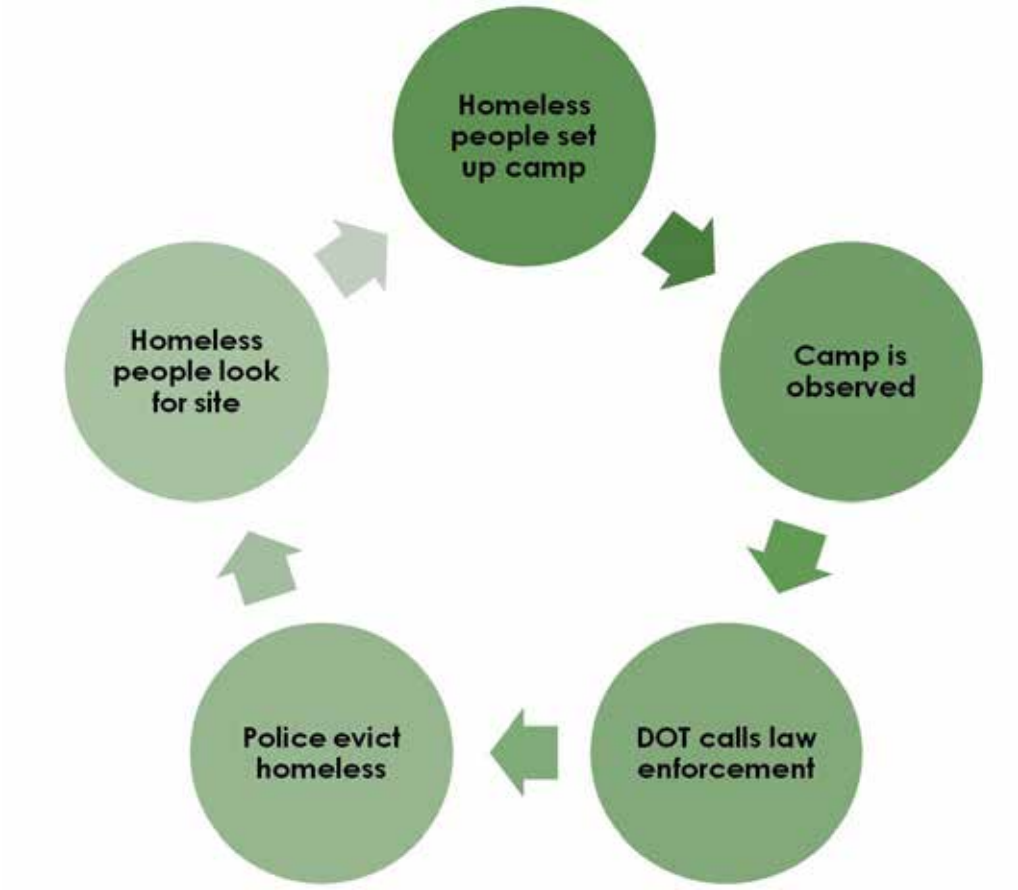
1. Details of the examples cited in this section have been changed to protect the confidentiality of the sources.

What you'll learn about in this chapter:

- Assessing the Urgency of a Response
- Identifying Partners and Convening a Work Group
- Choosing your Response Strategy

that an individual has to connect to his identity and protect himself from the challenges of day-to-day life without a home. In some communities, advocates for the homeless have successfully brought suit against public agencies (including at least one state DOT) for disposing of the possessions of homeless individuals. In 2008, the City of Fresno settled such a lawsuit for $2.35 million (Onishi, 2012).

Another problem with this kind of clearance-only approach is that homeless individuals are likely to come back (either the same people or others) once the enforcement push is over. Chain-link fences may keep people out of a particular location for a time, but such improvements and their maintenance may be costly, and people are likely to move on to the next available unsecured piece of right-of-way in the area. In some cases, fences simply do not work, and people find a way to return to the site.



Occasionally, homeless people who believe that they have been treated unfairly may retaliate against the authority figures whom they view as making their lives more difficult. Further damage to the site or potential harm to agency staff may result. One employee reported encountering a site that had been "booby-trapped" by a frustrated homeless vet, who had placed shards of broken glass smeared with excrement around his camp.

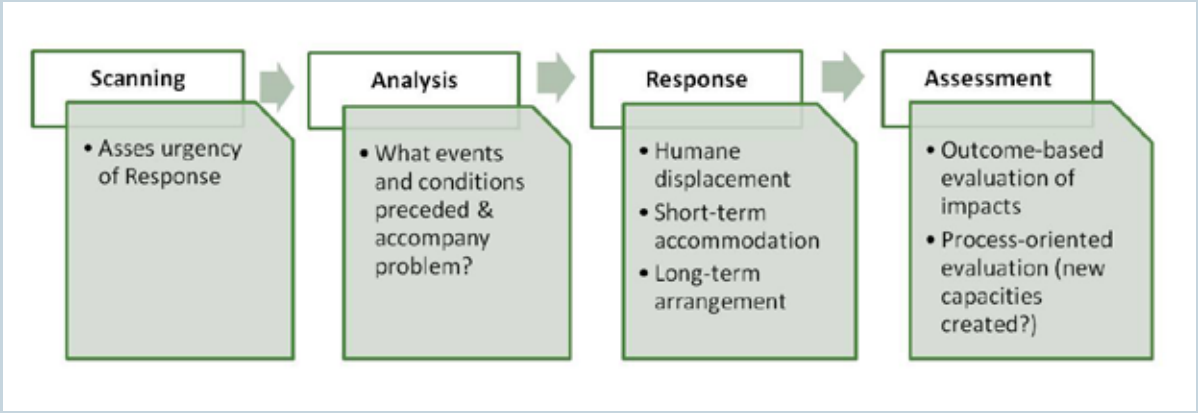
If "call the police and clear the site" is not the optimal response to every situation, what are the alternatives? This guide recommends examining each situation independently and assessing what needs to be done on a case-by-case basis. While it does not call for transportation personnel to become social workers or experts on homeless issues, it does recommend partnering with agencies that have people with those skills and expertise. And it encourages staff to try to see the situation through the eyes of someone who has no private place to live and simply needs a place to do the things that most people do in the privacy of their homes. While a particular segment of public right-of-way may not be an appropriate place for homeless individuals to set up camp, how you approach the situation can make a significant difference in how and whether the situation is ultimately resolved.

Steps in a Problem-Solving Approach

If you have a simmering nuisance and you have the time to get to the heart of the problem and develop a solution that does more than move homeless people from one site to the next, then you may want to consider the **SARA Process** developed by Ronald Clarke and John Eck as a problem-solving approach for community policing (Clarke & Eck, 2005). SARA stands for Scanning, Analysis, Response and Assessment, four steps taken in sequence to ensure that your final choice for an intervention is grounded in a thorough analysis of the underlying conditions that are giving rise to the situation.

The first step, **Scanning**, involves determining the nature and extent of the problem. For a homeless encampment, it includes identifying whether there is a critical safety issue that needs to be addressed immediately or whether you have more time to craft a response.

Analysis refers to "identifying and understanding events and conditions that precede and accompany the problem" (Center for Problem-Oriented Policing, n.d.). In the case of a homeless encampment, it is likely to occur in particular places at particular times for identifiable reasons. It will involve a bit of detective work to figure out what those reasons are. A particular site may be chosen because of its location; it may be near a transportation center or a good place to panhandle. The site may offer amenities such as dense brush, shelter from prevailing winds in the winter or the availability of potable water in the summer. If the homeless community is well organized and is seeking to make a statement about the right to shelter, a site may be chosen for its visibility or symbolic value. Negative changes in the local economy (such as a plant closing) may give rise to larger numbers of homeless individuals, thus overwhelming existing social services and setting the stage for a spike in the population of homeless families and individuals. The closure of a shelter or service program may also result in the formation of a homeless encampment where none had occurred previously. Your research may lead you to formulate a hypothesis (which you can "test") about why the camp formed. Identifying the primary factors leading to the camp's formation will help you develop a better long-term solution.



Response refers to the process of deciding what outcomes are preferred, generating ideas for interventions, evaluating them and selecting one for implementation. It also involves developing a plan and timeline for action and deciding who will assume responsibilities for specific elements. The desired outcomes and response selected should reflect what you have learned about the causes of the homeless camp from your analysis.

Assessment refers to evaluating the outcomes of your intervention and the process you used to achieve them.

Assessing the Urgency of a Response

One of the first things to consider is how quickly to respond to the presence of a homeless population on DOT right-of-way. In terms of immediacy, there are two principal kinds of situations:

1. Acute public endangerment: A condition exists that poses an immediate threat to the health and safety of motorists, homeless individuals, agency workers or the general public. The situation may have reached the attention of the media or local political leaders. Immediate action is needed.

2. Simmering nuisance: A site has provided refuge for homeless people over a significant amount of time. It may take the form of an ongoing camp, where people form an ad-hoc community, or it may function as a way-station that different people use on a short-term basis. Although no one is in immediate danger, damage is occurring and a determination has been made that the situation should be addressed over time. Sometimes a precipitating event, such as a complaint by a neighboring business, may spur action.

In the case of acute public endangerment, immediate action is needed to restore safety. You may find it useful to work with a homeless services agency to extend at least short-term options for shelter as well as with law enforcement to ensure that people move from the site. One option (besides immediate eviction) is to develop a short-term strategy to move people from the dangerous situation to an interim camping site that is safer while a long-term solution is found. Regardless of the course of action, your primary focus in this scenario is on quickly reducing the risks to the health and safety of everyone involved in as humane a way as possible.

In the case of a simmering nuisance, you are likely to have more time to develop a solution. You can more thoroughly scope out the problem, form partnerships with social service and law enforcement agencies, analyze events and conditions that precipitated the encampment, consider alternative interventions, and then choose and implement one. A longer lead time before implementation also gives social services and housing agencies more time to develop rapport with the people living at the site and provide them with time to consider and choose an option.

In either case, some initial questions to consider are:

- Who is living there? Are any children or other very vulnerable people involved? What needs to be done to protect them? Are they dangerous to themselves or anyone else?
- Is serious criminal activity likely to be a factor? Local law enforcement agencies may have information germane to this question.

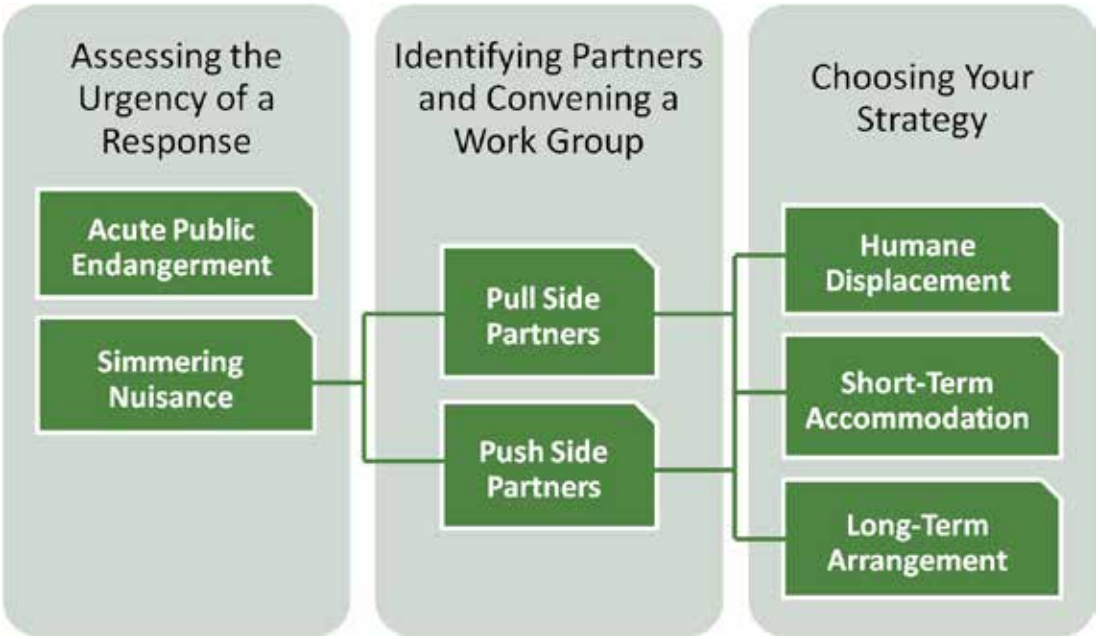
Photo credit: © Kevin Russ, http://www.iStockphoto.com

If the answer is yes to any of these questions, then it is essential that the appropriate agencies (e.g., mental health, law enforcement) be involved as quickly as possible. Here are some additional questions to consider:

- How large is the group? What, if anything, is known about them?
- How long have they been there? What times of day are they most likely to be there?
- What kind of settlement has been built? How elaborate is it?
- What impact will relocation have on the residents individually? If there is an established community, what impact will the loss of community have on the individuals?
- Are there sanitation issues with the site? If so, who is being impacted by those issues?
- Are any organizations currently involved in providing assistance (e.g., food, transportation, medical assistance or clothing) to the residents? What information or assistance might they be able to provide your agency? Do the residents seem to trust them? Could they help with introductions?
- Why have they chosen this site as a location to camp? Is there something about the place or nearby uses that makes the location attractive?
- Who is being impacted by the presence of homeless people on this site? How are they being impacted? What issues have they raised? The answers to these questions may help determine what strategies you need to consider.
- Does there appear to be a leader or spokesperson among the group?

