



POLICING **OUR WAY OUT OF** **HOMELESSNESS?**

**The First Year of the Safer Cities Initiative
on Skid Row**

Professor Gary Blasi, UCLA School of Law
and
The UCLA School of Law Fact Investigation Clinic

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USC UNIVERSITY OF
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A. Introduction and Executive Summary

One year ago, on September 24, 2006, Mayor Antonio Villaraigosa announced the public launch of a “Safer Cities Initiative” on Skid Row in Los Angeles. This report summarizes the results of that initiative, as determined through a months-long research project carried out by two faculty members and twelve advanced law students¹ who comprised the Fact Investigation Clinic at the UCLA School of Law. This report is part of a larger project examining the problem of chronic homelessness in Los Angeles’ Skid Row and the role of City and County policy in both contributing to and responding to that problem.

Our investigation has included review of about 15,000 pages of public records and the analysis of multiple computer databases provided under the California Public Records Act by the Los Angeles Police Department, the Office of the City Attorney, and the Los Angeles Homeless Services Authority. We also conducted more than 200 interviews of people with special knowledge of one or more aspects of the problem.

A future report will examine the role of County policy, particularly in the operation of the General Relief program, in relation to chronic homelessness on Skid Row. We also expect to continue the research and investigation reflected in this report and to integrate other information and data as they are received in a future comprehensive report. To that extent, this report should be regarded as preliminary and interim in nature.

In summary form, this is what we found thus far:

Homelessness in the City of Los Angeles

- Although Los Angeles has the largest homeless population of any city in the United States, this is primarily because Los Angeles is large and has so many extremely poor people. The ratio of homeless people to extremely poor people is similar, for example, to that in San Francisco or San Jose.
- What does distinguish Los Angeles from many other cities is how few of its homeless are sheltered (21%) compared to 57% in San Francisco and more than 90% in Philadelphia, Denver, or New York City.
- Although the great majority of Los Angeles’ homeless population lives outside Skid Row, the 0.85 square miles of Skid Row has by far the densest population of homeless people.
- Homeless individuals in Skid Row are predominantly people with severe and chronic mental disabilities, addiction disease, and most commonly both mental disability and addiction (co-occurring disorders).

Shelter and Short Term Housing in Los Angeles and in Skid Row

- Across the City, there are about 13 persons with mental disabilities for every shelter space targeting this population, and 21.5 homeless addicts for every potential shelter bed. For the many people with co-occurring disorders, the ratio is likely far higher.
- Whether shelter or transitional housing spaces are actually available depends very much on the funding and program restrictions of the shelter program operations, including restrictions

¹ The faculty members were the author of this report and Joanna Schwartz. The students were Chris Campbell, Jamie Coghill, Lara Hoffman, Kelly Knapp, Rachel Bloomekatz, Charles Henty, Scott Miller, Sasha Stern, Jenny Chung, Lauren Nevitt, Nancy Olson, and Joel Wilson. Nancy Olson has also made significant contributions beyond the clinic as has Mara Matheke, who provided exceptional additional research assistance. This report was written by Gary Blasi, who is responsible for its content. This version of the report has had typos and errata corrected as of November 5, 2007.

related to disability, religious participation, and gender. Most shelters have restrictions that effectively exclude broad segments of the homeless population.

- About half of the shelter and housing program beds for homeless individuals in the County of Los Angeles are located in Skid Row, a current result of past City planning decisions and current NIMBY (“Not in My Back Yard”) resistance to homeless services outside Skid Row.
- Contrary to some reports, based on an independent analysis of nightly call sheets by LAPD officers, the median number of actually available shelter beds in Skid Row has been four (4) beds, at a time when the LAPD was counting about 1,000 homeless people living on the sidewalks each night. This extremely low vacancy rate is confirmed by other studies.
- Emergency (night-only) shelters return homeless people to the streets during the day. There is, however, broad agreement that the only real path off the streets for the mentally disabled and chronically homeless requires 24-hour housing with support services.

Policing in Skid Row and the Safer Cities Initiative

- The current version of the Safer Cities Initiative (SCI) was officially launched on September 24, 2006, but the essential features of SCI were described in a 2002 internal LAPD memorandum entitled “Homeless Reduction Strategies.”
- The public face of SCI has evolved, with significant help from Rutgers Professor and Manhattan Institute Senior Fellow George L. Kelling, whose group has been paid about \$500,000 in consulting fees.
- SCI has resulted in an unprecedented concentration of LAPD resources. Adding just the 50 officers of the SCI Task Force to the 0.85 square miles of Skid Row would be equivalent to adding 470 officers to Rampart Area, 700 officers to 77th Street Area, or 1700 to Van Nuys.

