

SOLVING FOR HOMELESSNESS

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INTRODUCTION—THE PROBLEM

Homeless people and homeless encampments are everywhere. The housed look on in horror at the depressing symbols of homelessness—tents on sidewalks, people in wheelchairs talking to no one in particular, the filthy plastic bucket in lieu of a toilet behind a wind-blown decayed tarp; the person who simply relieves themselves on a sidewalk; the person on the street corner screaming epithets at unseen enemies; feral children wandering about like zombies. No one deems the state of affairs tolerable; yet homelessness stubbornly persists despite billions of dollars and countless person-hours devoted to its end.

The premise of this Paper is twofold, that: (1) homelessness must end, and (2) it is a problem too big for the existing patchwork of state and local initiatives to solve. Rather, the federal government must step up to establish a coherent policy paradigm and associated programming that solves it.

As to the first premise, it is beyond debate that homelessness is a dangerous social problem, an indicia of societal decline that our leaders cannot ignore. Homeless people lack basic sanitation resulting in TB resistance (in all homeless communities),¹ Hepatitis-A (San Diego homeless outbreak 2016–18),² typhus (Skid Row)³ and other serious communicable diseases that flourish in unsanitary conditions. Children are raised without access to stable education, in environments risking personal harm and disconnection from society, all of

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1. *TB in People Experiencing Homelessness*, CENTER FOR DISEASE CONTROL, <https://www.cdc.gov/tb/topic/populations/homelessness/default.htm> (last visited Sept. 24, 2021).

2. Corey M. Peak et al., *Homelessness and Hepatitis A—San Diego County, 2016–2018*, 71 *CLINICAL INFECTIOUS DISEASES* 14 (2020) (available at <https://pubmed.ncbi.nlm.nih.gov/31412358/#:~:text=During%202016%2D2018%2C%20the%20County,risk%20factor%20for%20the%20disease>).

3. Dennis Romero & Andrew Blankstein, *'Typhus zone': Rats and trash infest Los Angeles' skid row, fueling disease*, NBC NEWS (Oct. 14, 2018), <https://www.nbcnews.com/news/us-news/typhus-zone-rats-trash-infest-los-angeles-skid-row-fueling-n919856>.

which contribute to the cycle.⁴ Homeless parents do not know where to go for help and are frightened to reach out to social services for fear of losing their children.⁵ Homeless women and children are at significantly higher risk of sexual assault and trafficking than the housed population.⁶ Access to services is unreasonably complex and, often, where access happens, the result is essentially nothing—a homeless person invariably encounters long waiting lists and delays. Society is unhappy with the situation and has a special dislike for how it treats its homeless veterans for whom the ravages of military service have left them mentally or physically unable to return to society; its treatment of the elderly, who find themselves without adequate funds to live; its foster youth, who age out and join the homeless ranks with no social skills or desire to gain them; and its severely mentally ill citizens, who occupy expensive space in jails and emergency rooms, rather than getting the treatment they need.

As to the second premise for this Paper, the federal government must step in because state and local governments have failed to solve the problem, despite at least two decades to do so. And regardless, the problem is a national one; it is too big to expect state and local governments to solve. The federal government has solved similar problems before. It is uniquely capable and positioned to do so again, and it must.

I. GREAT SOCIAL PROBLEMS REQUIRE NATIONAL SOLUTIONS

Homelessness is a significant national problem. America has dealt with great national problems before. When it did, in the country's

4. See *Child Homelessness: A Growing Crisis*, SAMHSA, <https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/child-homelessness-growing-crisis> (last visited Sept. 24, 2021).

5. See Anne Gowen, *Homeless families who turn to D.C. for help find no room, risk child welfare inquiry*, WASH. POST (June 23, 2012), https://www.washingtonpost.com/local/homeless-families-who-turn-to-dc-for-help-find-no-room-risk-child-welfare-inquiry/2012/06/23/gJQAv9bJyV_story.html.

6. Diane M. Santa Maria et al., *Gaps in Sexual Assault Health Care Among Homeless Young Adults*, 58 AM. J. PREVENTATIVE MED. 191, 191 (2020); Margot B. Kushel et al., *No Door to Lock: Victimization Among Homeless and Marginally Housed Persons*, 163 ARCHIVES OF INTERNAL MED. 2492 (2003) (available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/216287>); Micah Bertoli, *Homeless People at Greater Risk of Suffering Sexual Violence*, INVISIBLE PEOPLE (July 10, 2019), <https://invisiblepeople.tv/homeless-people-at-greater-risk-of-suffering-sexual-violence/>.

most difficult hour, instead of waiting and hoping that state and local governments would do something, the federal government stepped in and stepped up. Consider the size of the national crisis of 1929–39: the Great Depression. While President Hoover urged Americans to weather the economic storm with “courage and spirit” and told them that the solution to the economic crisis was “not beyond the ability of these thousands of community organizations to solve,” President Franklin Delano Roosevelt (“FDR”), elected in 1932, promised intensive federal intervention.⁷ By the time of FDR’s election in 1932, the American social fabric was in tatters and a serious homeless problem manifested as “Hoovervilles” and “migrant camps” dotted the nation.

These makeshift “towns” were composed of people who had lost everything, including their homes and jobs in the Great Depression, and had nowhere to go.⁸ Displacement started earliest for farm laborers who lost farms or farm jobs to foreclosure arising from farm loan overextensions that financed increased production during the recession following WWI. Farm labor job losses were worsened by the seven-year drought between 1931–1938 that caused the “Dust Bowl,” bringing ruinous environmental conditions to nineteen states.⁹ Americans who relied upon farming for their incomes migrated west, mostly to California to live and work in “migrant camps.” Other Americans suffered sudden job losses when business dried up during the Great Depression and somewhere between forty and fifty percent of all mortgages in the United States were in default.¹⁰

7. Herbert Hoover, President of the United States, Message Regarding Unemployment Relief (Oct. 18, 1931), <https://millercenter.org/the-presidency/presidential-speeches/October-18-1931-message-regarding-unemployment-relief>.

8. See Joseph Rose, *Homelessness: Portland’s Great Depression Hoovervilles vs. ‘Halesvilles’ (photos)*, THE OREGONIAN (Jan. 9, 2019), https://www.oregonlive.com/history/2016/04/homelessness_portland_hoovervi.html.

9. Robin A. Fanslow, *Voices from the Dust Bowl: the Charles L. Todd and Robert Sonkin Migrant Worker Collection, 1940 to 1941: The Migrant Experience*, LIBRARY OF CONGRESS (Apr. 6, 1998), <https://www.loc.gov/collections/todd-and-sonkin-migrant-workers-from-1940-to-1941/articles-and-essays/the-migrant-experience/>.