Unless you are faced with a situation involving acute public endangerment, it is usually best to try and get as much information at first from observation and talking with others familiar with the situation. In most cases, homeless people are not trying to create a visible or disturbing presence on public land; it is usually in their best interest to be as invisible as possible. If they have been homeless for a while, they may expect authority figures to force them to move immediately.

If you want to break the cycle of repeated evictions and subsequent returns, it is important to communicate a sense of understanding and respect—to begin to establish a sense of trust—when you first make contact. By doing so, you are telegraphing that you are different from the other authority figures with whom they have come in contact and that an outcome different from the cycle of eviction and return is possible.



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Identifying Partners and Convening a Work Group

If you decide that you have a simmering nuisance and can take a problem-solving approach based on the SARA Process described earlier, start with convening a work group. It is usually best to include a wide range of stakeholders at the outset because each represents a potential new resource to problem-solve, provide resources and help address the problem.

Consider including interests that may resist your efforts if they are not involved; sometimes the best strategy to help get their "buy-in" is to include them in the process rather than providing them with a de facto platform to criticize from the outside. In many cases, a smaller and more efficient core group of individuals—often less than half a dozen people—emerges from an initial meeting and becomes the real muscle behind moving forward. As you make progress, the more peripheral stakeholders may contribute sporadically but not be involved at every stage of process.

In identifying members for your work group, start by scanning your agency for internal partners who might be able to help with this issue. First, find out if any other managers have dealt with a problem like the one you are facing and who, if anyone, they turned to for help. Depending on your particular situation and agency structure, internal partners may include:

- Maintenance supervisors and staff.
- Right-of-way staff, who may be helpful in identifying alternative short-term or long-term sites for relocation.
- Legal staff, in case new rules need to be written and promulgated to deal with the situation.
- Public information staff, if the problem is a major, visible one and you anticipate that there will be media coverage or interaction with nearby land owners.
- Managers who can provide access to funds to assist with moving and clean-up costs.

External partners of two kinds are needed: those who have access to resources that can *pull* people toward a healthier living situation, and those who have the authority to *push* people to move (if needed) and create meaningful consequences if they do not. You may also find it helpful to involve additional partners who can bring other resources to bear.

Potential Pull Side Partners

- Organizations and agencies that specifically provide services to homeless individuals, including shelter providers, outreach workers, food and clothing providers.
- Advocacy groups for and by homeless people.

- Local social services groups that provide assistance to low income individuals, including governmental agencies (e.g., a local department of human services), nonprofit organizations, Community Action agencies and faith-based organizations. Within these agencies, both outreach staff and those who help qualify individuals for benefits can be of assistance.
- Housing nonprofits and agencies, including Housing Authorities.
- Agencies and nonprofits that provide mental health and substance abuse services.
- Veterans' organizations.
- Faith-based organizations and places of worship with a ministry involving the homeless.
- EMT and other emergency services.

If you are unfamiliar with local agencies providing services to the homeless, a good place to start is with the Continuum of Care. More than 450 cities, towns, rural areas and states have a Continuum of Care Plan that describes the local system for coordinating services, shelter and housing for homeless families and individuals, and will list agencies and the resources that they provide (National Alliance to End Homelessness, 2010). Additional information about Continuum of Care Plans can be found in Appendix B. While the Continuum of Care Plan will give you the lay of the land in terms of agencies and services, in many places the demand for assistance exceeds the supply. Nevertheless, it is a good place to start.

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http://www.iStockphoto.com

Potential Push Side Partners

- Law enforcement, including state and local police.
- District attorneys.
- Legal advocates for the homeless, such as Legal Aid (to ensure that the rights of homeless individuals are respected; they are not typically advocates of "pushing" homeless people from an existing camp).

In some locations, law enforcement personnel and mental health or homeless outreach workers form Homeless Outreach Teams to deal with chronically homeless individuals who might be a danger to themselves or others. District attorneys, particularly ones focused on addressing "quality of life" issues, can be helpful in developing rules to address or prevent an ongoing problem. In developing these rules, some agencies have found it useful to collaborate with attorneys that promote the interests of homeless individuals and ensure that they are dealt with fairly. Involving groups such as Legal Aid up front can prevent court challenges down the road.

Additional Partners

- Local elected officials or their staff
- Businesses and residents affected by the camp
- Local business associations and other groups with an interest in resolving the problem
- The media

Depending on the scope and visibility of the encampment, you may want to consider involving local elected officials, as they can be powerful proponents of whatever strategy is selected. Involving affected parties, such as nearby businesses or residents, is a way of providing them with assurance that steps are being taken to resolve the problem. While it is unlikely that you will want to involve the media in the core planning group, including them in the larger group from the outset may make it easier to work with them as the effort progresses.

Prototype Response Strategies

1. Humane Displacement

Goal: To assist people living at the site with finding better living options and restore the site to its original use.

2. Short Term Accommodation

Goal: To contain or reduce the wear and tear on the existing site in the short-term and help the group locate a more permanent solution within a set time frame.

3. Long Term Arrangement

Goal: To accommodate the long-term habitation of homeless individuals or a homeless community on a designated site and reduce the risk of negative impacts on the site that result from a homeless encampment.

If you are convening people from different sectors with different organizational cultures who have not worked together previously or have had negative experiences with each other's agencies, you should take this into account. Some participants may bring preconceptions with them and be wary of some of the other invitees. For example, in some places, social service workers may have negative perceptions of law enforcement personnel as bullies. On the other hand, law enforcement personnel may view social service workers as being soft or easily duped by the people whom they are trying to assist. People do not need to share a common organizational culture to work together effectively as long as they value the tools and skills that others can bring to bear, reach agreement on what should happen and respect the differences in culture.

If the project warrants and you have the resources, you may find it helpful to find a neutral facilitator to convene the group and move forward with the SARA Process. Some communities have dispute resolution or mediation programs that include staff with top notch facilitation skills who may be willing to assist.

Choosing Your Strategy

Use your work group to develop a response that is suitable to your particular situation. To stimulate your group's thinking, three prototype strategies are described below: humane displacement, short- term accommodation and long-term settlement. Your response may borrow concepts from several of these strategies and even shift as you progress through various stages of implementation.

Humane Displacement

This strategy is based on the premise that the site on which homeless individuals are camping is not suitable for this use. The reason for this may include some combination of the following factors:

- If the site were to continue to be used for this purpose, it would expose people (motorists, pedestrians, agency employees, homeless individuals, etc.) to too many hazards.
- The site has attracted homeless individuals who are engaging in unlawful behavior or who are disturbing neighbors or others trying to use the site.
- The site has significant health and sanitation issues as a result of its current use. When the current hazards are cleared, the problem is likely to reoccur because there are no resources to address sanitation needs on an ongoing basis.
- There is no responsible party (e.g., a social service agency, a faith-based organization or a self-managed community of homeless individuals) able to assume responsibility for managing the camp on an ongoing basis.

Photo credit: © Berryspun Photography, http://www.iStockphoto.com

Social services and law enforcement are key players in this strategy. The goal is two-fold: to assist people living at the site to find better living options and to restore the site to its original use. If the people living on the site have formed a community, your work group's strategy may involve assisting the community with identifying a more suitable site and moving to it. This option is explored in the section below entitled *Short-Term Accommodation*. If the people have not formed a coherent community, your work group's strategy may involve helping individuals explore their options for other short-term shelter or long-term housing.

An important and delicate part of this process is developing a sense of trust with the homeless individuals living at the site. It is very likely that they are accustomed to being treated harshly by authority figures. They may have developed survival strategies premised on dislike and distrust of traditional society; it will take time and patience to create lines of communication and build trust. If your team cannot build trust, you are more likely to end up in a confrontational situation and fail to meet your twin goals. An important place to start is for members of your work group who come in contact with the community to communicate respect for them as fellow human beings through both words and actions.

If a social service provider has already established a working relationship with members of the homeless community onsite, use this as your starting point.

An important and delicate part of this process is developing a sense of trust with the homeless individuals…[through] communicat[ing] respect for them as fellow human beings through both words and actions

The first contact should be more about listening and finding out about people's needs and concerns. Then, with a united front, your team might next approach the community with a common message, which may go something like this:

> *We recognize how important living at this site has become to you. And we've heard what you've said about the kinds of things you need to get by. But it is not possible for you to continue to stay here. We are here to offer options and resources to help you with making a transition, and to help you think about your future. We also want to let you know that there is a deadline for this transition; this site will no longer be available to you as of [date].*

The social services team will need some time to work with the individuals so that they can explore their options. Your work group should decide on how much time will be allotted for this purpose. It may be possible to bring services to the site, or it may be more practical to help people access resources offsite. Needed resources may include things such as access to an offsite day center with shower, laundry and computer facilities; food, clothing and haircuts; assistance with applying for services, including transitional housing, housing vouchers, public housing, treatment programs, health benefits, Social Security, job training programs, or veterans' benefits. If resources are available, an approach that has been proven to be successful is to provide one-on-one case management assistance to help each person explore his or her options and begin to address the barriers that currently prevent him or her from moving forward.

While the social services team is working with the residents, your law enforcement team should consider what could be done to ensure that people do not return to the site, based on the analysis you undertook in the SARA Process. Actions may include posting no trespassing signs (if this is permitted on public property in your state), amending laws to provide effective disincentives for continuing to camp on the site and/or planning patrols of the area for the next few months to discourage further camping. Community courts, which divert people from jail and point them toward appropriate assistance, may play an important role here. Your strategy may also include physical changes to the site, such as clearing brush and trimming the landscaping to provide greater site visibility. When the appointed day comes, if anyone remains on the site, it becomes the responsibility of your law enforcement team to remove anyone who remains.

Photo credit: © mcdc, http://www.iStockphoto.com

To see how this strategy has worked in a couple of different contexts, see the Baldock Rest Area and the Massachusetts Case Studies later in this chapter.

Short-Term Accommodation

In the short-term accommodation strategy, your agency or your work group has determined that the site is not suitable for continued habitation on a prolonged basis. But instead of representing a loose aggregation of individuals, the people living at the site have begun to form a community, and they see value in keeping the community intact. Their reasons for wanting to do so may include some combination of the following:

- They find dignity in being a self-governing community; they do not find the same kind of dignity in being recipients of public services, where others set the rules.
- They do not feel like they can be a part of traditional society, and this arrangement provides a living situation that is safer and more rewarding than living on the streets alone.
- Existing services are overtaxed and cannot address the demand. This is a better alternative than living alone.
- They want to make a political statement about homelessness in American society.

The first step in working with a community is to determine if there are generally-recognized leaders or spokespersons. Once again, if a social service agency has had prior contact with the group, your best option may be to rely on their information and build on the relationships that they have established. Depending on the circumstances, you may want to consider inviting a representative of the homeless community to be a member of the work group.

The two primary tasks that your work group faces are :

1. Containing or reducing the wear and tear on the existing site in the short-term.
2. Helping the group locate a more permanent solution within a set timeframe.

From the outset, it is important to communicate that the accommodation is short-term (set a deadline, if possible) and premised on the community's agreeing to specified conditions based on minimizing wear and tear on the site and being good neighbors to surrounding uses (if relevant). To further reduce wear and tear on the site during this interim period, your work group might want to consider providing access to toilets and washing facilities, perhaps through rented port-a-johns.

Members of your work group might collaborate with representatives of the homeless community to try to identify and secure a long-term site for the community. Public agencies, non-profits and faith-based organizations with excess land are possible landlords, as are socially-oriented private land owners. Depending on policies within your agency, your right-of-way staff may also get involved.

Finding a suitable site and working out all of the provisions can be a long and complicated process. Some of the key elements are described in the *Long Term Arrangement* section of this chapter. Setting a deadline gives you leverage to push forward with the move even though every detail for the new site may not be fully worked out. Close to the deadline, you may find it advantageous to provide a few days grace time if the community has made substantial progress but requires a small amount of extra time.