Citations

- In the first year of SCI, LAPD has written about 12,000 citations, the great majority of which are for pedestrian violations, primarily signal (“walk”/“don’t walk”) violations. On a proportional geographic area or population basis, this is between 48 and 69 times the rate at which such citations are issued citywide.
- Citations issued to indigent and mentally disabled people unable to obtain legal help or represent themselves at a hearing inevitably lead to arrest warrants. With penalties, the “bail/fine” for a pedestrian signal violation is \$159 (compared, for example, to the total \$221 monthly income of General Relief recipients).
- A very small proportion of citations are dismissed through “Homeless Court” or the efforts of pro bono lawyers working with the City Attorney.

Arrests

- Overall:
 - The SCI has resulted in about 750 arrests per month.
 - Of these, more than half (55.3%) are for drug offenses
- Of the drug offenses, there are a nearly equal number of arrests for drug sales as for drug possession:
 - The high percentage of drug sales arrests appears to result from “buy/bust” stings targeting ordinary addicts.
 - The median amount of drugs seized is about 2.5 grams or 0.9 ounces.
 - Because of changes in District Attorney policy that coincide with the SCI, a large number of ordinary addicts have been sentenced to State Prison for small quantity drug sales.
- Of the non-drug offenses, few arrests have been for serious, violent crimes. Of 1,346 arrests by the SCI Task Force, only 22 were for homicide (1), robbery (8), rape (0), or aggravated assault (13).

Crime Reduction

- There has been a significant decline in crime within LAPD Central Area generally and Skid Row specifically since SCI has been in place.
- It is not clear that SCI has played a significant role in reducing serious crime in Skid Row:
 - The most common violent crime in Central Area (robbery) has declined more outside Skid Row (45%) than inside Skid Row (39%)
 - As noted, the officers specifically assigned to the SCI Task Force have made few arrests for serious, violent crimes.
 - To the degree that there has been a decline in other crime, this is not surprising, given the remarkable increase in the density of officers on patrol in Skid Row, compared to any other area of the City.

Other, Perhaps Unanticipated, Consequences of SCI Policing

- Of the 1,000 people per month who receive citations and are unable to pay the fines, most will face subsequent arrest and jail, even though the original offense may have been littering or a pedestrian signal violation. Many of those arrested on citation warrants face the consequent loss of housing if they have it and the loss of important possessions if they do not.
- Because of the District Attorney's policy regarding plea bargains on Skid Row drug sales arrests many addicts, including the many with serious mental disabilities, who would previously have been eligible for Proposition 36 drug treatment and other services:
 - Are ineligible for Proposition 36 drug treatment if they are convicted of even small quantity drug sales.
 - Are being sent into the State Prison system, which is already under federal court supervision for failing to provide the most basic health and mental health care to prisoners.
 - Will on their release be ineligible for many federally subsidized housing programs and ineligible for food stamps when they are released back to the streets in 2-4 years.

Services

- Although the Safer Cities Initiative was announced as more than a policing effort, there have been very few people assisted by the so-called "Streets or Services" Program, which provides shelter for up to 21 days.
- During a sample 10 week period, of 2,073 people arrested, 101 were admitted to the SOS program, but only 7 were there at the end of 21 days.
- In the first 10 months of SCI, of the 7,528 arrestees, 34 completed the SOS program.
- The promised additions to the supply of shelter and supportive housing have primarily been limited to keeping open a warehouse-style shelter (New Image) to which homeless people are bussed from Skid Row in the afternoon and returned to Skid Row early the next morning.

Conclusions

- Based on the experience of cities across America that have succeeded in significantly reducing their chronic homeless populations through efforts that combine policing with a serious commitment to supportive housing, there is no reason to believe that the SCI as presently constituted will reduce chronic homelessness, though it may pressure some chronically homeless people into other neighborhoods of the City.
- Chief Bratton and his command staff, while committed to the crime control aspects of SCI, fully recognize the limitations of policing as a means to respond to homelessness in Skid Row.
- The estimated cost of just the 50-officer SCI Task Force in Skid Row is about \$6 million per year. This year the City has budgeted \$5.7 million out of the same General Fund for homeless shelters and services for the entire City.

- While the LAPD has largely done what it said it would do at the launch of SCI, other elements of the City have not followed through in concrete ways to provide real alternatives for the homeless disabled beyond living on our streets or in our jails.

Before turning to the text of our report, two caveats are in order. First, although our focus has been on homelessness in Skid Row and the impact of City policy, especially policing, on homeless individuals, it is important to remember that Skid Row is quite literally home to many people who reside primarily in the remaining Skid Row housing stock affordable to the very poor, as well as to a more recent influx of higher income residents. Those who are at least temporarily housed, but of the same demographic groups as the homeless population (predominantly African American men), have for the most part encountered the same City policing and other policy consequences described here.