10. *Report for Congress: The Labor Market During the Great Depression and the Current Recession*, CONGRESSIONAL RESEARCH SERVICE (June 19, 2009), <https://www.everycrsreport.com/reports/R40655.html>; *Housing 1929–1941*, ENCYCLOPEDIA.COM, <https://www.encyclopedia.com/education/news-and-education-magazines/housing-1929-1941#:~:text=Another%20critical%20housing%20situation%20facing,the%20Great%20Depression%20was%20foreclosure.&text=By%201933%2C%2040%20to%2050,was%20sliding%20toward%20complete%20collapse> (last visited Sept. 24, 2021).

Wherever the Depression-era homeless lived, the attendant problems were the same as they are now: conditions were deplorable and unsanitary.¹¹



Instead of today's nylon tents and cardboard, Depression-era makeshift shelters were composed of car parts, metal, wood, canvas tents, anything that could be found. America had then what we have now, huge numbers of homeless Americans. The difference is that something was done about it.

11. Robin A. Fanslow, *Voices from the Dust Bowl: the Charles L. Todd and Robert Sonkin Migrant Worker Collection, 1940 to 1941: The Migrant Experience*, LIBRARY OF CONGRESS (Apr. 6, 1998), <https://www.loc.gov/collections/todd-and-sonkin-migrant-workers-from-1940-to-1941/articles-and-essays/the-migrant-experience/>. H.M. Warner, Photograph of Seattle area Hooverville (1935), *Photo Courtesy of Washington State Archives*.



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12. Dorothea Lange, Photograph of Migratory Mexican Field Worker's Home, Imperial Valley, California, in *Farm Security Administration/Office of War Information Black-and-White Negatives*, LIBRARY OF CONGRESS (1937), <https://www.loc.gov/pictures/collection/fsa/item/2017769879/>.

13. Dorothea Lange, Photograph of Unemployed lumber worker going with his wife to the bean harvest, in *Farm Security Administration/Office of War Information Black-and-White*

Many federal programs were developed to solve the crisis. Two particularly noteworthy programs are worth recalling as we consider solutions to today's homelessness crisis. While no one suggests the policies of the 1930s were perfect—they were not—it cannot be denied that a less civilized time in our history resulted in the federal government solving great problems that were as bad or worse than those that characterize our great problems today. This tells us that the federal government can certainly step up again.

One noteworthy Depression-era federal program, the Farm Security Program of 1937 (“FSA”), was born from programs of the earlier federal Resettlement Administration (1935). The FSA responded to the unsanitary conditions in migrant camps and, among other things, funded migrant camp living quarters with running water and sanitation.¹⁴ These facilities were composed of largely canvas tents, with community centers and shared facilities.



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Negatives, LIBRARY OF CONGRESS (1939), https://cdn.loc.gov/service/pnp/fsa/8b15000/8b15500/8b15572_150px.jpg.

14. Christy Gavin & Garth Milam, *A “Flat Tired People”: The Health of California’s Okies During the 1930s*, in CALIFORNIA ODYSSEY: DUST BOWL MIGRATION ARCHIVES 9, https://www.csulb.edu/library/_files/DB_files/OkieHealth.pdf (last visited Sept. 24, 2021).

15. Dorothea Lange, Photograph of Farm Security Administration camp for migrant workers at Shafter, California, in *Farm Security Administration / Office of War Information*



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The federal government also constructed three brick and mortar “Greenbelt Towns” that were “complete communities” designed for “570 to 885 families” and had their own “stores, post office, community center, schools, parks, and playgrounds.” These towns were “encircled” by the “green belt” from which the projects took their names, were “a girdle of farm and woodland” that served as “protection against undesirable building encroachment in the future.”¹⁷ The “greenbelt”

Black-and-White Negatives, LIBRARY OF CONGRESS (1938), <https://www.loc.gov/pictures/collection/fsa/item/201770545/>.

16. Dorothea Lange, Photograph of Farm Security Administration camp for migrant workers at Shafter, California, in *Farm Security Administration/Office of War Information Black-and-White Negatives*, LIBRARY OF CONGRESS (1938), <https://www.loc.gov/pictures/collection/fsa/item/201771021/>.

17. 4 THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT 154 (1935); and see Exec. Order No. 7027 (1935) (creating the “Resettlement Administration” which was responsible to establish “Greenbelt Towns” and other programs to resettle “destitute or low income families from rural or urban areas, including the establishment, maintenance, operation, in such connection of communities in rural or suburban areas.”).

also to provided “garden tracts for those who wish[ed] to augment their income by raising some of their food.”¹⁸ Then, as now, neighbors did not like the idea of migrant labor camps, but the federal government established them anyway to respond to the large crisis.



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Another important federal project of the time was the “Works Project Administration,” The Final Report on the Works Project Administration Program 1935–43 (Report)²⁰ explains that while by the turn of the century, state and local governments had largely managed

18. 4 THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT, *supra* note 17, at 154.

19. Photograph of men signing a petition in opposition to federal migratory labor camps, in *Opposition to government migratory labor camps: Portland, Oregon: intermediary roll film*, LIBRARY OF CONGRESS (1939), <https://www.loc.gov/resource/fsa.8e04024/>.

20. GEORGE H. FIELD, FINAL REPORT ON THE WPA PROGRAM (1946) (available at <http://lcweb2.loc.gov/service/gdc/scd0001/2008/20080212001fi/20080212001fi.pdf>).

to shame relatives into caring for their destitute relatives and, as necessary, to house the “feeble minded,” the “insane,” orphans and “infirm” in “poorhouses” or other institutions, state and local governments were ill-prepared to deal with the mass displacement and unemployment of the Great Depression. Before the Social Security Act of 1935, “the number of persons receiving aid was small and the relief given inadequate[,]” but even so, the “relief given was permissive; localities could adopt it or not as they chose.”

The Report observes that in the period leading to 1929, while “substantial improvements” had been made to provide relief to “unemployables,” “little had been done toward developing any system of relief” that could deal with “the destitution arising from unemployment.” The report explains that when some seven million people were unemployed and homeless or at significant risk of homelessness by the end of 1930, “it became necessary to institute new relief methods.” While the federal government initially relied upon bolstering state and local programs, the federal government under the leadership of FDR, led the country out of its misery by establishing dozens of federal “New Deal” programs to scaffold, and then all but end, the nation’s serious homelessness problem. Many of those programs persist today, but none establish “migrant camps” with running water and sanitation, and none provide a place for people living with serious mental illness or drug addiction to live and get help while there.