Case Study: Baldock Restoration Project, Oregon

Humane Displacement

The Problem

An encampment of approximately 100 chronically and transitionally homeless individuals were living in cars and tents at the Baldock Rest Area. One resident "Baldockean" claimed to have lived there for nearly two decades. The rest area is located along both sides of I-5 about 20 miles south of Portland, Oregon, and had been owned and operated by the Oregon Department of Transportation (ODOT). The rest area was an attractive place for camp residents, as it provided toilets, hot and cold running water, places to set up tents or park cars and RVs, and easy transportation access to jobs and services in the Portland area. ODOT lacked the resources to address the situation.

In January 2010, management responsibility for the Baldock Rest Area was transferred the Oregon Travel Information Council (OTIC), an organization focused on implementing highway right of way programs for economic development purposes. Based on community input, OTIC sought to restore the rest area to its original function as a traveler resource and to remove the encampment and the problems it posed in a humane way. Alhough the camp was, to some degree, self-regulating and served regularly by food kitchens and even school buses, there were also reports of assaults, drug use and prostitution occurring at the rest area.

Response/Strategy

Immediate/Short Term

Recognizing both the delicate nature of the situation and the fact that their own staff could not solve this program alone, OTIC convened a 30-member team that included social service providers, state and local law enforcement, ODOT, legal aid, and the District Attorney's Office to develop an approach that achieved the twin goals of providing pathways out of homelessness for the residents and restoring the rest area to its original function.

This diverse team of professionals worked together on a two-pronged plan of action for removing the encampment residents. It included "pull" elements such as intensive outreach, case-management and individualized problem solving around finding housing and other needed services. Every person who wanted help received it; each household that accepted case management services developed either a short-term relocation strategy or a long-term housing solution. It also included "push" elements, with state and local police working with OTIC to set and enforce a firm deadline for moving and clear consequences for any who chose to remain. ODOT, working with OTIC and Legal Aid, adopted new rest area regulations, limiting stays to 12 hour maximums. On the day of the deadline, case managers secured volunteers to help individuals move and mechanics to provide needed vehicular repairs. They even provided gas cards and assistance with temporary camping fees at a state park to help residents relocate.

Key Partners

- ODOT
- Oregon Travel Information Council (OTIC)
- State and local police
- Oregon Housing & Community Services
- Nonprofit social service providers and faith-based organizations
- Clackamas County Social Services
- Legal Aid
- Clackamas County District Attorney's Office

Case Study: Baldock Restoration Project

Long Term

By May 1, 2010, the encampment was gone, and OTIC began work with ODOT to address deferred maintenance at the rest area, such as landscaping, building upgrades and hazardous tree removal. OTIC also made traveler-oriented improvements recommended by local business and community coalitions. OTIC instituted a more effective penalty for those who did not follow the regulations and entered into an inter-agency agreement with State Police to patrol the area and strictly enforce the new rules. OTIC also established a regular presence at the rest area and provided frequent maintenance. Social service providers continued to assist the former Baldockeans as needed and to track outcomes.

Key Partners

- ODOT
- OTIC
- State police
- Nonprofit social service providers and faith-based organizations
- County District Attorney's Office
- Clackamas County Social Services
- Legal Aid

Outcomes

For the Homeless

The process began with 109 people living at the Baldock Rest Area, about 40 of whom were chronically homeless. By the day of the move, many of the people had left on their own, finding other places to spend the night. But 22 households sought out and were provided case-management and shelter assistance services. Ten of those households moved to a nearby campground and another six continued to stay at the rest area in compliance with the new 12-hour rule. Sixteen months later, the case workers had kept track of all households that had sought help: ten were in permanent housing and three were in transitional housing. Another seven chronically homeless, most of whom had significant addiction issues, were in less stable housing conditions.

For the Agency

By May 1, only five months after the Baldock Restoration Project began, the camp was gone. Some individuals continued to use the rest area at night but did not establish a permanent presence. The summer after the camp was removed (May – October 2010), Oregon State Police reported a 55% decrease in all calls regarding the rest area compared to the previous summer. Calls for assaults and disturbances each decreased by 70%, and no calls were received for harassment, vandalism or drug activity. Although these reductions cannot be entirely contributed to the removal of the camp, they were still achieved without arresting anyone and while providing desired assistance to numerous homeless individuals.

The Baldock Restoration Project Cost $60,000. That figure includes $38,000 provided by Oregon Housing and Community Services for case management and moving assistance, and more than $18,000 provided by OTIC for enhanced security after the camp was removed. This figure, however, does not include the substantial amount of in-kind staff time provided by the members of the Baldock Restoration Team and the volunteers they enlisted to help.

For More Information

Case Study of the Baldock Restoration Project:
http://www.oregon.gov/ODOT/TD/TP_RES/docs/OtherPublications/BaldockRestoration.pdf?ga=t

Case Study: Massachussetts Department of Transportation (MassDOT)

Humane Displacement

The Problem

In 2006, a group of homeless individuals made a camp around an abandoned building on Massachusetts Department of Transportation (MassDOT) right-of-way near Boston. The site was near a mall with lots of pedestrian traffic and had mature trees and undergrowth that screened the camp, making it an attractive location for the homeless individuals. Someone noticed the camp and called the police. The site of the camp had been problematic in the past; twice in 2005 MassDOT had worked with law enforcement to remove homeless individuals, at great cost to the agency (see Outcomes). When they were notified by police in 2006 that homeless individuals had again set up camp at the site, MassDOT worked to devise a different strategy that might be more humane and have more lasting impacts.

Response/Strategy

Immediate/Short Term

When MassDOT was made aware of the reoccupation of the site, they first conducted a review to assess the extent of the camp, the safety and health threats it might pose, and the characteristics of the site that had made it conducive to homeless settlement. Next, they contacted police and a local homeless shelter, Pine Street Inn, to get their support and expertise in the process. As the largest homeless services provider in New England, Pine Street Inn had an established process for dealing with unwanted homeless encampments. Pine Street Inn also had longstanding partnerships with law enforcement agencies (state, local and Massachusetts Bay Transit Authority) and service providers throughout the region and state.

Pine Street Inn representatives went to the site to engage the homeless individuals in a non-threatening manner: They relayed MassDOT's concerns to the residents, explained that an eviction was coming, and offered shelter and housing alternatives to all the individuals. This was followed about a week later by the police, who evicted the few individuals who had chosen to remain.

Key Partners

- MassDOT
- State Police
- Pine Street Inn

Long Term

Safety for workers and nearby motorists and pedestrians was the main concern for MassDOT. So once the homeless individuals were gone from the abandoned building site, MassDOT's first action was to install fencing around the area to limit access of people who might want to return. They next partnered with the Agency's hazardous waste contractor to safely dispose of the debris and materials they had identified in their initial review of the site. Finally, they worked with their landscape design section to alter the environment. They removed undergrowth and pruned trees in such a way as to retain the site's scenic value while making it more visible and less conducive to future habitation.

Key Partners

- MassDOT
- Hazardous waste contractor
- Landscape design teams

Outcomes

For the Homeless

By having homeless shelter representatives make initial contact before the police enforced the eviction, homeless

Case Study: MassDOT

individuals had a chance to access shelter options and to move and take their belongings with them. However, no one tracked where the individuals went, and thus it is not clear how many moved to shelters versus how many may have set up camp in another location.

For the Agency

MassDOT's main concerns with homeless encampments were the safety hazards and costs they created, as well as potential problems that might result for future uses of the sites. For this reason, keeping homeless encampments off of rights of way in the future was their main objective.

MassDOT's strategy cost the agency nearly $3,000, largely due to the need to safely dispose of hazardous waste that was on the site. This is comparable to previous evictions and clean-ups,whichtypicallycosttheagency between $2,000 and $5,000. However, their approach in this case was much more successful. They found that altering the physical site after the homeless individuals left was a fairly successful way of ensuring that the site was not re-occupied. And working with homeless shelters created the opportunity for individuals experiencing homelessness to find safer and more permanent shelter and housing solutions.

For More Information

Patricia Leavenworth
District 4 Highway Director, MassDOT
781-641-8322
patricia.leavenworth@state.ma.us

Pine Street Inn
617-892-9100
info@pinestreetinn.org

Long-Term Arrangement

Ultimately, your solution may focus on reducing the risk of negative impacts resulting from a homeless encampment rather than on eliminating the encampment entirely. Under the long-term arrangement strategy, the goal is find a way to accommodate on a designated site the long-term habitation of homeless individuals or a homeless community. The site can be managed by an agency or by the homeless community itself, if sufficiently organized. The typical arrangement is a long-term lease with specified conditions. The site can be excess or surplus land or land owned by another public or private entity, such as state or local agencies that manage resource lands (e.g., forestry, parks, fisheries), utilities (e.g., water, sewer, gas, electricity), transportation agencies (e.g., ports, airports), public works departments and private or non-profit land owners (e.g., defunct summer camps, faith-based organizations). The site should have access to potable water and the possibility of being equipped with electricity (to prevent fires) and sanitation facilities. The ideal site will have access to services and employment opportunities.

Photo credit: © filo, http://www.iStockphoto.com

Long-term arrangements with homeless communities are both controversial and on the cutting edge of practice. Because each city or county has its own set of rules and civic culture governing this kind of occupancy, there are no "cookie cutter solutions." The best guidance that can be provided is to list issues to consider and examples of successful models.

Some issues to consider in this approach include the following:

- There are two primary models: a site managed (and sometimes owned) by a nonprofit entity, or a site managed by a self-governing homeless community. Under the first model, the nonprofit sets the rules and enforces them. Under the second model, the community and its governing body perform these functions. Personal safety and fairness are typically guiding principles underlying the rules. Additional information about Codes of Conduct can be found in Appendix E.
- A typical arrangement involves a rental agreement between a land owner and a group. Some states permit sale or lease of public land at less than market value if it serves a public purpose. The lease should specify the terms by which the community may remain onsite. Additional information about leases, agreements and contracts can be found in Appendix F.
- There may be a conflict between what might constitute the most desirable site from the community's perspective (one with access to services, employment and low-cost transportation) and one that minimizes conflicts with nearby land owners.

- It is important to be clear about the purpose of the settlement. Is it to provide short-term emergency shelter when the need arises? Is it to provide a type of transitional housing where people might expect to reside for a year or more, as they get their lives together to move on to the next stage? Or is it a permanent living arrangement?
- The design and features of the site should support its function as shelter, transitional housing or permanent housing. Tents and/or places to park vehicles (if people are living in their vehicles) might be more appropriate for shelter. Simple, semi-permanent one-room units combined with sturdier common areas for cooking, convening and sanitation (showers, toilets and perhaps washing facilities) might be more appropriate for transitional or permanent housing.
- It is important to work closely with relevant local government officials (building inspectors, planners, health inspectors, fire inspectors, etc.) to figure out what is currently permitted and what potential changes to current rules might be workable over time, if needed.
- In some cases, the settlement may be seasonal or rotate from one site to the next on a scheduled basis, to reduce the impact on any one location.

Two case studies are presented below, profiling communities with very different features: Dignity Village in Oregon and Tent City 4 in Washington State.

Case Study: Dignity Village, Oregon

Short-Term Accomodation and Long-Term Arrangement

The Problem

In December 2000, a group of eight homeless individuals set up their tents on public property after the City of Portland, Oregon's anti-camping ban was found to be unconstitutional by the Multnomah County Circuit Court. Over the course of the following year, the group frequently moved their camp site, finally selecting a site under a bridge that was owned and operated by the Oregon Department of Transportation (ODOT). The camp remained at this site for six months, over which time their numbers grew to more than 80 members. The residents began to create a system of democratic self-governance, calling themselves Dignity Village.

In 2001, prompted by complaints from the public about the camp, ODOT and the City of Portland announced that the camp had to vacate the property.

Response/Strategy

Immediate/Short Term

In response to the notice to vacate, Dignity Village members submitted a proposal to the City of Portland to establish a permanent settlement. As the City contemplated the proposal, ODOT granted the camp a two month extension on the site, giving the City time to work with the camp members and local advocates to devise a solution. Eventually, the City Council voted to adopt Dignity Village as an encampment pilot project.

The City identified a site for the camp at Sunderland Yard, a leaf composting facility located on City land in an industrial area near the airport, approximately seven miles from the camp's bridge location near downtown Portland. The proposed location of the site so far from jobs and needed services prompted a series of negotiations between camp residents and its advocates, led by the homeless advocacy organization Street Roots. And although a majority of Dignity Village members opposed the location, the compromise was finally accepted and members slowly moved to their new legally-recognized location.