Second, although we spend a fair amount of time examining the supply of shelter, as opposed to housing, we do not mean to imply that the solution to homelessness in Los Angeles is more emergency shelter. There is now near unanimity among both experts and homeless people themselves that emergency shelter is an apparent solution to the visibility of homelessness, but not to homelessness itself. The only solution to homelessness is housing. In the case of those with significant mental disabilities and/or addiction disease, more is required: housing with support services.

B. Poverty and the Production of Homelessness in Los Angeles

Despite frequent references to “the homeless,” homelessness is a characteristic of a situation in which people find themselves, not of the people themselves. Understanding homelessness requires understanding not only the characteristics of people who are homeless, but also the dynamics of how and where people become homeless, and how they may find their way out of homelessness. The great majority of homeless people in Los Angeles are very poor people, often with disabilities, who are always at some risk of losing their housing, but who are literally homeless only occasionally. These “episodically homeless” individuals and families far outnumber those who are long-term or “chronically homeless.”² The federal government mandates that local jurisdictions applying for certain federal funds, conduct a “homeless count” using approved methods. This entails estimating both the “point in time” prevalence of homelessness, as well as the number of persons who are homeless during some point during a year. Table 1 below summarizes the 2005 homeless count conducted for the Los Angeles Homeless Services Authority in the Los Angeles “Continuum of Care” (CoC) jurisdiction (Los Angeles County excluding Long Beach, Pasadena and Glendale, which do their own grant applications and counts) and for the City of Los Angeles:

² For federal funding purposes, A “chronically homeless” person is defined as “an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more, or has had at least four episodes of homelessness in the past three years.” Notice of Funding Availability for the Collaborative Initiative to Help End Chronic Homelessness, *Federal Register*, Vol. 68, No. 17/Monday, January 27, 2003, 4019. On a point-in-time basis, the chronically homeless comprise a greater proportion of any homeless sample, because for obvious reasons those who have been homeless but are even temporarily housed are not sampled. Even so, 43% of the 72,413 homeless people estimated in the County (excluding Pasadena, Glendale and Long Beach) were deemed “chronically homeless” in 2005. LAHSA, Continuum of Care Super NOFA Exhibit 1, p. 72, available at www.lahsa.org/continuum.htm.

Table 1: 2005 Estimates of Homeless Population³

	Point in Time Homeless	Homeless at Least Once in Year
Los Angeles (COC)	82,291	221,363
City of Los Angeles	48,103	130,362

While Greater Los Angeles has the largest number of homeless people of any jurisdiction in the United States, Los Angeles does *not* have an unexpectedly large number of homeless people for an urban area given the number of extremely poor residents. For example, the ratio of homeless people⁴ to the number of people in extreme poverty⁵ is 16.4% in the City of Los Angeles, 17.7% in San Francisco, and 18.4% in San Jose. What distinguishes Los Angeles from many other jurisdictions is how few homeless people are not in shelters. In the City of Los Angeles in 2005, only 21.1% of homeless people were in shelters of some kind, compared to 56.5% in San Francisco, and more than 90% in New York, Philadelphia or Denver. On a national basis, 54.8% of homeless people are in shelters.⁶

The great majority of people who are homeless in Los Angeles are not in Skid Row. Indeed, the 2005 homeless count found only 3,668 homeless people in Skid Row, of whom 1,674 (46%) were literally homeless, residing on the streets, in encampments and in vehicles.⁷ Periodic LAPD “street counts” of homeless people and tents in Skid Row since November 1, 2006 have ranged from a maximum of 1,391 on November 15, 2006 to a low of 700 on June 5, 2007, after months of intense police activity we describe below.⁸ Skid Row may not have that many homeless people in absolute terms, but it no doubt has the highest concentration of homeless people in the City or County. Comprising about 0.85 square miles, Skid Row contains about 0.18% of the land area in the City but about 7.6% of the homeless population, a density 42 times the citywide average.⁹

The visibility of homelessness in Skid Row comes not only from the density of homelessness there, however. Homeless individuals on Skid Row are much more likely to be chronically homeless individuals often with significant mental disabilities and addiction problems. Some of those problems are visible in the behavior of some homeless people on the street. Across the region, about 36% of homeless people suffer from severe mental illness, while 57% suffer from chronic substance abuse problems.¹⁰ In planning a “homeless reduction strategy” in the area in 2002, LAPD officials cited “reliable estimates claim[ing] some 60% of this population to be mentally impaired and 80% to be substance abusers.”¹¹

³ All data are from Los Angeles Homeless Services Authority, *2005 Greater Los Angeles Homeless Count*, January 12, 2006, conducted by Applied Survey Research. The points in time data were collected January 25-27, 2005. A similar count was conducted January 23-25, 2007 but the results have not as yet been publicly released.

