

# From Street Lawyering to Systemic Lawyering: Meeting the Basic Needs of Unaccompanied and Homeless Youth Through Systemic Legal Advocacy

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**W**hile more attorneys are needed to provide direct representation to meet the unmet legal needs of homeless youth, attorneys must also play a role in reforms that have a broader impact. Legal aid programs would benefit from focusing on systemic advocacy to address the lack of resources for homeless youth rather than gearing staff positions only toward direct representation. We have spent much of our legal careers directly representing homeless youth through legal aid agencies.<sup>1</sup> However, our work changed from direct representation to systemic advocacy: legislative advocacy, litigation, and community development. In this article we briefly explore the field of systemic advocacy on behalf of homeless youth.

Whereas systemic advocacy in other areas has long existed, systemic legal advocacy for homeless youth is a developing field. Most often the benefit to homeless youth comes in the context of a broader issue (foster care, housing, homeless families with children, or criminalization of homelessness) or results as an afterthought. Nevertheless, the field of homeless youth legal advocacy is growing, and lawyers are looking to local legislative advocacy, litigation, and community organizing to reduce the overwhelming recurrence of legal issues among homeless youth.

## I. Homeless Youth in the United States

A homeless youth is generally defined as any youth aged 12 to 21, unaccompanied by parents, family, or guardians and without a regular nighttime residence.<sup>2</sup> Each year in the United States between several hundred thousand and a million youth fall under this definition.<sup>3</sup> While Western society has traditionally either accepted or romanti-

<sup>1</sup>In 1996 Casey Trupin helped develop Street Youth Legal Advocates of Washington ([www.sylaw.org](http://www.sylaw.org)), a program that provides outreach, education, and legal representation to homeless youth in Washington State. Since 1999, through a partnership with Columbia Legal Services, the program has provided civil legal services to homeless youth. In 1993 Rich Wayman began working with homeless youth through the Legal Aid Society of Minneapolis. In 2000 Wayman became the Collaborative Director of StreetWorks, consisting of twelve nonprofit programs offering outreach to homeless youth in the Twin Cities.

<sup>2</sup>The federal Runaway and Homeless Youth Act defines homeless youth as a person "not more than 21 years of age ... for whom it is not possible to live in a safe environment with a relative and who has no other safe alternative living arrangements." 42 U.S.C. § 5732a.

<sup>3</sup>Nearly 1.7 million adolescents have a runaway or "throwaway" episode each year. HEATHER HAMMER ET AL., RUNAWAY/THROWAWAY CHILDREN: NATIONAL ESTIMATES AND CHARACTERISTICS (2002) (available at [www.ncjrs.org/html/ojjdp/nismart/04/index.html](http://www.ncjrs.org/html/ojjdp/nismart/04/index.html)).

cized homelessness among youth, in reality domestic violence, child abuse and neglect, chemical or alcohol dependency, and mental illness play critical roles in youth homelessness. The acquired skills of lawyers have never been more critical in devising successful responses to one of our most underrepresented population groups.

The reasons youth become homeless are complex and cannot be fully explored in an article of this length. However, adolescents typically become homeless due to a series of circumstances, often involving poverty and abuse, abandonment, or neglect. What drives adolescents from home are not just disputes with parents or guardians but rather beating, sexual violation, and banishment.<sup>4</sup> Homeless youth may also confront barriers to receiving assistance or services due to individual characteristics. A study of the homeless population in Minnesota showed that 40 percent struggle with mental health issues, that 25 percent have substance-abuse problems, and that youth of color and gay, lesbian, bisexual, and transgender youth are overrepresented.<sup>5</sup>

Adolescents also experience homelessness despite being served by child welfare systems. Most states' child welfare systems are ill-equipped to provide relief to older adolescents experiencing abandonment, neglect, and homelessness. The Minnesota Wilder Research Center found that 70 percent of homeless youth have experienced some form of state intervention through an "out-of-home

placement" (either through child protection, foster care, children's mental health, or juvenile corrections) and still end up homeless before their 18th birthday.<sup>6</sup> The most recent study of post-foster care homelessness found that, within a year of leaving foster care, 22.2 percent of former foster youth experienced homelessness for one day or more.<sup>7</sup> By contrast, only 1 percent of the general population is homeless at least once per year.<sup>8</sup> Limited resources in child welfare agencies are prioritized for infants and young children. For adolescents who do enter the system, child welfare benefits end at age 18, leaving many foster youth without family connections or adequate housing resources.