Key Partners

- ODOT
- City of Portland
- Dignity Village members
- Street Roots (local homeless advocacy organization)
- Oregon Law Center

Long Term

Once the camp moved from its site under the ODOT bridge, the process of establishing the permanent camp for Dignity Village was primarily a cooperative efforts between the City of Portland and the camp members and their supporters. Dignity Village was incorporated as a 501(c)(3) nonprofit in 2001, and in 2004 the City allowed the Village to stay temporarily at Sunderland Yard, until another site was identified.

After several unsuccessful efforts to secure a permanent, privately owned site, the Village sought an agreement with the City to remain at Sunderland Yard indefinitely. In Resolution No. 36200, passed on February 26, 2004, the City Council designated a portion of Sunderland Yard as a Designated Campground under the terms of ORS 446.265. This State statute allows municipalities to designate up to two sites as campgrounds to be used for "transitional housing accommodations" for "persons who lack permanent shelter and cannot be placed in other low income housing." The statute notes that these transitional campgrounds may be operated by private persons or nonprofit organizations.

Case Study: Dignity Village

In 2007 the City signed a three-year contract with Dignity Village, allowing it to remain at Sunderland Yard. In the contract, Dignity Village agreed (among other things) to limit the camp to 60 residents, to manage the site completely, to maintain liability insurance, and provide regular reports to the City.

Over the last ten years, tents have been slowly replaced by small permanent structures which must meet basic building codes for camping structures, and which were funded by private donations and grants (the City provided about $180,000 for permanent infrastructure for the site). Dignity Village has also continued to refine its system of governance. Besides its board of directors, the Village community is guided by a set of rules, including no drugs or alcohol or disruptive behavior, and no children, as former sex offenders are allowed to live in the Village. Residents also participate in weekly meetings and must contribute time and labor to maintaining the camp.

Key Partners

- City of Portland
- Dignity Village

Outcomes

For the Homeless

Today, Dignity Village is home to 60 residents who live in semi-permanent, energy efficient structures. Residents pay $20 per month towards the camp's operational costs. Overall, it costs about $5 per bed per night to operate Dignity Village, which is less than one third of the cost of a traditional shelter. Approximately half the residents work, while others rely on Social Security or disability income. Since 2000 more than 700 people have transitioned through the shelter, with an average stay of 18 months, and more than 140 former residents have attained full time jobs and permanent housing.

For the Agency

The negotiation process among the City, ODOT and Dignity Village members and advocates allowed for a smooth transition to the current permanent site, with relatively minimal costs to the Agency. Since the agreement was reached in 2001 to move the camp from the bridge location to its current permanent location, ODOT has had little to no interaction with Dignity Village.

For the City of Portland

Despite the overall success of the project, the Village has struggled to remain financially stable and to follow through with all the City's requests for reporting as well as fire and safety code compliance. In addition, the Village doesn't have the service staff that most transitional housing facilities offer, which some view as a barrier to the Village's success as a true transitional facility. The Portland City Council has provided two short term renewals to its contract with Dignity Village, but another long-term contract will require the Village to address the City's concerns.

For the Neighboring Community

Immediate neighbors, both commercial and residential, have reported few issues with Dignity Village. According to a 2010 study, between 2007 and 2009 the number of 911 calls that resulted in police dispatches was lower per capita for Dignity Village than for the city as a whole.

For More Information

Dignity Village Website:
http://www.dignityvillage.org/

Tent City Toolkit:
http://tentcitiestoolkit.org/page9/page9.html

Case Study: Tent City 4, Washington State

Long-Term Arrangement

The Problem

In 2004, the Northshore United Church of Christ in Woodinville, WA, outside Seattle, entered into an agreement with the City of Woodinville that said that the Church would not host homeless encampments on its property without obtaining a temporary use permit. However, in 2009, when the city placed a six-month moratorium on all permits, the Church allowed a homeless camp (later known as Tent City 4) to set up tents on its property without a permit. The City filed suit against the Church, which was eventually appealed to the Washington Supreme Court. The Court ruled that the city's refusal to process the Church's permit request violated the free exercise of religion clause of the state's constitution, as sheltering the homeless was claimed by the Northshore United Church of Christ as an expression of religious values.

This decision was based in part on the Federal Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000. RLUIPA states that no government may impose a land use regulation that places substantial burden on the exercise of religion by a person or institution, unless the regulation is in furtherance of a compelling government interest. The case is also unique to Washington, which has a much broader constitutional protection of religion than the US Constitution provides. In response to the Woodinville case, the State of Washington passed a bill in 2010 that authorized religious institutions to host temporary encampments on their property. The bill also barred governments from enacting regulations or imposing fees on religious institutions with respect to homeless encampments, except to protect public health and safety.

Response/Strategy

When Tent City 4 was first formed in 2006, most Seattle area towns had no regulations related to homeless encampments. However, following the Woodinville case and the Washington bill, numerous jurisdictions adopted ordinances to formalize the permitting process and requirements for temporary homeless encampments as a way to protect themselves against potential lawsuits. Most of these regulations require the camp to have a religious host institution, and most limit camp stays to 90 days within any 365 day period.

Outcomes

Today, Tent City 4 is operated by SHARE/WHEEL, a Seattle-area nonprofit homeless advocacy organization. With the fundraising and volunteer support of SHARE/WHEEL, Tent City 4 has successfully moved its location every 90 days, working to identify host institutions, obtain all necessary permits, and move the belongings of the camp residents.

Tent City 4 has sheltered up to 100 people at its sites, and residents are governed by a code of conduct. At each of its locations, the camp works to orient its sites so as to limit who can enter and exit. Dumpsters, portable toilets and a shower are paid for through the fundraising efforts of SHARE/WHEEL. SHARE/WHEEL also works with local police to monitor crime and safety and has found that Tent City 4 does not result in increased crime levels for cities.

For More Information

Tent City 4 website:
http://tentcity4.info/

SHARE/WHEEL website:
http://www.sharewheel.org/Home

Municipal Research and Services Center of Washington – Temporary Homeless Encampments:
(Provides planning and policy assistance related to the Washington Tent City Bill)
http://www.mrsc.org/subjects/housing/tentcity/tentcity.aspx

Chapter 3
Creating A Policy Framework For Your State

Chapter 2 addressed options for responding to a particular incident. This Chapter focuses on how to move beyond responding to homeless encampments on a case-by-case basis to developing institutional infrastructure—policies, resources and training—that enables your agency to take a more proactive and holistic stance with respect to the challenges of homeless populations camping on state DOT right-of-way.

What you'll learn about in this chapter:

- Scanning the Situation
- Establishing a State-wide Advisory Committee
- Analyzing the Situation
- Developing Alternative Strategies
- Creating a Plan for your Agency
- Assessing your Approach

The goal of this approach is to equip your personnel at various levels (policymakers, managers, supervisors and field staff) with the information, skills and resources that they need to respond to the unique situations related to homeless encampments that they encounter on a day-to-day basis.

The process described below draws from the knowledge bases of Problem-Oriented Policing and strategic planning.

Scanning the Situation

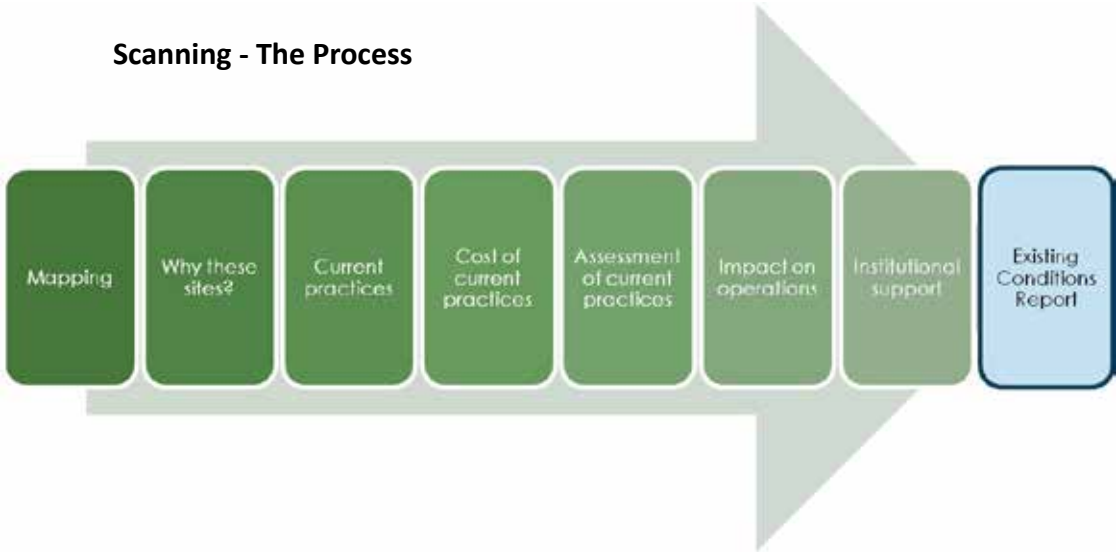
Scanning refers to identifying the nature and extent of a recurring problem. A fundamental first step is to collect information from the people in your agency who may encounter homeless camps as part of their regular work. Consider asking the district or regional managers to work with their maintenance supervisors and technical staff who are in the field on a regular basis to undertake the seven-step exercise below. The information that you collect does not have to be precise; you are trying to get a general understanding of the nature and extent of the problem and how staff are responding to it currently.

Mapping the Problem in Your State

On a map of the district or region, staff should indicate the principal places where they have encountered homeless encampments. They could then number the sites and provide the following information for each:

- Duration of encampment: ongoing, frequently occupied, occasional, not known

Scanning - The Process



- Seasonality of encampment: year-round, certain seasons (specify which), not known
- Approximate average size of encampment: very large (100 or more people), large (50 – 99 people), medium (15 -49 people), small (3-14 people), very small (1 or 2 people), not known
- Nature of encampment: Elaborate (includes some lean-to's or other structures and places apparently designated for various purposes, such as latrines or cooking areas), simple (possessions and bedding only), not known.

Generating Ideas About Why These Sites May Have Been Chosen

For each site, the mapping group should indicate all the reasons why they think the site has been chosen to house a homeless camp. They should consider the physical nature of the site and its proximity to other uses.

Potential reasons include:

- Seclusion from view/privacy
- Shelter from weather
- Availability of amenities: potable water, public bathrooms
- Close to services and stores
- Close to panhandling opportunities.

Documenting Current Practices

The mapping group might then discuss how they address homeless encampments and list all of the tactics and strategies that they use. If there are some practices that they use consistently or frequently, they might highlight those.

Potential practices include:

- Contacting law enforcement
- Contacting social service and/or homeless assistance agencies
- Telling homeless people that they have to leave
- Leaving the situation as-is
- Posting *No Trespassing* signs
- Posting signs that the site will be cleared on a date certain
- Clearing the site of all possessions
- Undertaking a hazardous materials cleanup of the site
- Altering the site afterwards to discourage new encampments

Determining Costs of Current Practices

If you can, ask the supervisors or managers to estimate the cost of the resources (labor, equipment, supplies, and contracted services) that they have dedicated to dealing with homeless encampments in the past year.

Assessing the Effectiveness of Current Practices

Ask the supervisors or managers to describe the overall effectiveness of their current approach as follows:

- Problem solved (problem goes away and does not recur)
- Problem displaced (problem goes away at the sites but recurs on other right-of-way somewhere else as a result)
- Problem recurs onsite (problem goes away for a while but recurs again at the same sites)
- Problem remains (problem does not change)
- Problem gets worse (the encampments grow in size or becomes more dangerous)

Understanding the Impact of This Challenge on Operations

Ask the supervisors or mangers to rate how significant of a problem they think homeless encampments pose to their region or district. While this is a subjective question, it will help you understand the range of concern about this issue that, in most states, is not understood or acknowledged.

- Significant impact
- Moderately impact
- Little impact
- No impact

Securing Institutional Support

Poll the managers and supervisors about the kinds of assistance that they think would help them better address the issue. Options may include:

- High level acknowledgement that the presence homeless encampments poses an operational challenge to the transportation system

Federal Compliance Considerations

Having a plan for addressing the impacts of homeless encampments may help bring your agency's operations into compliance with the 1994 Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," and the 2011 Memorandum of Understanding that confirms its continuing relevance. Additional information on these items can be found in Appendix A. In brief, these executive policies expand various civil rights and environmental justice protections (such as the need to consider the potential adverse effects of actions) to low income populations. According to the US DOT's civil rights webpage, covered actions include "operations and maintenance." Your plan could demonstrate your agency's good faith effort to minimize adverse impacts of maintenance and operations on a particularly vulnerable segment of the low income population, individuals experiencing homelessness.

- Policy guidance, training and central office support (e.g., public and government relations staff) on options on how to respond
- Pre-established linkages with outside resources (e.g., social service agencies and law enforcement) that can help address situations as they occur
- Training for field staff on how to handle encounters with homeless individuals
- Funds for site cleanup
- Funds for site alterations
- New rules or state laws

Getting to the root of the problem and making real change involves engaging with a variety of partners who can help develop and contribute to a more integrated solution.