In solving the problem of homelessness for people capable of work, the WPA built or improved “651,000 miles of roads,” “125,110 buildings of all kinds,” “16,100 miles of water mains and distribution lines” and “24,300 miles of sewerage facilities,” many airports and airport facilities, as well as put otherwise homeless people to work in “service projects,” including “serving of hot school lunches,” working to maintain “child-health centers,” “operating recreation centers and literacy classes” and providing “many needed and valued community services.”²¹ The New Deal programs were not always politically popular, but the federal government was then, and is now, in the best position to weather local firestorms of opposition and provide meaningful relief for all.

21. FIELD, *supra* note 20, at III.

Today's homeless problem is vastly smaller in scale than that of the Depression, and its antecedents are no more complicated than the homelessness the federal government ended in the 1930s and early 40s. Today's problem is different in the sense that many, and perhaps most, of the people who make up the nation's chronic homeless people are not relatable "down on their luck people," looking for hard work, eager to return to American society, like many of the people whom the photographic history characterizes as the homeless population of the 1930s. Today's homeless population includes some number (no one really knows the exact proportions) of people who are severely mentally ill, drug addicted, or otherwise profoundly disconnected from American society, making them in the main less sympathetic characters, with fewer champions than the seven million unemployed people in the 1930s and early 40s. But the current situation is intolerable, and to solve it we must agree to a federalized program that charts a plausible exit from homelessness.

Homelessness today finds itself in a more shameful public policy framework than existed in the 1930s and 40s. Then, there were institutions for people called "unemployables" to be cared for—people too sick or disabled to work. While surely those institutions were not acceptable models of civil rights protection that anyone would model today, the fact is society made some effort then to appropriately house otherwise homeless people and today we spend a lot of money but do nothing meaningful to solve for the varied populations who live on the streets today. Perhaps most shocking is that today, American policy largely abandons severely mentally ill and disabled people to the streets.²² Accordingly, our homelessness problem is worsened by the lack of any serious, coordinated national effort to ensure there is a place for citizens who cannot care for themselves to live and get better if they can; for addicts to get clean and sober; for the chronically or newly unemployed to get meaningful job training, or really any meaningful roadmap out of poverty or homelessness.

But while a desperate and serious problem for the homeless and housed alike, today's homelessness problem is one the federal government has solved before and can solve again. The only obvious impediment is strong federal leadership committed to a solution.

22. E. FULLER TORREY, *NOWHERE TO GO: THE TRAGIC ODYSSEY OF THE HOMELESS MENTALLY ILL* (1988).

II. FORMULA FOR SUCCESS: DIVERSE AND POWERFUL STAKEHOLDERS ARE MOTIVATED TO SOLVE HOMELESSNESS

While there are no universal champions for homeless people, there is universal agreement among powerful constituencies that we must solve the problem of homelessness. State, regional, and local governments, property owners, homeowner associations and neighborhood groups, medical personnel, hospitals (especially emergency rooms), first responders, educators, advocates for particular populations like veterans groups, AARP (American Association of People with Disabilities), youth groups, foster parents, law enforcement, and so forth, all want to see an end to the crisis. There is no one who thinks that it makes any sense for our primary facilities providing services to the severely mentally ill to be emergency rooms and jails; or that homeless people with drug-resistant TB should be released from emergency rooms with last resort drugs they have no way to store or take; or that kids age out of foster care with nowhere to go but the street; or that a victim of domestic abuse and her children have no place of escape but their car or worse; or that retirees with inadequate savings live in cars, tents, or RVs. That means there is a politically powerful group of people that includes many and perhaps most Americans who are motivated to solve the problem. That is a formula to get Congress' attention.

III. A COHERENT COORDINATED POLICY FRAMEWORK IS NEEDED: LOCAL SWEEP-AND-TOW PROGRAMS SOLVE NOTHING

Today, the governmental response to homelessness includes a dizzying uncoordinated patchwork of largely ineffective state and local programs funded by equally ineffective and uncoordinated federal programs; and ultimately local sweep-and-tow programs that evict homeless people from wherever they squat when the housed citizenry is fed up with the bounty of said ineffective responses.

From a policy perspective, sweep-and-tow programs are by their nature Sisyphean; a homeless person evicted from one sidewalk or park, simply moves to another such place. They are people, not vapor, and it restates the obvious that they will situate somewhere.

From a legal perspective, sweep-and-tow programs can expose municipalities to federal civil rights liability. Jailing or criminally citing a person for being homeless, or sweep-and-tow programs that criminalize homelessness or confiscate the property of homeless people, have been held to violate federal civil rights laws. Sweep-and-tow programs that take a homeless person's property can violate the U.S. Constitution Fourteenth Amendment Due Process Clause, as the federal court held in *Lavan v. City of Los Angeles*.²³

The Ninth Circuit has also held that universally criminalizing sleeping on public property violates the Eighth Amendment's Cruel and Unusual Punishment clause. Thus, in *Martin v. City of Boise*,²⁴ the court decided that "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."

The "work arounds" to keep sweep-and-tow programs seem hardly worth the effort, although it is possible to avoid *Martin* liability, if that is a municipality's goal. Local ordinances that criminalize camping on public property in particular but not all city locations, have passed legal muster.²⁵ *Martin* itself "does not cover individuals who *do* have access to adequate temporary shelter, . . . but who choose not to use it."²⁶ This passage, repeated numerous times, justifies shelter programs that do not and cannot solve the problem.²⁷

While FDR declared in his third term inauguration speech of 1944, an "economic truth" that "we have accepted as self-evident" in a "second Bill of Rights" that there is a "right of every family to have

23. 693 F.3d 1022 (9th Cir. 2012) ("[t]he government may not take property like a thief in the night . . .").

24. 920 F.3d 584 (9th Cir. 2019), *cert. denied*, 140 S. Ct. 674 (2019),

25. *Frank v. City of St. Louis*, 458 F. Supp.3d 1090 (2020).

26. *Martin*, 920 F3d at 617 n.8.