Homeless adolescents often have significant interactions with the juvenile justice system. Through inappropriate planning, many are discharged from juvenile delinquency placements into situations only one step away from homelessness. For example, a survey of 129 unaccompanied adolescents who were homeless in Minnesota reported that 35 percent had been in a correctional facility; of those, 44 percent exited into an unstable housing situation.<sup>9</sup>

These adolescents do not have it easy. Homeless adolescents are often approached by pimps, drug dealers, gangs, or other adults attempting to exploit them sexually. According to the Wilder study, one out of ten homeless adolescents has engaged in survival sex (the exchange of sexual actions for a place to stay or food to eat).<sup>10</sup>

<sup>4</sup>ANDREA SEDLAK ET AL., NATIONAL EVALUATION OF RUNAWAY AND HOMELESS YOUTH: FINAL REPORT (1997).

<sup>5</sup>Greg Owen, Homeless in Minnesota in 2003: Key Facts from the Survey of Minnesotans Without Permanent Housing (2005) (available at [www.wilder.org/research/reports/pdf/Homeless2003.pdf](http://www.wilder.org/research/reports/pdf/Homeless2003.pdf)). Lesbian, gay, bisexual and transgender youth are also overrepresented in the foster care and juvenile justice systems. For information on the Model Standards Project for gay, lesbian, bisexual, and transgender youth in state custody, see sidebar.

<sup>6</sup>*Id.*

<sup>7</sup>PETER J. PECORA ET AL., IMPROVING FAMILY FOSTER CARE: FINDINGS FROM THE NORTHWEST FOSTER CARE ALUMNI STUDY (2005) (available at [www.casey.org/Resources/Publications/NorthwestAlumniStudy.htm](http://www.casey.org/Resources/Publications/NorthwestAlumniStudy.htm)). See also Alice Bussiere et al., *Adolescents, the Foster Care System, and the Transition to Adulthood: What Legal Aid Lawyers Need to Know*, in this issue.

<sup>8</sup>MARTHA R. BURT ET AL., HOMELESSNESS: PROGRAMS AND THE PEOPLE THEY SERVE, FINDINGS OF THE NATIONAL SURVEY OF HOMELESS ASSISTANCE PROVIDERS AND CLIENTS (1999) (available at [www.urban.org/url.cfm?ID=310291](http://www.urban.org/url.cfm?ID=310291)).

<sup>9</sup>Owen, *supra* note 5, at 25.

<sup>10</sup>*Id.*

## II. Meeting the Unmet Needs of Homeless Youth Through Systemic Reform Initiatives

The statistics describe disturbing trends both in the causes of youth homelessness and the treatment of adolescents once they become homeless. These trends present themselves both individually and systemically. Through our outreach efforts to homeless youth shelters and drop-in centers and direct representation, we discovered that our clients were often facing issues across a wide variety of legal sectors. For example:

- youth needing to access safe and stable housing when the child protection agency refused to intervene;
- adolescents needing access to public benefits intended for their welfare, but misused by their parents;
- youth seeking to escape negative credit histories and debt collection as a result of medical bills; and
- teen mothers seeking public benefits while refusing to return to an abusive partner or parent.

While the homeless adolescents we served had unmet legal needs, their principal concerns were often what they were going to eat that day and where they were going to stay each night. Many recurring legal issues could be resolved or prevented with access to basic needs (such as housing, clothing, food, and medical care). We took one client after another, each with a unique yet frighteningly similar story. We discovered that most areas lacked services and progressive legal strategies specifically focused on homeless youth, especially those over the age of 18. Neither of us could ignore the patterns that kept emerging:

- Child protection services rarely responded to calls concerning abuse or neglect against teenagers.

- If policies or statutes addressing this population existed, they were often based on a stereotypical view of homeless youth or excluded reliable sources of local funding for basic needs.

- Adolescents were turned away or put on waiting lists for shelter and transitional housing.

- Teen parents struggled to find meaningful services that addressed their housing and child care needs.

- Programs failed to offer services to adolescents who were undocumented or sexual minorities.

To address these and other issues on a regional level, lawyers, youth, and other advocates have undertaken a number of systemic reform initiatives—legislative advocacy, litigation, and community development. The following is a quick review of the several regional initiatives taking place in Washington, Minnesota, and other states.