You can approach this process of gathering and summarizing information in one of two ways: you can do it internally, using agency staff, or you can partner or contract with an outside entity. If you have a connection with a university, you may want to explore whether this might be an attractive project for a graduate-level class in transportation planning, criminal justice, public administration or social services. You may also want to consult with your agency's research department to see if they have resources to hire a consultant to do this work. The final product should consist of an Existing Conditions Report that summarizes the principal findings of your scanning process and includes maps that document the extent and nature of homeless encampments on right-of-way in your state.

Establishing a Statewide Advisory Committee

With this information in hand, you are ready to decide whether to invest time and resources in establishing new agency relationships, policies and procedures. Doing so involves recognizing that homeless encampments, while posing an operational challenge for your agency, are the outcome of complex social problems. Getting to the root of the problem and making real change involves engaging with a variety of partners who can help develop and contribute to a more integrated solution. The purpose of setting up an advisory committee is to enlist the ideas and support of these entities in addressing the problem in your state. The advisory committee may be short term (focused on developing new policies and guidelines) or ongoing (meeting periodically to problem-solve around particular issues or provide feedback on your efforts). It can be advisory to a high-level staff person in your agency, or it can be advisory to your policy board.

Mine your Existing Conditions Report for ideas about who to include as members on the advisory committee. Potential candidates should include people with the same kinds of expertise described in Chapter 2, but they may represent statewide associations rather than local ones. Candidates may include:

<u>Pull Side Partners</u>

- State housing agency, especially staff that deal with homelessness and the Continuum of Care agencies on a statewide level
- State association of Community Action Agencies (federally-funded local anti-poverty agencies)
- Statewide or regional nonprofits organizations that specifically provide services to homeless individuals, including shelter providers, outreach workers, food and clothing providers
- Advocacy groups for and by homeless people

- State association of Housing Authorities and/or nonprofit housing providers
- State health and human services agency, particularly staff that administer mental health and substance abuse services
- State Veterans' organizations
- Associations of faith-based organizations and places of worship, particularly those with ministries involving the homeless

Push Side Partners

- State police
- Association of local law enforcement agencies
- State association of district attorneys
- Association of judges that deal with community justice issues
- State Legal Aid (to ensure that the rights of homeless individuals are respected)

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Additional Partners

- State association of cities or counties
- State chamber of commerce
- University faculty from departments of planning, transportation, social work, public administration and/or criminal justice

Analyzing the Situation

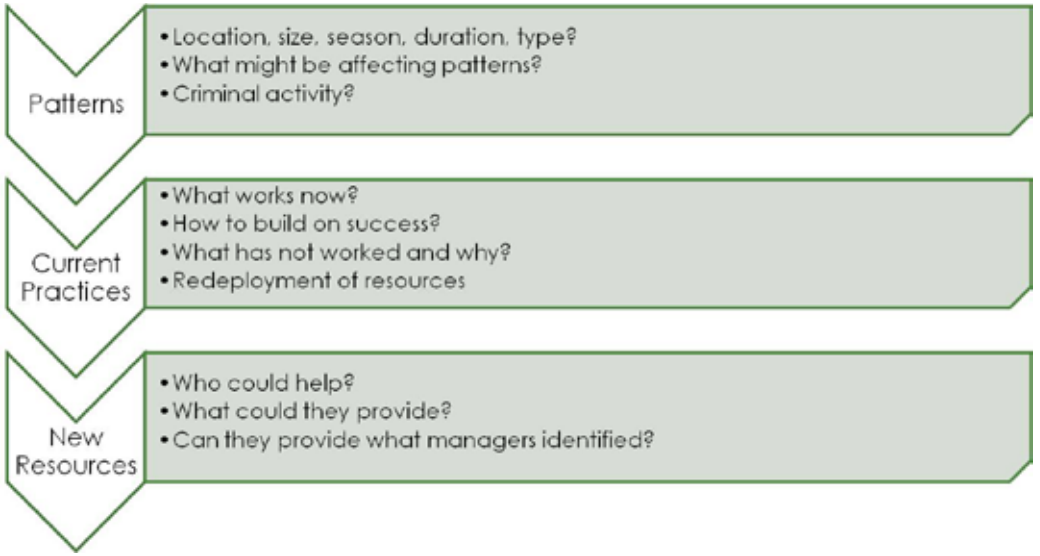
The first task of your advisory committee is to review the Existing Conditions Report to help you analyze the results and place them in a larger context. Potential questions to consider include:

- Are there patterns in the location, size, duration, seasonality or nature of the encampments? Do any of these things correlate with other phenomena known or observed by committee members? What hunches do committee members have about the causes of these patterns?

  » For example, do the location and size of homeless camps correlate with information from the most recent Point-In-Time homeless count (discussed on page 8)? In particular, look at the number and percentages of sheltered versus unsheltered individuals in the count. Does it appear that the occurrence of camps is related to an insufficient number of shelter beds? The answer to this question may help determine the general direction of your strategies in particular communities.

  » Have there been any closures of state mental health institutions or facilities?

  » Have there been reductions in the number of jail or prison beds that have resulted in the release of offenders?



» Have there been cutbacks in social services or changes in the economy that may have affected the size of the homeless population overall?

» What is known about the nature or extent of criminal activity or calls for service at or near the camps? (Note: Not all calls for service are occasioned by homeless persons as perpetrators. They can be uninvolved in the activities or victims.) The answer to this question may help deepen the involvement of "push" partners.

» What else do committee members know about homeless encampments that is not reflected in the information in the report?

- Looking at the description of your agency's current practices, what might potential new local push and pull partners contribute to these efforts? Who at the table (the advisors) could help explore the availability of these partners to assist and the resources that they might be able to bring to bear in the future?
- Looking at the assessment of your agency's current practices, which seem to work well? What hunches do committee members have about the potential reasons for success? What ideas do they have for building on these successes? Might some serve as model strategy options? In looking at the costs associated with current strategies that do not appear to work well, could some of these resources be deployed differently to reach a better solution?
- How could committee members contribute to providing some of the additional kinds of support that the managers and supervisors identified?

The answers to these preliminary questions both set the stage for exploring alternative approaches and enlist the resources and support of participating agencies from the outset. Thus, the alternatives may be constructed in an environment of expanded resources.

Developing Alternative Strategies

This next phase involves three steps: coming up with the key criteria against which you will evaluate alternative strategies, conducting a brainstorming session about those strategies, and then organizing and evaluating them against the criteria.

Selecting Criteria

Potential criteria that your committee may want to consider include:

- Effectiveness of strategy in reducing the negative impacts of homeless encampments on right-of-way, taking into consideration possible displacement of the camps
- Impact of strategy on homeless individuals
- Impact of strategy on addressing the overall challenges homelessness in the community
- Impact on crime in the immediate area
- Impact on community quality of life
- Availability of resources to implement the strategy
- Cost of strategy to agency

Brainstorming Strategies

The purpose of brainstorming is to collect as many ideas as possible from your committee about potential strategies for addressing the problems caused by homeless encampments. Be sure to include successful strategies identified in your existing conditions report. Do not be concerned if this step seems messy—the point is to get a variety of ideas on the table, even if they are widely differing in scope and specificity.

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Once ideas are on the table, you can group them or restate/reorganize them so that they represent truly distinct alternatives. This might occur at a meeting or between meetings.

Before the next meeting, you may want to consider if any of the potential alternatives need to be removed from further consideration. If some are removed, explain why this is necessary, so as to retain the good will of your committee. Perhaps further discussion of your agency's concerns might yield modifications that would enable a refined version of the alternative to be included. For example, an alternative previously rejected may be included with the proviso that changes in current policy would be required to enable this alternative to be feasible, and that your agency is not able to commit to those changes because those deliberations have not yet occurred.

Evaluating Strategies

The final step involves evaluating the alternatives against the criteria selected to choose a suite of alternatives to form the basis of your agency's plan. Because you are likely to have a variety of problems and contexts associated with homeless encampments, you may find it helpful to select not just a single strategy, but a small group of them from which managers and supervisors can choose, based on the best fit for their circumstances.

Creating A Plan for Your Agency

With this input, you are prepared to develop a plan for your agency. The plan should lay out the known scope of the problem (from your Existing Conditions Report), the goals you hope to achieve (refer to your evaluation criteria), the suite of strategies you have selected and anything that needs to be done to solidify them, and the resources required (internal and external to your agency), specifying which are available and which are not at the current time. An important part of your plan is specifying who in your agency has the authority to form local coalitions and the amount of latitude they have in choosing among strategies or developing new ones. The final responsibility of your advisory committee might be to review the plan and, if desired, assist with its adoption.

Once your agency's policy-setting body has accepted the plan, the next step is to put in place the policies and tools required to implement the plan. This may include changes to guidance documents (policies and procedures), interagency memorandums of understanding, agreements or contracts with other parties, the redirection of resources and investments in your agency's human capital (training). Appendix B includes information and ideas about training resources for transportation agency staff.

Assessing your Approach

The final phase involves evaluating the outcomes and costs of your new approach. To effectively evaluate impacts, it is helpful to have baseline data about the conditions you hoped to change as a result of plan implementation. Much of this data will be available from the Existing Conditions Report and the information brought forward by members of your advisory committee when they analyzed it.

The next step is to gather matching data that capture conditions after the plan has been implemented to see if the changes are having the intended effects. You can use a combination of qualitative and quantitative data to understand if and how things may have changed.

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It may be useful to go back and refer to the working hypotheses (cause and effect) formed during this phase of your planning process to see if the evidence supports or brings into question their validity.

This kind of evaluation is known as an outcomes-based evaluation because it analyzes the impacts of your intervention on a condition, as measured by selected indicators. You may also find it helpful to undertake a process-oriented evaluation that examines what new processes and problem-solving capacities are in place now that this plan has been implemented. In a process-oriented evaluation, you are measuring changes in the capacity of a system to respond to challenges. Is it more efficient? More effective? More proactive? Enjoys more political support? More nimble?

Based on the results of your evaluation, you may want to go back and fine-tune your plan and the implementation tools. This is how your agency's knowledge grows. Refining the plan helps to ensure that the hard lessons learned from experience are captured, and that staff who did not directly experience a particular situation are able to benefit from what was learned.

Conclusion

Homelessness presents a substantial operational challenge to public agencies, including state-level Departments of Transportation. Based on case and survey research, this guide shows that effectively addressing this challenge is within reach of agencies—but it necessitates a multi-partner, collaborative approach that utilizes both incentives (carrots) and deterrents (sticks).

Agencies need to be proactive in thinking about how they will manage homelessness and ensure that policies and procedures are in place that give affected employees the tools and guidance they need to resolve what can be difficult and sometimes frustrating situations. At the same time, remember every situation is unique—solutions will be case- and site-specific and will require a thoughtful and deliberate plan of action. We hope this best practices manual assists you and your agency as you work on this important and challenging problem.

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Appendix A
Consideration of Homeless Populations in Federal Environmental Justice Requirements

Introduction

In 1994, President Clinton signed Executive Order 12898, entitled "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations." This Order requires that all federal agencies "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations"(p. 1).

The Order created an inter-agency working group on Environmental Justice (EJ) to provide agencies with guidance. It also required individual federal agencies to create and adopt an EJ Strategy, to do their own research, and to provide progress reports when requested. The U.S. Department of Transportation (DOT) adopted Order 5610.2 on Environmental Justice as part of its EJ Strategy in 1997.

In August 2011, federal agencies signed a memorandum of understanding (MOU) confirming the importance of continuing to address EJ concerns as laid out in Executive Order 12898. It required all signing agencies to update their EJ Strategies, and beginning in 2012, to provide annual reports on progress made (*Memorandum of Understanding*, 2011). This renewal of interest in environmental justice makes the information provided in this Guide all the more relevant and important.

Executive Order 12898 was issued with the intent of providing management advice to federal agencies with respect to environmental justice issues. Unlike a law passed by Congress, an Executive Order does not provide affected parties with the right to pursue legal remedies through the courts if an agency fails to follow its directives (Executive Order 12898, Section 6-609).

This Appendix provides an overview of Executive Order 12898, with a focus on its relationship to Departments of Transportation and their interactions with homeless populations.

Executive Order 12898 and Title VI

The protections and considerations of Executive Order 12898 are often understood as an extension of Title VI of the 1964 Civil Rights Act. The purpose of Title VI is that "no person in the United States shall, on the ground of *race, color, or national origin*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (italics added). In 1987, the Civil Rights Restoration Act expanded the Title VI requirements to include "all programs and activities of federal-aid recipients, sub-recipients, and contractors, whether or not such programs and activities are federally funded" (Environmental Justice Task Force, 2010).