27. See Ari Shapiro, *Why Some Homeless Choose The Streets Over Shelters*, NPR (Dec. 6, 2012), <https://www.npr.org/2012/12/06/166666265/why-some-homeless-choose-the-streets-over-shelters>; Rick Paulas, *This Is Why Homeless People Don't Go to Shelters*, VICE (Feb. 24, 2020), <https://www.vice.com/en/article/v74y3j/this-is-why-homeless-people-don't-go-to-shelters>; Shane Dixon Kavanaugh, *Portland Mayor Ted Wheeler's urgent mandate to move homeless campers into humane shelters isn't working*, THE OREGONIAN (Jan. 23, 2021), <https://www.oregonlive.com/news/2021/01/portland-mayor-ted-wheelers-urgent-mandate-to-move-homeless-campers-into-humane-shelters-isnt-working.html>.

a decent home,”²⁸ it was a policy pronouncement, not a legal one. As a result, in the absence of willing leaders, that “self-evident” right has not materialized. For its part, the United States Supreme Court has held that there is no “fundamental right to housing” in the Federal Constitution. Thus, the United States Supreme Court explained in *Lindsey v. Normet* that in the context of an Oregon eviction law, “[w]e are unable to perceive” that the U.S. Constitution has “any constitutional guarantee of access to dwellings of a particular quality, or any recognition of the right of a tenant to occupy the real property of his landlord beyond the term of his lease without the payment of rent or otherwise contrary to the terms of the relevant agreement.”²⁹ The Court resolved any uncertainty about who was responsible to solve the plight of the unhoused when it wrote “the assurance of adequate housing and the definition of landlord-tenant relationships are legislative, not judicial, functions.”³⁰ While some commentators observe that the case extends only to housing of a particular quality and does not say there is no right to be “housed,” that misses the point that the solution to the problem of homelessness lies with the legislature.³¹

Another example of the wisdom of the Supreme Court’s observation that solving homelessness is the province of the legislature is a class action suit brought by homeless men in New York that resulted in a consent decree in which New York City committed itself to provide shelters to its homeless citizens.³² The so-called “Callahan Consent Decree” (1981) did not solve the city’s homeless problem; rather it caused the city to assume merely providing shelters was enough, resulting in shelters that were little worse than living on the street.³³

28. *FDR and Housing Legislation: 75th Anniversary of the Wagner-Steagall Housing Act of 1937*, FRANKLIN D. ROOSEVELT PRESIDENTIAL LIBRARY AND MUSEUM, <https://www.fdrlibrary.org/housing> (last visited Sept. 24, 2021); Franklin D. Roosevelt, President of the United States, State of the Union Address (Jan. 11, 1944).

29. 405 U.S. 56, 74 (1972) (emphasis added).

30. *Id.* (emphasis added).

31. See NAT’L L. CTR. ON HOMELESSNESS & POVERTY, HOUSING RIGHTS FOR ALL: PROMOTING AND DEFENDING HOUSING RIGHTS IN THE UNITED STATES 118 (5th ed. 2011).

32. *Callahan v. Carey*, No. 79-42582 (Sup. Ct. N.Y. County, Cot. 18, 1979) (consent decree available at <https://www.coalitionforthehomeless.org/wp-content/uploads/2014/06/Callahan-Consent-Decree.pdf>).

33. See INDEPENDENT DEMOCRATIC CONFERENCE, HORRORS IN HOMELESS HOUSING: NEW YORK’S UNCLEAR, UNSAFE, DANGEROUS TEMPORARY SHELTER SYSTEM AND HOW TO FINALLY

The idea of some state and local governments to put the problem of “affordable housing” on the backs of private developers who did not create the problem and who are ill-equipped to solve it is similarly a non-starter. Developers can only build housing that pencils, or they cannot build anything. No lender will loan on a housing project for which there is an inadequate predicted return on investment. Further, all housing projects have built-in development costs, such as high land costs; high government fees, and the cost of paying construction workers market wages, etc. that do not allow developers to lose money to futilely attempt to solve public problems.³⁴ Moreover, the lack of “affordable housing” is but one problem contributing to homelessness in many communities and is a problem that local land use programs are largely responsible for creating.³⁵

Regardless, homeless people include many different and difficult populations who are not served by private “affordable housing” in any event. In many ways, homelessness is a people problem. Many of the problem people cannot manage any housing that is not institutional in nature even if it is free to them: they cannot follow rules and are more likely than not to be evicted for any number of reasons. As for private housing, the problems are the same except that otherwise homeless people largely lack incomes, or if they have incomes, they are unlikely to be enough to afford any type of non-public housing.

TACKLE THE HOMELESSNESS EPIDEMIC (Jan. 2017) (available at https://www.nysenate.gov/sites/default/files/horrors_in_homeless_housing_-_full_report.pdf).

34. See *The cost of affordable housing: Does it pencil out?*, URBAN INSTITUTE, <https://apps.urban.org/features/cost-of-affordable-housing/> (last visited Sept. 24, 2021); Daniel Herriges, “Why Are Developers Only Building Luxury Housing?,” STRONG TOWNS (July 25, 2018), <https://www.strongtowns.org/journal/2018/7/25/why-are-developers-only-building-luxury-housing>; Brenda Richardson, *Affordable Housing Is Doable For Builders And Buyers, But Here’s The Problem*, FORBES (June 2, 2019, 8:37 AM), <https://www.forbes.com/sites/brendarichardson/2019/06/02/housing-affordability-report-outlines-challenges-solutions-for-turning-renters-in-to-homeowners/?sh=5314456b3397>.

35. Jacob Passy, *These cities have the toughest laws for home builders—and the highest property prices*, MARKET WATCH (Dec. 28, 2019, 11:22 AM), <https://www.marketwatch.com/story/these-cities-have-the-strictest-regulations-for-building-new-homes-and-the-highest-property-prices-2019-12-24>; Gillian B. White, *How Zoning Laws Exacerbate Inequality: Such laws aren’t just a headache for developers, economists believe. They’re bad for (nearly) everyone*, THE ATLANTIC (Nov. 23, 2015), <https://www.theatlantic.com/business/archive/2015/11/zoning-laws-and-the-rise-of-economic-inequality/417360/>; Sanford Ikeda & Emily Hamilton, *How Land-Use Regulation Undermines Affordable Housing* (Mercatus Center at George Mason University, Research Paper, 2015) (available at <https://www.mercatus.org/publications/regulation/how-land-use-regulation-undermines-affordable-housing>).

The net result is that public or private “affordable housing” will not solve the problem.

IV. LAND USE AND BUILDING CODE CONSTRAINTS PREVENT SOLUTIONS

Ending homelessness requires providing places for the entire spectrum of otherwise homeless people to be. Society has been unwilling to reinvest in institutions and has been unable to build enough multifamily or other stick-built housing to house all homeless people who could adopt to such living arrangements. Moreover, zoning and building codes foreclose alternative living modalities like Quonset huts, RVs, tents, tipis and tiny houses, that would enable society to shelter and serve many of its homeless citizens. So, homeless people wait on the street for years, and sometimes their entire lives, for a place to call home to open up.

Zoning and building codes must be modified to enable immediate available housing options, so policy makers can put an end to years of long waiting lists, and shelter people of all types. It must be possible to tow a homeless person’s RV to a designated place, or relocate his or her tent, or to move him or her to a community of tiny houses, tipis, Quonset huts or canvas tents (like the federal government provided during the Depression), with needed services to care for the population. It must be possible to establish immediately available situations that if necessary, rely upon portable toilets, mobile handwashing, shower trucks, food trucks, common refrigeration, and the like.