### A. Legislative Reforms

State legislatures historically have given little attention to the interests of adolescents and young adults. For minors, the focus has been on forcing them to return home—criminalizing running behavior.<sup>11</sup> Homeless adolescents are often forgotten in the legislative process altogether and are rarely offered resources for residential stability. Nevertheless, many legal advocacy programs without a service component either have overlooked the legislative process or have been precluded from using legislation as a tool by Legal Services Corporation restrictions.<sup>12</sup> Even so, some legal organizations are beginning to focus on the legislative process as a way of bringing about systemic change.

Homeless youth service providers have used the federal legislative process to obtain or maintain funding and to bring about systemic reforms.<sup>13</sup> Although advo-

<sup>11</sup> National Network for Youth, *Alone Without a Home: A State-by-State Review of Laws Affecting Unaccompanied Youth* (2004).

<sup>12</sup> The myriad restrictions on agencies funded by the Legal Services Corporation can be found at 45 C.F.R. §§ 1600 *et seq.*

<sup>13</sup> Many programs actively participate in federal legislative advocacy through the efforts of a national coalition, the National Network for Youth ([www.nn4youth.org](http://www.nn4youth.org)), primarily focused on the federal Runaway and Homeless Youth Act, 42 U.S.C. §§ 5701 *et seq.*

cates and service providers hoped homeless youth would benefit from recent federal efforts to end chronic homelessness, few homeless youth may fit the federal definition of “chronic homeless” since the adolescents must be found to be disabled and have been on the streets for more than a year or have had multiple episodes of homelessness within the past several years.<sup>14</sup> Thus advocates have turned to their state legislative bodies for consistent funding of homeless youth programs.<sup>15</sup>

Working with legal aid representatives, the Minnesota Youth Service Association, a statewide coalition dedicated to policy reform on behalf of homeless youth, drafted a bill in 2000. The bill did not pass but prompted Jesse Ventura, the governor at the time, to order the Minnesota Department of Human Services to organize a Needs and Gaps Analysis for Minnesota’s homeless youth.<sup>16</sup> This year the association used the State’s Needs Analysis and community program data to seek a dedicated funding stream for homeless youth shelter, housing, and supportive services. Because of the association’s efforts, the governor sought a new funding initiative to provide supportive housing rental assistance and case management services to 140 adolescents making the transition from foster care each year.<sup>17</sup>

Other agencies are focusing on substantive state-law changes that go beyond funding issues. In Washington State a group of providers, legal aid attorneys, and other stakeholders formed a coalition to work on legislative priorities. In the past several years, the group, now known as Advocates for System Kids and Youth, has both supported and fought a number of bills related to homeless youth issues. Last year the group helped roll back Washington’s juvenile-record-sealing statute.<sup>18</sup> During the 2005 legislative session, the group helped pass a bill requiring the state to reform the way it responded to adolescent abuse.<sup>19</sup> For the past three legislative sessions, the group has been involved in a number of other bills that affected the lives of homeless youth.<sup>20</sup>

## B. Litigation

Perhaps because homeless adolescents are a very heterogeneous group, systemic litigation on behalf of homeless youth has been sparse. Litigation involving homeless youth is generally subsumed within other issues such as

- placement of facilities that serve homeless youth,<sup>21</sup>
- challenges to ordinances criminalizing homelessness,<sup>22</sup> and

<sup>14</sup>See Pres. George W. Bush’s new initiative to end chronic homelessness; the initiative is coordinated by the federal Interagency Task Force on Homelessness ([www.ich.gov](http://www.ich.gov)) headed by Phillip F. Mangano. The Interagency Task Force on Homelessness was established by the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. §§ 11301 *et seq.*

<sup>15</sup>A growing number of agencies are dedicated to advocacy on behalf of homeless youth. E.g., Covenant House engages in substantive legislative advocacy in many of its agencies throughout the United States. See [www.covenanthouse.org/about\\_adv\\_2004.html](http://www.covenanthouse.org/about_adv_2004.html).

<sup>16</sup>The Minnesota Runaway and Homeless Youth Act, S. 2865, 81st Sess. (2000) (introduced by Sen. Sheila Kiscaden and Rep. Kathy Tingelstad).

<sup>17</sup>2006-2007 Revised Governor’s Operating Budget Recommendations, Human Services, Agency Detail Budget. See [www.budget.state.mn.us/budget/operating/200607/revision1/humanservices.pdf](http://www.budget.state.mn.us/budget/operating/200607/revision1/humanservices.pdf).