Environmental Justice is closely tied to Title VI; reporting on both is often combined, and at times the concepts are used almost interchangeably. The Title VI protections, against discrimination and for inclusion in processes, are limited to the federally protected classes identified in the Civil Rights Act of race, color and national origin. One major difference

with Executive Order 12898 which is relevant to this conversation is that it extended those protections to include low income populations in general.

The considerations which Executive Order 12898 requires of those populations are at once more broad and more nuanced than Title VI. The Order addresses discrimination, participation, and benefit of projects, but through the lens of health and environmental well-being. This ties the issues of discrimination or adverse impact on communities to the Environmental Review processes required of all federal projects, discussed in the next section.

Executive Order 12898 and NEPA

According to the Council on Environmental Quality (CEQ), Executive Order 12898 was accompanied by a memorandum to heads of federal departments and agencies that "specifically recognized the importance of procedures under the National Environmental Policy Act (NEPA) for identifying and addressing environmental justice concerns"(1997, p. 1). It focused especially on encouraging the participation of low income, minority, and Indian tribe populations in NEPA processes.

The purpose of NEPA, established in 1969, is to "encourage productive and enjoyable harmony between man and his environment" (CEQ, 1997, p. 7). This is achieved through review requirements for federal activities to ensure consideration and mitigation of potential negative impacts on the environment. The Presidential memorandum accompanying Executive Order 12898 identified four common NEPA processes that should address environmental impacts on low income, minority, and Indian tribe populations. These are environmental assessment, environmental impact statement, finding of no significant impact, and record of decision (CEQ, 1997).

The CEQ published a guide in 1997 to help agencies identify and address EJ concerns in the NEPA processes. In terms of participation, the guide suggests that "agencies should encourage the members of the communities that may suffer a disproportionately high and adverse human health or environmental effect from a proposed agency action to help develop and comment on possible alternatives to the proposed agency action as early as possible in the process"(15). It can then use input from the public participation process to develop appropriate mitigation measures.

Despite the parallels of Executive Order 12898 to existing requirements such as NEPA and Title VI, it has received far less attention. Part of this may be that, although reporting and monitoring requirements are well understood for NEPA as well as Title VI, they have not been clearly addressed for compliance with Executive Order 12898 (neither in the Order itself, the recent EJ MOU, the DOT's EJ Order, nor even its recently revised EJ Strategy). As a result, EJ reporting and monitoring has largely been rolled into Title VI and NEPA processes, which may have had the impact of decreasing both the awareness and impact of the Order.

This is changing, however, with the renewed Federal focus on Executive Order 12898 in 2011. By separating the reporting requirements for the Order from Title VI, the more nuanced adverse impacts of projects on health and community cohesion may be able to be more directly addressed.

Executive Order 12898 and Homeless Populations

This section will explore how people experiencing homelessness may be impacted by the protections of Executive Order 12898. The homeless are not explicitly mentioned in Executive Order 12898, nor were they mentioned in a 2003 evaluation by the US Commission on Civil Rights on how well federal agencies were implementing the EJ requirements of Executive Order 12898. Furthermore, it is not clear how Executive Order 12898 applies to actions undertaken by state DOTs utilizing federal funds, or if it applies at all to actions occurring on right-of-way acquired or improved with federal funds prior to the adoption of the Order.

However, at least two State DOTs (Florida and Washington) have interpreted the Executive Order as applying to homeless populations,

in actions taken on specific federally-funded projects and documented in published articles (Poitier et al, 2005, and Kocher et al, 2007). And the homeless would appear to fall under EJ protections and considerations, based on DOT Order 5610.2 definitions provided below (United States Department of Transportation, Office of Civil Rights)[1]:

- "Low income means a person having a median household income at or below the Department of Health and Human Services' (HHS) poverty guidelines" (Appendix 1b).
- "Low-Income Populations means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed FHWA program, policy, or activity" (Appendix 1d).

The majority of homeless individuals in the United States would meet the income guidelines described above. Thus homeless encampments would fall directly under the category of "low-income populations," and it is quite possible that individuals experiencing homelessness would also qualify.

DOT Order 5610.2 defines "adverse affects" in the following way:

- "Adverse effects means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include . . . *destruction or disruption of community cohesion* or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; *adverse employment effects; displacement of persons* . . . isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community" (Appendix 1f), (Italics added).

A common approach to homeless encampments is dispersal through regulation or law enforcement. Dispersal of homeless encampments on right-of-way acquired or improved with federal funds clearly causes the displacement of persons, and it may disrupt community cohesion (if it exists) within the camp.. It might also have adverse effects on individuals' employment opportunities, and could result in increased isolation of homeless individuals from the broader community.

Finally, the US DOT's "Civil Rights" webpage (nd) clarifies which DOT actions need to take these concerns into consideration. According to their site, Executive Order 12898 and Title VI apply to all transportation decisions, including the following (italics added):

- Policy Decisions
- Systems Planning
- Metropolitan and Statewide Planning
- Project Development and Environmental Review under NEPA
- Preliminary Design; Final Design Engineering
- *Right-of-Way*
- *Construction*
- *Operations and Maintenance*

The actions shown above in italics are most likely the situations in which transportation agency personnel would come into contact with homeless encampments or individuals. And although many agencies reported in our survey[2] that they interact with the homeless in operations and maintenance, the protections and consideration of Executive Order 12898 have largely not been applied to those populations. In fact, in a search of all 50 state DOT websites, only six made any reference at all to the homeless.

For the most part, when the homeless are mentioned by agencies, it is in terms of being in the way, or needing to be "cleaned up." For example, a 2008 New Mexico DOT newsletter talked about removing graffiti, trash and homeless camps so that gardeners can garden in parks (New

1. The 1997 NEPA guide to EJ has similar definitions of "low-income population."

2. As part of the OTREC-funded research, Andree Tremoulet and Ellen Bassett sent surveys to ODOT employees and rest area managers. 46 of the 64 respondents (72%) reported having encountered homeless encampments.

Mexico Department of Transportation, 2008). The New Hampshire DOT website noted a camp that was in the way of a proposed path (New Hampshire Department of Transportation, 2011). And a report by the California DOT on litter and graffiti abatement noted, under "litter removal," that "4,994 homeless camps were removed from the roadsides"(California Department of Transportation, 2005, p. 2).

The most comprehensive inclusion of the homeless found in that search was by the Washington State DOT. Their 2011 manual titled "Sustainable Roadside Design and Management for Urban Freeways in Western Washington" names homeless camps as one of their two biggest problems, the other being "intense invasive weed pressures" (Robertson & Smith, 2011, Title Page). As a result, the manual systematically includes the homeless in their case study evaluations. Most mentions read something like the following: "Existing Conditions: Transient encampment area; limbed-up trees with open meadow/grass areas," or "Maintenance: Annual transient clean-up; routine mowing" (19).

The Washington design manual, like most of the state DOT website references to the homeless, seems largely to view homeless encampments as a barrier to project design and maintenance efforts. However, the manual also acknowledges that "preventing the establishment of and removing transient encampments involves complex social, economic, and political issues that require clear policy directives from WSDOT for roadside maintenance and close cooperation with law enforcement agencies" (Robertson & Smith, 2011, p. 71). The authors see a need for collaboration and for explicit guidance as to how best to deal with/prevent homeless camps[3].

3. A 2007 article titled "From Policy to Action : Identifying Environmental Justice Concerns in Transportation Planning" describes the Washington State DOT's outreach to homeless communities affected by the Alaskan Way Viaduct and Seawall Replacement Project in Seattle, WA.

In a search of the state DOT websites, there was no evidence of such guidance being available, except the Washington design manual described above. And in a survey sent to DOT and rest area managers, only 10 of the 64 survey respondents (16%) reported having received training on how to deal with homeless populations. Of those who had not, more than half thought such training was needed.

Conclusion

Until recently, it would appear that homeless populations were not broadly understood as being protected populations under Environmental Justice provisions. Executive Order 12898 provided clear management guidance to federal agencies to consider and mitigate the adverse impacts of agency activities, including maintenance, on low income and transient populations.

Although the work of State DOTs and their employees and contractors is integral to the success of broader DOT Environmental Justice efforts, the applicability of Executive Order 12898 and Department of Transportation Oder 5610.2(a) to state-funded maintenance of federal highway right-of-way and other federally-funded projects is not clear at present. Nevertheless, some state transportation agencies, along with law enforcement officials and others, are beginning to look more holistically at the recurring presence and resulting challenges of homeless populations on public land and developing new kinds of solutions. These solutions often include a collaborative approach to problem-solving that include partnerships with social service agencies and, in some cases, homeless individuals themselves.

In the 2011 updated EJ Strategy, the U.S. Department of Transportation noted that it is "exploring traditional and nontraditional strategies for engaging low-income and minority populations." The approaches described in this Guide represent innovative applications of and approach to Environmental Justice in transportation projects, and the experiences of those involved can provide insight to practitioners facing these problems throughout the United States.

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Appendix B
Resources for Transportation Agency Staff Working With Homeless Populations

Working with homeless populations, whether on an on-going basis or only occasionally, can present unique challenges to transportation agency staff. Homeless individuals are more likely than the general public to have mental illness and addiction disorders, to be veterans, and to be victims of domestic violence. While many individuals experiencing homelessness require affordable shelter or housing, and adequate employment and health care services, many require much more specialized care to successfully transition out of homelessness.

If your agency has decided to engage with local homeless populations, there are many resources available to help you and your staff to be as safe and effective as possible. The information below provides a starting point, but there are probably already experts on the homeless in your community who can provide support to you and your agency. This includes homeless advocates, police, and social service and mental health providers (public and non-profit). These people and organizations can help you understand who the homeless are in your community and the challenges they face, as well as methods for interacting with them.

You may even be able to work with these potential partners to develop trainings specific to your agency's needs. This approach has been used by a number of police departments across the country that have worked with partners to develop homeless outreach teams to more effectively address the challenges posed by homelessness in their communities.

National Coalition for the Homeless: Factsheets

http://www.nationalhomeless.org/factsheets/who.html

The National Coalition for the Homeless is a national homeless advocacy nonprofit with a goal to educate the public on issues surrounding homelessness. Through their website you can access a wide array of publications, including the above series of Factsheets on who the homeless are in the United States.

National Alliance to End Homelessness: Community Plans

http://www.endhomelessness.org/section/solutions/community_plans

The National Alliance to End Homelessness is also a national homeless advocacy nonprofit with a focus on assisting local communities in creating "Ten Year Plans" to achieve their goals of ending homelessness. The above link allows you to search for your community's homeless plan, which will provide information on who the homeless are locally, as what work is already being done and who is doing it.

Continuum of Care

http://www.hudhre.info/index.cfm?do=viewCocContacts

According to the US Department of Housing and Urban Development (HUD), a Continuum of Care (CoC) is a local plan to help transition

homeless individuals and families into permanent shelter and self-sufficiency. It includes outreach, emergency and transitional shelter and services, and affordable housing. Since 1995 HUD has awarded grants to communities to coordinate efforts and develop their own CoCs. And in 2012 HUD established requirements for CoC recipients to adopt Homeless Management Information Systems to track homeless individuals and help deliver services more efficiently and effectively.

The above website allows you to search for local CoC contacts by state. This can be a great starting place if your agency is considering partnering with other organizations to move homeless individuals from a site.

International Network of Street Papers

http://www.street-papers.org/

The International Network of Street Newspapers (INSP) supports and develops more than 100 local independent street press projects around the world, including 30 in the United States. These projects provide employment opportunities for homeless individuals and are education and advocacy tools for local communities. Through their website you can search for publications in your area. These newspapers can provide useful information on homelessness and help you connect with service providers. Newspaper staff and volunteers may also be able to help you to reach out to the homeless populations with whom you are dealing.

Homelessness Resource Center: Tools and Training

http://homeless.samhsa.gov/Channel/HRC-Tools-and-Training-25.aspx

The Homelessness Resource Center is a branch of the Federal Substance Abuse and Mental Health Services Administration dedicated to disseminative information on homelessness to advocates, service providers, policymakers, and public agencies. Their website has a great deal of information, but the above Tools and Training section was developed to fill the information gap between research and practice.