Instead of city officials ordering the towing of an RV from a public street to a lot for destruction, it must be possible to tow it to a place where it and its occupants can be. This recognizes that someone lives in that RV and has nowhere else to go; and until we have something else for them, it is cruel in the extreme not to tow their home to a designated, suitable, safe place. Imagine being a homeless woman who lives in an RV. A door that locks in a derelict RV is far superior to the street, where there is no keeping out predators. Depriving her of her RV serves no purpose other than condemning her to serious risks of personal harm.

Or consider people who are evicted from public housing for rule violations stemming from serious mental illness or drug addiction.

They are evicted to the streets. It is impossible to find private housing for homeless people with a history of eviction and extremely difficult to find public housing for persons having that profile. Moreover, if an otherwise homeless person finds public housing but goes to jail for any period, they lose their apartment and has nowhere to go when eventually released. Consider the example of “Todd,” a man in his late 40s or early 50s, afflicted with serious mental illness (“SMI”) that came to light in his late teens. His SMI causes him to devolve into uncontrollable rages and experience extreme paranoia. While homeless for most of his adult life, after many years, a social service agency finally finds him a single-room occupancy hotel, and he weeps with joy. A few months later, he has a significant SMI episode, resulting in his arrest and jail. In his absence, he loses his apartment for good. When he is released, he again has nowhere to go.³⁶

Removing land use and building codes barriers to immediate solutions to the homeless crisis is essential. Without these barriers society can provide a place for jails and emergency rooms to release troubled populations other than the street.

V. GETTING HOMELESS PEOPLE INTO SAFE AND ADEQUATE SITUATIONS, FROM THE LENS OF HOMELESS PEOPLE AND EXPERTS. RECOGNIZE THAT THERE ARE PEOPLE WHO UNDERSTAND WHAT WORKS; THAT THERE ARE VERY DIFFERENT POPULATIONS TO BE SERVED, AND THAT NO ONE SOLUTION WILL SOLVE THE PROBLEM

The housed often have particular ideas about what homeless people want or need and appoint non-expert, well-meaning people to offer to find solutions. But to solve this problem, the housed must solicit input from the homeless populations to be served, from social services, medical, and law enforcement experts, about what works. This provides the greatest chance of success. Most of the housed do not understand the complicated puzzle that is homelessness. Unless a person has been exposed to the problem, or studies it, they cannot possibly understand or untangle it.

36. See *BEDLAM: AN INTIMATE JOURNEY INTO AMERICA'S MENTAL HEALTH CRISIS* (International Documentary Association 2019).

Contrary to what many people think, it is a fallacy to assume that needy populations must be near the services they require. In fact, society's demand that homeless people figure out, identify, connect with, and somehow get to services, wait in line for them, do an "in-take" and be told to come back to repeat the process, diminishes the possibility of successful services ever happening. This tragic situation repeats itself regardless of how physically proximate the homeless person is to said services. To be successful, services can and should come to the needy population to be served and not the converse. Service providers must be willing and able to travel. To be reasonably efficient and effective, establishing services where otherwise homeless people will live is important. This has two benefits. It enables services to be provided when they are needed to serve the target population, but it also benefits service providers because they know where to go, who to serve, and can do so in safety. It is unfair to ask a social worker to enter an unsanctioned encampment when she has no idea who is there or whom she will meet and has no meaningful security to protect her.

Traditional shelters often touted as a community's solution, are not the answer. Shelters where homeless people go, by appointment or if they manage to get a bed after waiting in long lines to stay only for the night, solve little. Homeless people will tell this to anyone who will listen. There are many reasons that homeless people avoid shelters. Some shelters are simply unsafe.³⁷ It is a fact that outside of some shelters, bad actors "enjoy" hanging out to beat up, harass and steal from homeless people for sport.³⁸ Many homeless people do not like the religious proselytizing that pervades some facilities or being required to sit through religious services.³⁹ Some homeless

37. See MYRON MAGNET, *THE DREAM AND THE NIGHTMARE: THE SIXTIES LEGACY TO THE UNDERCLASS* 118 (2000); Jeremy Jojola & Katie Wilcox, *We asked 100 homeless people if they'd rather sleep outside or in a shelter. A vast majority of the people experiencing homelessness who spoke to 9Wants to Know said they'd rather sleep outside in the cold than a shelter. Their reasons varied*, WUSA 9, <http://www.wusa9.com/article/news/investigations/we-asked-100-homeless-people-if-theyd-rather-sleep-outside-or-in-a-shelter/493638711> (last visited Sept. 24, 2021).

38. Klyssa Shay, *Why Don't Homeless People Use Shelters?*, SOAPBOXIE (Jan. 11, 2021), https://soapboxie.com/social-issues/why_homeless_people_avoid_shelters.

39. See *id.*; *Shelters are for Someone Else, Part 1*, GUIDE 2 HOMELESSNESS BLOG (Oct. 25, 2004), <http://guide2homelessness.blogspot.com/2004/10/shelters-are-for-someone-else-part-1.html>.

people are banned from shelters for misbehavior or are unable or unwilling to comply with shelter rules and are ultimately thrown out. Other homeless people refuse shelters due to legitimate fear of disease and parasitic infections or an unwillingness to comply with rules that require they be separated from family, significant others, or pets. “No pets” prohibitions are particularly cited as a reason homeless people refuse to go to shelters.⁴⁰

A segment of the homeless population is too sick to get in or stay in most of the housing options available today, including shelters.⁴¹ There is a significant segment of homeless people who suffer from untreated, severe mental illness for whom private housing and nonspecialized public housing, is unsuited. They require specialized facilities that, in fact, no longer exist. A bit of history is in order. America demolished most of its mental institutions in the 1960s and 70s with no replacement, in favor of “community-based programs” focused on “prevention” that never did or could serve the population living in institutions already afflicted with mental disease.⁴² The states that had formerly been responsible for the care of the mentally ill and that had established mental hospitals were relieved of that duty by the federal government.⁴³ President Kennedy is primarily responsible for relieving the states of the obligation to care for the mentally ill. He had a personal dislike of mental institutions, likely because his sister had been sent to such a facility after a lobotomy, exposing the fact that her case and many others, were horrific.⁴⁴ In 1962, Ken Kesey wrote *One Flew Over the Cuckoo’s Nest*, which turned public opinion against mental institutions. President Kennedy successfully established federal laws to fund turnover of the care of the mentally ill to “community-based” mental illness “prevention” programs.⁴⁵ However, Kennedy’s program made no meaningful provision for severely mentally ill people who required institutionalized treatment and who could not benefit from the particular version of community-based care that the new laws established.