<sup>18</sup>WASH. REV. CODE § 13.50.050 (2004).

<sup>19</sup>E.g., 2005 WASH. LAWS ch. 335 (2005).

<sup>20</sup>See, e.g., Wash. H.B. 1070, 58th Leg., Reg. Sess. (2003).

<sup>21</sup>Many cities take steps to ensure that programs for homeless youth will not be located within their borders. Litigation to challenge cities’ actions has generated mixed results in court. E.g., in *Children’s Alliance v. City of Bellevue*, 950 F. Supp. 1491 (W.D. Wash. 1997), a group home successfully challenged, under the Fair Housing Act and other laws, the validity of a burdensome city ordinance. However, in *Westhab v. City of New Rochelle*, 2004 WL 1171400 (S.D.N.Y.), a federal district court judge threw out all federal constitutional and Fair Housing Act challenges to a city’s zoning code.

<sup>22</sup>See, e.g., *City of Seattle v. McConahy*, 86 Wash. App. 557 (1997) (formerly homeless youth unsuccessfully challenged ordinance prohibiting sitting or lying down in Seattle’s commercial areas).

- cases involving homeless children in families.<sup>23</sup>

As the link between foster care and homelessness becomes undeniably clear, significant systemic advocacy for homeless youth through foster care litigation becomes more promising. The settlement agreement in *Braam v. Washington State*, a class action foster care reform case, specifically addresses this link.<sup>24</sup> First, the agreement requires that the Washington Department of Social and Health Services revamp its policies and reduce the number of youth missing from care. Second, the agreement requires the state to take steps to reduce youth homelessness by offering supportive services and out-of-home care benefits to foster youth until age 21.

A year before *Braam*, a settlement in another foster care case also addressed youth homelessness. As in *Braam*, one of the key elements developed out of the New Jersey class action, *Charlie and Nadine H. v. Codey*, was to increase services to teens in and exiting foster care. The settlement also required the development of hundreds of transitional living units.<sup>25</sup>

### C. Community Development and Organizing

Holistic legislative and litigation strategies for homeless youth often depend on successful community organizing and development.

The Minnesota Youth Service Association used community organizing and mobilization to create a legislative campaign that focuses on the needs of Minnesota youth and young adults. The association

researched “best practices” in other states to create the Minnesota Youth Advancement Act.<sup>26</sup> The Act includes a youth bill of rights, public assistance reforms, emancipation protocols, child welfare reforms, an after-school programming policy, and a plan for a Governor’s Youth Council. Ultimately, through community outreach and planning with the help of youth, advocacy centers, and corporate partners, the association plans to undertake a legislative campaign to advance a policy initiative dedicated to the well-being of older adolescents.<sup>27</sup>

The development of Advocates for System Kids and Youth in Washington State was designed to address the need for legislative advocacy through community development. Through community organizing and legislative action, the group helped pass a number of bills, including the sealing of juvenile records bill, mentioned above. After the bill passed, a group of legal aid attorneys, educators, and providers worked to establish a clinic to help young adults actually follow through with the sealing of their records.

Current community development endeavors also offer opportunities for legal services involvement. A homeless youth agency in Seattle pioneered a successful exchange, dubbed “The Donut Dialogues,” between police and homeless youth.<sup>28</sup> Under the guidance of this social service, law students and legal services expanded the reach of the program, which helped alleviate tensions among the police, the business community, homeless youth providers, and the adolescents themselves.

<sup>23</sup>See, e.g., *National Law Center on Homelessness and Poverty v. New York*, 224 F.R.D. 314 (E.D.N.Y. 2004) (parents of homeless children sued state and claimed that enrollment and transportation procedures of school districts violated students’ rights under McKinney Act and the equal protection clause). The National Law Center on Homelessness and Poverty ([www.nlchp.org](http://www.nlchp.org)) has been at the forefront of advocacy regarding the McKinney-Vento Homeless Education Act.

<sup>24</sup>*Braam v. Washington State*, 150 Wash. 2d 689 (2003) (Clearinghouse No. 54,493). *Braam* was brought by a class of foster kids who had been in three or more placements and who were represented by a private firm, the National Center for Youth Law, and Columbia Legal Services. The settlement agreement is available at [www.povertylaw.org/legalresearch/cases/index.cfm?action=abstract&id=54493](http://www.povertylaw.org/legalresearch/cases/index.cfm?action=abstract&id=54493).