Specific training resources that may be relevant to agency staff engaging with homeless individuals include:

- Expert Panel on Cognitive Impairment
  http://homeless.samhsa.gov/Resource/Expert-Panel-on-Cognitive-Impairment-33353.aspx
- Invisible: Cognitive Impairment and Homelessness
  http://homeless.samhsa.gov/ResourceFiles/xn3boic4.pdf
- Homelessness and Traumatic Stress Training
  http://homeless.samhsa.gov/Resource/HRCs-Homelessness-and-Traumatic-Stress-Training-Package-33070.aspx

Manual: Engaging People who are Homeless with a Mental Illness

http://hacchicago.org/PDF/HAC_Engagement_Manual.pdf

The above manual was developed by the Illinois Department of Human Services Division of Mental Health's Homeless Action Committee. Though not an academic study, nor a definitive resource, it does provide basic information on recognizing behaviors associated with mental illness and engaging those people safely and effectively.

"Verbal Judo"

http://verbaldefenseandinfluence.com/

Verbal Judo is a communication tool developed by George Thompson that is focused on using understanding of the other to generate cooperation and voluntary compliance in stressful situations. The approach has been used by a number of police departments, including the NYPD, to interact with individuals who are frightened, traumatized or aggressive. The Verbal Defense and Influence website listed above offers verbal judo training, which might be useful to agency staff who interact regularly with challenging homeless individuals.

Appendix C
Altering the Physical Environment

For many transportation agencies, the return of homeless encampments after eviction or relocation can be the most difficult and frustrating aspect of the problem; time, money and other resources are spent repeatedly, without ever reducing the scope and impact of the problem.

Relocation efforts that partner with homeless service providers are one way to reduce the probability that homeless individuals will stay on or return to a site. But once an agency has succeeded in removing or relocating a homeless encampment from the right-of-way, there is continued work that can be done to address some of the physical characteristics of the site that made it attractive to the encampment in the first place. Examples of such approaches identified by the US Department of Justice include:

- Securing vacant lots and buildings
- Trimming or removing overgrown vegetation and brush
- Setting water sprinklers to go off at different times

It is important for agencies to remember that in some cases, humane relocation and changes to the physical environment may not address all the needs and issues of a camp's homeless individuals. So on sites that have chronic issues with encampments, agencies can also work to physically enhance those areas so as to reduce the negative impacts of routine activities of the homeless population. This includes installing public toilets and trash receptacle and cleaning up camp sites. It may also be possible to partner with a human services agency (such as one that provides structured employment or volunteer programs for homeless or formerly homeless individuals) to maintain the site. This is tied in with the "accommodation" approach, and may not be appropriate for every site or every agency.

Resources

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Appendix D
Using Trespass Law to Discourage Homeless Encampments

Trespass law can a viable tool to help discourage homeless individuals from establishing permanent residents on property owned by Departments of Transportation, and to provide a "push" if you need to relocate individuals. However, the details of what constitutes criminal trespass vary greatly by state and even by local jurisdiction. In general, trespass is the interference with another's possession of property, including the invasion of another's property. Some states hold that any unpermitted entry onto property is criminal whether or not harm was done, while others specify that trespass is not criminal unless a verbal or written warning (such as posted signs) has been given. Others still may define trespass as committing certain prohibited acts on a property rather than entry onto the property itself.

For Departments of Transportation, the issue of trespass is particularly difficult to enforce, as the property is publically owned. However, in some cases, particularly for properties not intended for regular access by the public, some restrictions may be possible. More and more, public agencies have begun to enact trespass laws that only prohibit certain specific actions (e.g., sleeping) or prohibiting them only at specific times (e.g., overnight). Such laws can be enforced using signage that references the local statute or ordinance, which is less resource-intensive and can give law enforcement more discretion.

If your agency is considering such an approach, specificity of the restrictions is extremely important to protect public agencies from accusations of violating homeless individuals' constitutional rights, such as free speech (See Appendix G). In most cases, the restriction must achieve a legitimate public purpose, and must use the lightest restrictions possible. And because specific laws governing trespass on both private and public property vary greatly across the United States, it is important to work with partners such as a District Attorney to understand your local statutes and ordinances.

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Appendix E
Codes of Conduct for Homeless Encampments

If your agency has made the decision to allow a homeless encampment to remain on public land, even temporarily, but you are not entering into a formal lease agreement with a third party (e.g., a nonprofit agency) to manage the camp, consider working with the camp residents early on to establish camp codes of conduct. This allows your agency to exert some control over who is in the encampment, what activities take place, and how the site will be maintained. Setting these rules also helps establish clear expectations, both of your agency and of the camp residents, and clear consequences and enforcement procedures if those expectations are not met. Finally, developing codes of conduct *with* camp residents can also help to build trust and respect between parties, which is very important to ensuring smooth and productive future interactions.

Potential Elements to Consider in Developing a Homeless Encampment Code of Conduct

- Presence of drugs or alcohol
- Presence of weapons
- Presence of residents with criminal history (what kind of background is okay, what is not)
- Presence of children (particularly if sex offenders are allowed to live in the camp)
- Presence of pets (Remember to allow assistance animals)
- Loitering in surrounding areas
- Open flames
- Quiet hours
- Participation in site maintenance
  - » Security shifts
  - » Number of volunteer hours required per month
- Participation in camp governance
  - » Attendance at weekly meetings
- Check-ins: Periodic meetings with social service providers or other city or agency representatives to demonstrate that they are searching for work or permanent shelter
- How new residents are admitted
  - » Vote by existing camp residents

Homeless Encampments with Established Rules and Regulations

Dignity Village (Portland, Oregon)
http://www.dignityvillage.org/

Camp Take Notice (Washtenaw County, Michigan)
http://www.tentcitymichigan.org/

Tent Cities 3 and 4 (King County, Washington)
http://www.sharewheel.org/Home/tent-cities

Village of Hope (Fresno, California)
http://www.poverellohouse.org/village.html

For More Information

Tent City Toolkit
http://tentcitiestoolkit.org/page9/page9.html

This website provides some of the governing documents used by Dignity Village. This includes their admittance agreement, judicial process, police protocols, and pet contract.

Tent City - Municipal Research and Services Center of Washington
http://www.mrsc.org/subjects/housing/tentcity/tentcity.aspx

This website provides information for local jurisdictions in Washington regarding homeless encampments. It was created in response to Washington legislation passed in 2010 that authorized religious institutions to host temporary homeless encampments. This website provides links to numerous jurisdictions' policies and requirements for the establishment of camps, many of which include codes of conduct.

Appendix F
Leases, Contracts and Agreements For Establishing Homeless Encampments

There are a number of places throughout the United States where organized homeless camps have signed official leases, contracts, or other agreements with public entities or private property owners to allow them to stay on the property. This has been used both for temporary and semi-permanent accommodation, as with Tent City 4 in Washington State, and for more permanent shelter solutions, as with Dignity Village in Portland, Oregon. As with the "Rules and Regulations" discussed in Appendix E, lease agreements or contracts between the host individual, organization or agency and the homeless encampments or their governing nonprofits are an important tool for establishing accountability and trust.

Potential Elements of Contracts or Agreements

- Date camp will begin
- Length of camp's stay
- Maximum number of residents allowed
- Location of site
- Host individual or organization representative
- Fees or lease payments to host
- Date, time and location of regular meetings with host and/or community
- Buffering, screening or setback requirements between camp and surrounding properties
- Noise or lighting restrictions
- Maintenance responsibilities of camp and host
- Sanitation and public health procedures and requirements (port-o-potties, water and waste-water, dumpsters, etc.)
- On or off-street/site parking allowed
- Fire safety regulations
- Type of shelter options allowed at site (tents vs. cars or RVs vs. permanent or semi-permanent structures)
- Hazard or liability insurance (and amount) required
- Access routes for emergency vehicles
- Site security procedures
- Liability of host and camp residents
- Severability of contract

Many of these items may overlap with internal rules and regulations governing the camp residents. But with the lease agreement, it is important to work both with the host and the community (including neighboring residents, local law enforcement and fire department, and public planning and public health agencies) to develop the lease. This can help to address potential conflicts before they arise, but can also help re-assure neighbors that their concerns are recognized and valid.

For More Information

Tent City - Municipal Research and Services Center of Washington
http://www.mrsc.org/subjects/housing/tentcity/tentcity.aspx

This website provides information for local jurisdictions in Washington regarding homeless encampments. It was created in response to Washington legislation passed in 2010 that authorized religious institutions to host temporary homeless encampments. This website provides links to numerous jurisdictions' policies for the establishment of camps, many of which include requirements for lease agreements as well as codes of conduct.

Appendix G
A Brief Overview of the Constitutional Rights Of the Homeless

The United States Constitution provides a basis for the rights of all citizens, some of which can specifically protect homeless individuals and their actions. Criminalizing policy reactions to growing homeless populations over the past few decades have led many advocates towards this Constitutional approach and away from local policy and law in order to protect the rights of the homeless. This document provides an overview of the frequently-cited case law related to the Constitutional rights of homeless individuals and encampments, as well as federal protections relating to relocation. Many of the legal interpretations are from state-level cases and thus conflict. However, they provide a framework for how these legal concerns are being challenged and addressed in the United States.

Two caveats should be taken into consideration in reading this document. First, many states and local jurisdictions in the United States have specific laws and regulations that may either expand upon or limit broader Constitutional rights relating to homeless individuals and their actions. It is important when working and interacting with homeless populations to understand these local rights and regulations. Second, laws and interpretations of laws can change quickly because new cases are decided all the time. This summary represents a snapshot of important considerations pertaining to Constitutional rights at the time this guide was published.

First Amendment – Freedom of Speech

Policies prohibiting or limiting begging or panhandling have been accused of violating First Amendment rights of free speech, though there is some inconsistently on this interpretation. The main argument for begging as free speech is based on the fact that the US Supreme Court has in different scenarios protected the right to ask for money. For example, the Supreme Court has on a number of occasions protected the right of solicitation for charity. In *Riley v. National Federation of the Blind,* (1988), the Court protected "communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes," which can also be clearly construed to apply to homeless people who are advocating on behalf of their own situation (Hershkoff, 1991, p. 905).

The most famous argument against begging as free speech was the 1991 case *Young v. New York City Transit Authority*, in which the US Supreme Court ruled that a homeless man could be banned from panhandling in the New York Subway (Hershkoff, 1991). The reasoning used in this ruling was that the First Amendment protects speech but not conduct, and thus the Transit Authority could regulate the conduct of begging, or more generally the conduct of being homeless and/or disheveled in public. (Of course the act of soliciting donations, which is protected, could also be construed as "conduct"). More information

on the distinction between status and conduct is provided in the section on the Eighth Amendment.

One way a number of jurisdictions have avoided the First Amendment issue is by specifically outlawing "aggressive" panhandling, but not all forms of panhandling, so as not to completely limit this constitutional right for the homeless (Thomas, 2000). On the other side of the argument, States such as Oregon have ruled that panhandling is a form of free speech according to State Constitutional definitions, which in the case of Oregon are broader than federal definitions (ACLU Oregon, 2009).

Another place that the protections of free speech have been invoked for homeless individuals is in cases involving trespass on public property. Trespass is defined in modern law as the "intentional and wrongful invasion of another's real property" (West et al., 1998). But the details of what constitutes criminal trespass vary greatly by state and even local jurisdiction: Some states hold that any unpermitted entry is criminal whether or not harm was done, while others specify that trespass is not criminal unless a verbal or written warning (such as posted signs) has been given. Others still may define trespass as committing certain prohibited acts on a property rather than entry onto the property itself (West et al., 1998).

In some cases, such as *Virginia v. Hicks* (2003), criminal trespass charges have been challenged when the person accused was engaged in an act of free speech on publically owned property. However few such challenges have been successful. One reason is that the first amendment protects political speech, not all speech. But more problematic is that some properties owned by a government entity are not considered traditional "public forums," which protect speech[1], and thus can have some of the same rights to exclusion as private property. For such properties, the restrictions placed on it must be specific, and must achieve a legitimate public interest (Mitchell, 2006). Though the case law is highly divided on this topic, in recent decades the U.S. Supreme Court has tended to side with property rights over free speech in such cases (Mitchell, 2006, Mitchell et al., 2009).

1. Traditional public forums include streets, sidewalks and parks (Mitchell et al., 2006).

First Amendment – Freedom of Religious Expression and Free Exercise Clause

In a different application of the First Amendment, churches prohibited from setting up homeless camps on their property when the use is not allowed by local zoning or other regulation have argued that such prohibitions violate their freedom of religious expression (Talge, J. 2010).

The Free Exercise Clause of the First Amendment says that religious uses cannot be excluded from areas zoned for residential use only (Loftus-Farren, 2011). The argument for freedom of religious expression follows this, saying that helping or ministering to the poor is part of their faith, and thus restrictions on it are unconstitutional. But as with most of the cases involving the homeless, the case law is not entirely consistent. An early and often-cited decision on this issue was *St. John's Evangelical Lutheran Church v. City of Hoboken* (1983), in which the New Jersey Supreme Court upheld the church's right to host a homeless camp despite local zoning. However in other cases, such as the *First Assembly of God v. Collier County* (1994), lower-level Courts have upheld zoning ordinances, noting that the church could fulfill their mission in other ways that were not in conflict with local land use law (Stout, 2011).