40. Shay, *supra* note 38.

41. *Id.*

42. TORREY, *supra* note 22, at 118.

43. TORREY, *supra* note 22, at 96, 151–55.

44. TORREY, *supra* note 22, at 103–06.

45. TORREY, *supra* note 22, at ch. 5.

The tragedy-in-making was set to happen. State mental hospitals closed, and their patients were simply tossed into the street, where they live and die to this day.⁴⁶ President Reagan (wrongly credited for the problem), decided that the federal government should not be funding the program of community care, rather that communities should be returned that responsibility, and so he largely cut off federal funding that Kennedy had established.⁴⁷ But the states never took the mental institution program back, and instead, inadequately took on community-based treatment. And, so, we have what we see today—people with severe mental illness on the streets with nowhere to go but emergency rooms and jails.

Further, any solution must consider that a significant segment of the homeless population is addicted to narcotics. This means that they, like the severely mentally ill, are unsuited for traditional housing options and require options with significant treatment and other support.

These are but a few examples of how the problem is inordinately complex and why simply building “affordable housing” will not solve the problem and why we need to consult with experts. We must keep in sharp focus that it is critical that there be immediately available suitable shelter options for all homeless people, regardless of their sobriety or history. In the absence of this, they will continue to wander the streets to their detriment and ours.

VI. FISCAL CONSTRAINTS

It is not possible to provide stick-built housing for all homeless people; if it were, we would have done it decades ago. The reality is that publicly subsidized stick-built housing is exceedingly expensive and takes years to establish in too few numbers, to solve the problem. A policy problem is that its advocates more often than not, demand expensive architectural features and so-called “Leadership in Energy and Environmental Design” or “LEED” certification compliance, which

46. TORREY, *supra* note 22, at 155 (“What federal and state officials thought was going to happen to the hordes of discharged patients is one of the abiding mysteries of our time.”); *and see* Chapter 10.

47. TORREY, *supra* note 22, at 196–98.

adds to the cost and delay for this housing type. Stick housing is an important part of the toolbox to solve homelessness, but it cannot and should not be the only tool. The fallacy that stick-built housing is the only tool is why we find ourselves with an intractable and unacceptable homeless problem.

VII. FISCAL OPPORTUNITY

In the uncoordinated homeless services ecosystem, there is money, a lot of it—money otherwise spent Band-Aiding the fiscal arterial bleeding that characterizes homelessness. It is undeniable that homeless people cost enormous amounts of public and private money and impose significant drains on jails and hospital emergency rooms, with little palpable return on that investment. These “hard costs” are costs apart from the less considered social costs in terms of lost participation in society, lost children, children who age out of foster care and feed the cycle, and crime and victimization of both homeless people and others.

No one knows, and no study has been done, that attempts to figure out all public and private costs of homelessness. It may be impossible to do so. But what would happen if the federal government redirected the money it spends on piecemeal programs designed to solve the problem, but that do not do so? It is easy to say it is too expensive to solve this problem, but looking at the numbers, it is also easy to see that doing nothing costs enormous amounts of money—money we should be able to better spend on long-term solutions. And what if permanently solving homelessness costs more than we spend now? The electors have shown a willingness to spend enormous amounts of money to solve the problem. Surely, it is worth a try to actually achieve that goal.

Consider that in 2017, HUD estimated each homeless person costs \$40,448 per year in 2002 dollars in a study that did not evaluate all of the costs.⁴⁸ Another study opined that for a single homeless person “in four Canadian cities, institutional responses (jails, hospitals,

48. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS, ENDING CHRONIC HOMELESSNESS IN 2017 (2017) (*available at* https://www.usich.gov/resources/uploads/asset_library/Ending_Chronic_Homelessness_in_2017.pdf).

etc.) cost \$66,000–\$120,000 annually, [and] emergency shelters cost \$13,000–\$42,000 annually”⁴⁹

Santa Clara County, California alone estimates the cost of homelessness to that community between the years of 2007 and 2012 was “\$520 million per year.”⁵⁰ A recent study commissioned by the Mental Health Treatment Research Institute LLC concludes that those who have health insurance who are “high” medical service users, cost on average \$41,631 per year in health care costs.⁵¹ That study explains:

People struggling with homelessness are often frequent users of emergency departments. On average, they visit the emergency room five times per year. The highest users of emergency departments visit weekly. Each visit costs \$3,700; that is \$18,500 spent per year for the average person and \$44,400 spent per year for the highest users of emergency departments.

Another study explains that “80% of emergency room visits made by people struggling with homelessness is for an illness that could have been treated with preventative care.”⁵²

There are costs to society of homelessness that these studies may not factor that are worth considering. They include:

- Law enforcement costs—crime, crises, public health and safety.
- Public works costs for refuse collection and cleaning streets and parks of human waste.
- Transit district funds to clean stations, buses, and trains of human urine/feces/trash.
- Lost transit ridership and fees because it is too filthy and dangerous for business or family riders to use.
- Federal, state, and local department of social services case management and response.

49. *Cost Analysis of Homelessness*, HOMELESS HUB, <https://www.homelesshub.ca/about-homelessness/homelessness-101/cost-analysis-homelessness> (last visited Sept. 24, 2021).

50. *Home Not Found: The Cost of Homelessness in Silicon Valley*, DESTINATION HOME, <https://destinationhomesv.org/wp-content/uploads/2015/05/FactSheetDestinationHome.pdf> (last visited Sept. 24, 2021).

51. SHODDARD DAVENPORT, TRAVIS J. GRAY, & STEPHEN P. MELEK, HOW DO INDIVIDUALS WITH BEHAVIORAL HEALTH CONDITIONS CONTRIBUTE TO PHYSICAL AND TOTAL HEALTHCARE SPENDING? 1 (2020) (available at <https://www.milliman.com/en/insight/How-do-individuals-with-behavioral-health-conditions-contribute-to-physical>).

52. *The Cost of Homelessness Fact*, GREEN DOORS, <https://greendoors.org/facts/cost.php> (last visited Sept. 24, 2021).

- Non-profit money spent on homelessness whether through government grant or private donors.
- School programs for homeless school children.
- Enforcing sit-lie ordinances.
- Tow contracts to remove the vehicles and RVs of homeless people, costs of sweeps to remove encampments, etc.
- Veteran homeless programs.
- Drug treatment programs.

The point is that there are huge sums of money poured into solving the homelessness problem in a way that is an uncoordinated patchwork of approaches that has solved little. There are rational reasons to decide instead to dedicate resources to developing an effective, comprehensive solution.