<sup>25</sup>*Charlie H. v. Codey*, No. 99-3678 (D.N.J. June 23, 2003) (Clearinghouse No. 55,890). *Charlie H.* is one of many child-welfare reform cases brought by the Children’s Rights organization ([www.childrensrights.org](http://www.childrensrights.org)).

<sup>26</sup>Available from Richard Wayman, Committee on Public Policy and Advocacy, Minnesota Youth Service Association, 7601 42d Ave. N., New Hope, MN 55427; 763.592.5510.

<sup>27</sup>A group of Minnesota legal services and private attorneys used community development to address reforms for older adolescents. The group approached the state supreme court to create a task force on the unmet legal needs of homeless youth.

<sup>28</sup>Peace for the Streets by Kids from the Streets ([www.psk.org](http://www.psk.org)) created the Donut Dialogues.



After experiencing abuse, neglect, exploitation, and abandonment by their families, homeless adolescents deserve the legal profession's utmost attention. Our attempt to address the unmet legal needs of homeless youth must be grounded in an effort to meet adolescents' basic and developmental needs. While direct representation and individual pro bono assistance are still necessary, a broader, systemic approach to

advocacy is critical. Legal aid programs and lawyers have a role to play in offering creative legislative initiatives, systemic litigation, and community organizing to expand local continuums of shelter, housing, and services. Limited resources and time dictate the need to focus on those reforms offering the greatest return of resources to this vulnerable population. This cannot be accomplished through direct representation alone.

## The Model Standards Project: Advocating on Behalf of Lesbian, Gay, Bisexual, and Transgender Youth in State Custody

A report by Lambda Legal Defense and Education Fund estimates that lesbian, gay, bisexual, and transgender adolescents represent between 4 percent and 10 percent of adolescents living away from their families and in the custody of the foster care or juvenile justice system. (COLLEEN SULLIVAN ET AL., LAMBDA LEGAL DEFENSE AND EDUCATION FUND, *YOUTH IN THE MARGINS: A REPORT ON THE UNMET NEEDS OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER ADOLESCENTS IN FOSTER CARE* 11 (2001).) Many of these young people are in state custody solely as a result of their lesbian, gay, bisexual, and transgender identity. This group includes adolescents who have been rejected, neglected, or abused by their families of origin, adolescents who have been forced to live on the streets or engage in illegal behavior to survive, and adolescents who have been criminally charged as "sex offenders" because their behavior is perceived as deviant or perverse.

Adolescents in state custody are at high risk of substance abuse, mental health problems, educational failure, and lack of connection to caring adults. These vulnerabilities are even more acute for lesbian, gay, bisexual, and transgender youth. Such adolescents often face harassment, rejection, and even violence based on their sexual orientation or gender identity. The public systems responsible for their care are not equipped to meet their needs because of lack of knowledge, training, and resources as well as outright bigotry.

Legal Services for Children and the National Center for Lesbian Rights have collaborated with adolescents, youth service providers, and child welfare and juvenile justice professionals to develop model professional standards governing the care of lesbian, gay, bisexual, and transgender youth in state custody. The ultimate goal of the Model Standards Project is to

improve the quality of care of and outcomes for these adolescents. The standards address a wide range of systemic issues, including nondiscrimination policies; prevention, reunification, and permanency services; confidentiality and privacy; training for foster parents and child welfare and juvenile justice staff; placement options; housing and classification; equal access to recreational and social activities; and sensitive, inclusive health, mental health, and educational services. The Child Welfare League of America is scheduled to publish the standards in late 2005 as Best Practice Guidelines.

The Model Standards Project staff, including attorneys at both Legal Services for Children and the National Center for Lesbian Rights, conducts workshops and training on the content of the model standards at national conferences and meetings of youth, caregivers, youth service providers, social workers, probation officers, agency staff and administrators, and juvenile court professionals. Model Standards Project staff members also distribute materials on, make referrals for, and give technical assistance on questions involving individual lesbian, gay, bisexual, and transgender youth in state custody.

For more information on the Model Standards Project, call Jody Marksamer at the National Center for Lesbian Rights (415.392.6257) or call me (see below). To order a copy of the guidelines after they are published, contact the Child Welfare League of America ([www.cwla.org](http://www.cwla.org)).

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