Added to this is the 2000 Federal Religious Land Use and Institutionalized Persons Act (RLUIPA), which states that "no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution-- (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest" (RLUIPA).

The most prominent case on this topic since the passage of RLUIPA was in the State of Washington. In the *City of Woodinville v. Northshore United Church of Christ* (2009), Woodinville "refused to consider a church's application to host a homeless encampment. The (Washington Supreme) Court held this outright refusal to be an unjustified infringement on the church's free exercise of religion"(Talge, J. 2010). It should be noted that this case is unique and may not be replicable in other states, since Washington's constitution includes "absolute" protection of religious freedom beyond the First Amendment protections[2].

Eighth Amendment – Cruel and Unusual Punishment

Policies that disallow homeless camps and practices of tearing down or "sweeping" homeless camps have received a great deal of attention in law literature. In such cases, the Eighth Amendment has frequently been invoked, which protects individuals from cruel and unusual punishment based entirely on "status." In such cases, advocates have interpreted "status" to include homelessness, and argue that anti-camping/sleeping ordinances punish the very condition of homelessness[3]. The case law surrounding this issue is conflicting, and reflects state-level decisions.

The most famous such case to rule in favor of homeless individuals was *Jones v. City of Los Angeles*, 2006. In this decision, the Ninth Circuit Court of Appeals struck down a Los Angeles's ordinance which prohibited sitting, lying or sleeping in the street at any time, saying it was as a "violation of the Eighth Amendment's prohibition against cruel and unusual punishment. The panel held that the ordinance unconstitutionally criminalized conduct that, due to the city's shortage of housing for the homeless, was an unavoidable outgrowth of the status of homelessness" (Gerry, 2007, p.240)[4].

However as mentioned before, the case law is not consistent on this issue, as other courts have chosen to interpret the concept of "status" based on another case, *Powell v. Texas*, 1968, in which the Supreme Court further refined this differentiation between status and condition: While being an alcoholic was a status, being intoxicated in public was a condition, as it could be done in private. Following this, in the case of *Joyce v. City and County of San Francisco*, 1994, the court held that homelessness, unlike addiction, was a condition "that could be more easily altered and effectively addressed with social interventions. Moreover, the decision of whether to provide homeless shelters was one of discretion left to the City, and 'status cannot be defined as the function of the discretionary acts of others"(247).

Some localities have avoided this legal debate entirely by incorporating the availability of shelter beds into their regulations and ordinances involving homeless individuals. For example, the City of Reno, Nevada set up a system that when shelter beds aren't available, the city allows a camp on private land, shutting it down when beds again become available. Under this system residents must register with the camp, and check in weekly to show they are searching for housing and jobs. Other camps such as the Village of Hope or Community of Hope in Fresno, California have rezoned property to allow for camping, which over-rides local ordinances against camping or sleeping in public (Loftus-Farren, 2011).

2. Following the case, the Washington Legislature passed Chapter 175 (ESHB 1956)/RCW 36.0.1.290 authorizing "religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization. The legislation . . . prohibits local governments from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing." (Municipal Research and Services Center of Washington, 2012). In response, a number of Washington jurisdictions have since adopted ordinances to govern tent cities sponsored by religious organizations. See the Washington Case Study on pages 32-33 for more information

3. Litigation has invoked the equal protection clause of the 14th Amendment, protecting individuals from unequal protection under the law, based on status (May, N. 2002).

4. The Jones decision was based on the case *Robinson v. California*, 1962, in which "the Supreme Court found that a state statute criminalizing narcotics addiction violated the Eighth and Fourteenth Amendments. The Court called addiction an illness, analogizing its criminalization to that of leprosy or a venereal disease"(244).

Fourth Amendment – Illegal Search and Seizure

The Fourth Amendment is the subject of the other large segment of litigation against policies and procedures that criminalize homelessness (May, N. 2002, Schultz, 1992, Granston, 1992). The Fourth Amendment ensures the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures"(May, N. 2002, p. 121). The most straight-forward application of this deals specifically with law enforcement procedures such as sweeps that seize and/or dispose of the belongings of homeless people living outdoors. In most cases, the law has ruled on the side of the homeless. For example, in 2008 the California Department of Transportation lost a class action law suit for confiscating the belongings of homeless individuals during a sweep of an unregulated homeless camp (National Coalition for the Homeless, 2010).

But the Fourth Amendment conversations have spawned a much broader debate over the definition of privacy, and how to address homeless camps on public land. The major case cited in this discussion is *Katz v. U.S.*, 1967 in which the U.S. Supreme Court defined the Fourth Amendment as protecting people, not places: "[W]hat a person knowingly exposes to the public, even in his home or office, is not a subject of Fourth Amendment protection. But what he seeks to preserve as private, even in an area accessible to the public, may be Constitutionally protected" (Schultz, 1992, p. 1008). The key point here is that shelterless individuals may have no choice but to perform private activities in public. In the 1988 state case *California v. Greenwood*, the court acknowledged that a "failure to recognize such an expectation of privacy as reasonable would result in an unequal application of the laws to the rich and the poor"(Schultz, 1992, p.1026).

Homeless people living in their vehicles receive some protection under the Fourth Amendment beyond those of squatters, however their protection is still less than for individuals residing in private dwellings (Granston, 1992). "The Court has justified this reduction of privacy for automobiles by noting that automobiles are exposed to public view, that automobiles seldom serve "as one's residence or as the repository of personal effects," and that automobiles are subject to extensive government regulation." (Hewitt, 2000, p. 883). This interpretation was based on a great deal of US Supreme Court case law reaching back nearly 90 years, and stems from both the mobility of automobiles and the diminished expectations of privacy assumed with automobiles versus more permanent residences [5].

Finally, there has been debate around homeless individuals living in motor homes versus conventional vehicles. The US Department of Housing and Urban Development defines a homeless individual as someone "who lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is either (a) a supervised shelter providing temporary living accommodations or (b) an institution providing residence for individuals intended to be institutionalized or (c) a public or private place not designed for regular sleeping accommodations for human beings" (Dykeman, 2011). Thus individuals living in their cars are considered homeless by the federal government, but individuals in motor homes may not be, as motor homes are designed for sleeping accommodations by humans.

However there is not consistent application of this definition, as for example some localities choose to count people living in motor homes in their homeless counts while others do not (Wakin, 2008).

In the 1985 case California v. Carney, the US Supreme Court held that the expectations of privacy in a motor home are more like those in a dwelling than in an automobile because the primary function of motor

5. The 1925 case *Caroll v. United States* upheld that an authorized officer to search a vehicle without a warrant if there was probable cause to believe the vehicle contained contraband. "The Court justified this exception by recognizing the difference between searches of fixed premises and searches of vehicles, the latter capable of being "quickly moved out of the locality or jurisdiction in which the warrant must be sought."(Hewitt, 2000, p. 883-884). Later, in *United States v. Chadwick*, 1977, the Supreme Court further defined the importance of mobility of private property, saying that "diminished expectation of privacy . . . surrounds the automobile. . . because the automobile travels public thoroughfares and is subject to extensive government regulation"(884).

homes is not to provide transportation but to "provide the occupant with living quarters" (California v. Carney). And yet many cities have actively pursued local ordinances to limit the ability of otherwise homeless individuals to remain in their motor homes or RVs. For example, in a dispute in Santa Barbara over a fine imposed on an RV dweller, a city Commissioner stated that if there was space available in a local Christian shelter, then the RV owner could not legally stay overnight in their RV. However, the ACLU intervened and succeeded in getting charges dropped, as this shelter required people staying the night to participate in a religious service (Wakin, 2008).

Relocation Rights of the Homeless

At the crux of the arguments over Fourth Amendment violations in sweeps of homeless camps is the definition of "private space." Similarly, debate over the definition of "residence" has been central to the question of whether homeless individuals qualify for relocation assistance when forced to move due to government activities or projects. But whereas the homeless' Constitutional rights continue to be debated in court, the federal government has clearly excluded the homeless from coverage by relocation rights.

In 1970, during the height of Urban Renewal policies which demolished urban neighborhoods in the name of redevelopment, the federal government passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). The URA defined benefits to be provided to households displaced by federally funded programs. In 1974, the Housing and Community Redevelopment Act also required relocation assistance, as well as one-for-one replacement of demolished affordable housing units. Finally, a 1998 amendment to the US Housing Act of 1937 further defined relocation requirements for demolition of public housing units (Cordes, 1979).

The 1998 Housing Act amendment stipulated that Housing Authorities were "not required to find either temporary or permanent housing for homeless persons" (Krislov, 1988) displaced by governmental actions. The 1970 URA was also very specific about who was not covered by its protections. Individuals residing in emergency homeless shelters were not covered under the URA definition of "dwelling" because "such a facility is usually not a place of permanent, transitional or customary and usual residence" (US HUD, 2006, p. 1-9). This interpretation of the term "dwelling" would therefore exclude all homeless individuals, whether on the streets, in camps, or in shelters, from assistance for displacement due to government projects, including transportation projects.

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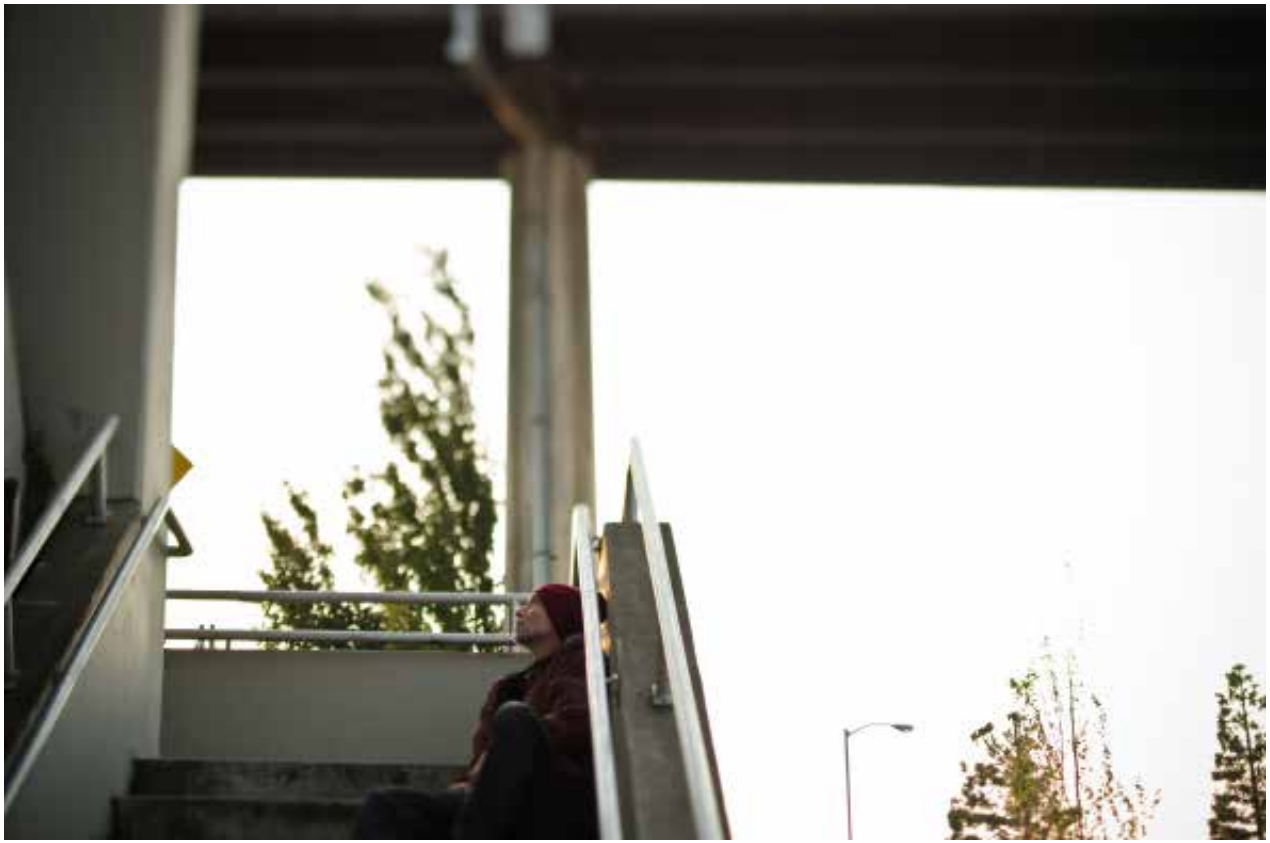

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