VIII. BASIC AND NECESSARY PREMISES OF A COMPREHENSIVE SOLUTION

There are several premises that policy makers must share to solve the problem of homelessness.

First, it is necessary to commit to solve homelessness and understand that any solution will have two segments: immediate and long term. We have to decide that in the immediate term, it is acceptable that otherwise homeless people will live in government-sanctioned places like tents, tipis, RVs, tiny houses, and Quonset huts, with sanitation provided minimally—by portable toilets with handwashing, shower trucks, laundry trucks, food trucks, garbage service, centralized refrigeration and electricity, frequented by social service representatives who target, and are responsible to figure out and maintain, needed services. And the duration of stays in such facilities could morph into a long-term solution, for some people.

When the federal government established such places during the Depression, their appearance was clean, their facilities adequate and not so different than places that even rich people now choose to live. Consider below, a community in Las Vegas where former Zappos CEO Tony Hsieh lived⁵³:

53. Diana Budds, *Building community in Las Vegas with Airstreams: Tiny homes are helping the city's downtown turnaround*, CURBED (Mar. 29, 2018, 10:00 AM), <https://www.curbed.com/2018/3/29/17163698/tiny-house-las-vegas-zappos-downtown-project>.



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Non-traditional immediate solutions are not inhumane. Rather, it is inhumane to demand that homeless people remain in danger and squalor on the streets until the housed get around to building them a stick-built home of the sort that the housed will approve. Compare how rich folks choose to live in Las Vegas in the above image with a canvas tent migrant camp run by the federal government during the Depression⁵⁵:



54. Photograph of Llamalopolis, in *Llamalopolis, as Urban Tiny Living Oasis*, TINYHOUSE BLOG, <https://tinyhouseblog.com/tiny-house/llamalopolis-an-urban-tiny-living-oasis/> (last visited Sept. 24, 2021).

55. Lange, *supra* note 15 (Photograph of Farm Security Administration camp for migrant workers at Shafter, California).

It cannot be seriously disputed that the above image is far superior to the living conditions of today's homeless. We must accept that not all homeless people want or need stick-built housing. In fact, not all wealthy people want that either.

Second, we must recognize that local land use and other regulatory programs that forbid non-traditional housing solutions must be changed to enable America to solve its homelessness problem. All housing types and non-traditional situations (portable toilets, shower trucks, etc.) must be allowed. Relatedly, the regulatory framework for housing development can no longer be controlled by the "costs of growth" and anti-"growth" advocates. States should carefully evaluate administrative agency leadership to ensure that the persons who manage "growth" are willing participants in solutions to allow growth and the change that comes with it, to happen.

Third, it is critical to recognize that there are differing populations of homeless people with differing needs. It is important that housing situations be tailored to the distinct populations of America's homeless people and to the societal objectives for their care. Relatedly, it is important to accept that not all populations of homeless people are sympathetic.⁵⁶ We have to be willing to provide minimally adequate shelter for people viewed as freeloaders.

Fourth, it is essential to reject that homeless people do not deserve the same level of safety and law enforcement response as anyone else. "Self-governing" encampments should be a non-starter. No one should be expected to resign to live under a "self-governing" despot or despotic committee, apart from the rules of civilized society that the rest of "us" are expected to adhere to and benefit from. We are one people and we all should benefit from and be burdened by the same laws. Society legitimately wants and expects otherwise homeless people to live in a way that is safe for all of us.

Finally, it is critical to recognize that there are no political villains to blame—the problem of homelessness has worsened under both Democratic and Republican administrations. We are in this political moment, together.

56. See VICE, *Inside Slab City, the Lawless City in the Desert*, YOUTUBE (May 15, 2012), https://www.youtube.com/watch?v=0vVCSUafFVI&list=PLh0vqAIo2BuDfU1ULMac0w__vj-xl0Gm_&index=11&t=0s; *I was hunted at Slab City*, REDDIT (Dec. 4, 2015, 3:19 PM), https://www.reddit.com/r/solotravel/comments/3ve70i/i_was_hunted_at_slab_city.

IX. TWO GUIDING STARS TO THE SOLUTION: (1) PAY ATTENTION TO HUMAN BIOLOGY BY KEEPING HOUSING GROUPS SMALL, AND (2) DO NOT CONCENTRATE FACILITIES

There are two guiding stars we must follow in establishing any housing solutions for homeless people. The first is to limit the size of communities we establish for otherwise homeless people, and the second is a variant of environmental justice, to avoid concentrating facilities in particular areas.

First, the maximum size of any community for the otherwise homeless cannot be composed of more than 150 people. Oxford Professor Robin Dunbar has established that 150 people is the cognitive number of people who can live together and maintain stable social relationships.

According to the theory, the tightest circle has just five people—loved ones. That's followed by successive layers of 15 (good friends), 50 (friends), 150 (meaningful contacts), 500 (acquaintances) and 1500 (people you can recognize). People migrate in and out of these layers, but the idea is that space has to be carved out for any new entrants.⁵⁷

As we establish communities where we expect otherwise homeless people to live, we should observe “Dunbar’s Number” and ensure that homeless communities do not exceed it. No one wants a repeat of the “projects.”

Second, the places where homeless housing is established must be distributed and not concentrated. Concentrating communities of otherwise homeless people in particular areas risks blight, which ultimately solves nothing. Worse, it results in the further social disconnection of the politically ignored housed. Relatedly, there are good policy reasons why communities of otherwise homeless families with children should be situated in the best school districts to ensure that formerly homeless children have the best chance at life success and societal integration. More on this follows.

57. Christine Ro, *The theory of Dunbar's number holds that we can only really maintain about 150 connections at once. But is the rule true in today's world of social media?*, BBC (Oct. 9, 2019), <https://www.bbc.com/future/article/20191001-dunbars-number-why-we-can-only-maintain-150-relationships>.

X. A PROPOSAL FOR A FEDERAL “HOMELESSNESS NEW DEAL”

Congress should adopt a mandate that every city (big and small) in America must have a proportional national share of housing for people who are otherwise homeless, on particular time frames, and to maintain that housing. The law would provide minimum standards and for regular audits. The need for new facilities in each community would be reassessed annually. As homelessness is reduced, so is the need for more such places. Everyone is incentivized to solve the problem. The mandate comes with federal money otherwise spent by the federal government on homelessness and its trappings. State and local governments are expected to distribute state money otherwise spent on the problem, on solving this problem. They can choose otherwise, but their federal funding will dry up if they choose to do so. In other words, all levels of government would be expected to commit to the program and its success.

Each and every city and other unit of government (counties, villages) would be given a certain period of time with achievement milestones to figure out where housing for their state proportion of otherwise homeless people will be established within its boundaries, what that housing will look like, and then to establish it.

Such programs may entail condemning and buying nearby homes or commercial establishments to create a “buffer” around them for political acceptability. Such purchased properties can be either resold with a covenant that the owner understands who/what their neighbor is and/or that the property may be used for other palatable public objectives.

However, if local communities fail to meet their timeline milestones, the federal government is empowered to step in and do whatever is left to be done, for them. In which case, the federal government will begin where the local actors failed—they will designate the places and the housing types for the local government’s proportional share of homeless people if that has not been done. The federal government will develop the housing if that has not been done or will perform maintenance, all using federal funding the locality would otherwise have received to do so.

Once communities establish (and maintain) housing for their proportion of homeless people, then state and local laws against camping in unsanctioned public places are expected to be enforced.

All such housing establishments would be required to have particular minimum characteristics developed by experts must have at the least:

1. Housing of some type (i.e.): tents, Quonset huts, tipis, RVs, single room occupancy rooms, tiny houses *and* the following: sanitation, a way to get and stay warm in winter, refrigeration, storage, electricity, laundry and shower services on site or on weekly laundry and shower trucks, food services—on site or trucks, services to meet the population, including adequate funding for law enforcement and social services which come to the facility; each establishment is limited to no more than 150 residents. And these facilities cannot be concentrated in particular areas of town.
2. Facilities for families of school-aged children must come with excellent childcare, parenting training, drug rehab, intensive supports, including “Individualized Educational Plan” (“IEP”) or “Section 504” and related educational support for the children. Navigating the IEP and 504 maze is beyond the ken of most housed parents. It is daunting in the extreme for homeless parents.
3. There will need to be a formula for distributing particularly difficult groups, whom smaller communities cannot manage (severely mentally ill people, pedophiles released from jail, people who simply refuse to follow any rules, etc.). Along the lines of other social programs, these more difficult populations would have to come with higher federal/state subsidies and a detailed management program, developed by experts.

Within these basic requirements, state and local governments would be authorized to make public-policy-driven housing choices and to make targeted investments. Thus, a community might choose among the following:

1. Prioritize public subsidized stick-built housing for families with school-age children. Federal incentives might also provide for larger metro areas to establish this type of housing in cities with the highest rated school districts.

- a. Intensive parenting education, support, interventions, high quality day care, high quality before/after school care—both linked to children’s and science museums, outdoor programs,⁵⁸ etc.; with skilled navigators to ensure IEP/504 and related educational services happen, to cut through the inevitable red tape and bureaucracy.
- b. There might be extra, targeted funding for public schools serving these housing developments.
2. Prioritize SROs⁵⁹ for veterans without school-age children with whom they live.
 - a. Shared experiences may contribute to sense of community and improve chances of success.
 - b. Provide targeted veterans’ services.
3. Establish a youth-hostel model for homeless youth aging out of foster care with no social skills and little to no connection with society.
 - a. Provide intensive targeted services.
 - b. Promote GED and college programs, with educational supports to provide youth with the best chance of success and integration into society.
4. Establish a youth hostel model or SROs for elderly retiring with inadequate savings to afford private housing.
 - a. Fund basic activities akin to “elder hostel” adventures available at low or no cost.
 - b. Connect to appropriate volunteer opportunities.
 - c. Provide geriatric medical services, onsite.
5. Establish RV/tent/tiny house communities for other populations with drug rehab/job counseling/social services where *the services come to them*—and it is the social service provider who has the *responsibility for managing* those contacts. These communities will likely serve the majority of homeless people.
 - a. These places could have progressive levels of security to address segments of the population who refuse or are unable to follow society’s rules. That population who cannot

58. *Featured Programs*, TRACKERS PORTLAND, <https://trackerspdx.com/> (last visited Sept. 24, 2021).

59. SROs are single room occupancy residences with individual bathrooms, but shared eating and communing facilities.

follow rules due to mental illness should be placed in facilities where they can be treated. People who simply refuse to follow rules must either find a private arrangement on their own or accept the adequate, but modest, living situation the public provides, which would be tailored to this population.

- b. Some housing should be tailored to persons with serious mental illness who can safely live outside of an institutionalized setting, but need help with medication management.

Federal laws would restore funding for institutionalized care for persons with serious mental illness that cannot be safely managed in less secure environments. And then each state would be expected to use that money to establish an adequate number of federally funded mental institutions, where the seriously mentally ill can be treated and, if untreatable, where they humanely stay until unsupervised treatment is possible. Organizations with specialty in the unique problems suffered by the severely mentally ill would establish, manage, and oversee the protocols.

Federal law should adjust the “danger to oneself or others standard” so it is actually possible to commit seriously mentally ill people to treatment who need it, for so long as they need it. Now it is said that to be committed, a person either has to be actually actively trying to kill her doctor or actively trying to kill herself in front of her doctor to meet the standard. And almost no one meets it. As a consequence, the seriously mentally ill are doomed to roam the streets where they are abused, killed, and sometimes, commit crimes.

The federal government would also introduce something like the Works Project Administration to put people to work in reasonable paying jobs to fix ailing infrastructure, construct new housing (whatever that might look like), and retrain people whose jobs have been lost or will be lost to automation. The people who would be put to work should include otherwise homeless people, with the goal being to (1) teach them job skills, (2) enable them to get experience and references, to be able to succeed, and (3) reconnect with American society and see themselves as important contributors to it.

XI. THE ULTIMATE GOAL OF A 2021 FEDERAL NEW DEAL WOULD BE STABILIZING AMERICAN SOCIETY AND BENEFITTING ALL AMERICANS

Homelessness is a critical social problem that divides us. Solving it allows us to return to being a nation of people invested in the future of our great country. In his inauguration speech for his third term, FDR made poignant observations about the expected results of his “second bill of rights” which included the right to decent housing. They are repeated in closing here:

All of these rights spell security. And . . . we must be prepared to move forward, in the implementation of these rights, to new goals of human happiness and well-being.

America’s own rightful place in the world depends in large part upon how fully these and similar rights have been carried into practice for our citizens. For unless there is security here at home there cannot be lasting peace in the world.

. . . .

I ask the Congress to explore the means for implementing this economic bill of rights—for it is definitely the responsibility of the Congress so to do. . . .⁶⁰

Committing to solving our homelessness crisis would go a long way toward re-establishing a United States in which all citizens see themselves as vital parts. But it seems certain that it will take an act of Congress to achieve that.

60. Franklin D. Roosevelt, President of the United States, State of the Union Address (Jan. 11, 1944) (*available at* <https://www.fdrlibrary.org/address-text>).