⁴ The point in time estimates from the homeless count for each jurisdiction conducted pursuant to the federal mandate referred to in the text.

⁵ Defined as having an income of less than 50% of the poverty level, as reported in the American Community Survey for the jurisdiction.

⁶ All numbers computed from federally mandated homeless counts in the jurisdictions reported, combined with data on population and poverty from the American Community Surveys are available at factfinder.census.gov.

⁷ *2005 Greater Los Angeles Homeless Count*, supra, note 3, at 26.

⁸ LAPD data reported at homeless.cartifact.com.

⁹ These are only rough illustrations, of course. The City of Los Angeles also contains a good deal of open land with few if any inhabitants.

¹⁰ LAHSA, *Continuum of Care Super NOFA Exhibit 1*, p. 72 (available at www.lahsa.org/continuum.htm).

¹¹ LAPD document “Homeless Reduction Strategies: Central Area,” October 4, 2002. FI000754.

The visibility of the homeless population in Skid Row has been heightened by media coverage and attention brought to the area by the rapid redevelopment and gentrification occurring in recent years. In the period since January 1, 2005, the Los Angeles Times has published no fewer than 165 articles, columns, and other pieces referring to homelessness and Skid Row.¹²

1 The Concentration of Homeless People on Skid Row.

Almost certainly, none of the homeless individuals in Skid Row was born there. We do not have very good data on either the demographics or personal trajectories of people living on Skid Row. Three things are certain, however. First, a large percentage of the homeless on Skid Row are African American, for reasons that reflect history and the failures of many institutions. Second, virtually everyone who is homeless on Skid Row became homeless for the first time in another community where there are fewer survival resources (primarily food and shelter) than on Skid Row. Based on our interviews with both homeless people and service providers, it is clear that Skid Row is continuously repopulated from other areas of the region, especially from South Los Angeles and other concentrations of extreme poverty. Third, the rates of mental disability and disabling addiction among the homeless population in Skid Row are very high. As we explain in this section, these facts are not unrelated.

It is not surprising that individuals who become homeless in South Los Angeles or other impoverished communities often seek the essentials of survival in Skid Row. There are 6,218 beds (in emergency, transitional, and permanent housing for homeless individuals) in Skid Row but only 820 such beds in all of the much larger and very impoverished Service Planning Area 6 (South Los Angeles). The reasons are both historical and contemporaneous.¹³ First, although many cities have (or once had) a “skid row” of some kind, Los Angeles may be unique in having had an official planning policy of “containment” that insured that Skid Row would survive in concentrated form.¹⁴ Under this 1976 policy, shelters for the homeless were to be concentrated into the relatively narrow confines of Skid Row and away from the hoped for redevelopment of the Central Business District.

There was little resistance to the idea and little controversy until some industries (notably toy wholesaling and fish processing) moved into the area, attracted by the very low commercial rents. The rents, of course, reflected the circumstances in the area. Nevertheless, the Central City East Association, long led by toy dealer Charlie Woo, pushed for police sweeps of homeless encampments as early as 1985,¹⁵ but it was not until 2002 that the much more powerful Central City Association (CCA) became involved in a major way. CCA announced its views in a substantial report:

¹² Search of full text of Los Angeles Times available on ProQuest service. Search conducted September 4, 2007.

¹³ Analysis of LAHSA shelter inventory data.

¹⁴ See, e.g., Los Angeles Community Design Center, *Skid Row: Recommendations to Citizens Advisory Committee on the Central Business District Plan for the City of Los Angeles, Part 4: Physical Containment* (1976).

¹⁵ Frank Clifford and Penelope McMillan, *Raids Meant to Rid Skid Row of Its Homeless Encampments*, Los Angeles Times, p.1, February 19, 1987 (quoting CRA President James Wood as saying that “the impetus for the [police sweep of homeless encampments] came from Central City East, a business group representing about 40 companies on Skid Row that for two years have been urging City Hall to take more aggressive action against crime and to clean up the area.”

Downtown Los Angeles is on the cusp of an urban renaissance. Our fondest dreams of Smart Growth, with workers living in affordable, high density buildings near transit, employment, cultural, and retail centers may finally become a reality in Downtown. However, this renaissance is threatened every day by street encampments, drug deals, overdoses, and panhandlers.¹⁶

The CCA argued that “only by dispersing ‘homeless’ services throughout the city can we properly manage the public health and safety.”¹⁷

Residents and business of other areas of the City, however, have not generally been eager to have more services for homeless people, particularly mass shelters that both shelter guests and neighbors find disagreeable. A 2005 Shelter Partnership study for the County of Los Angeles found that:

To this day, the NIMBY [“Not in My Back Yard”] issue remains at the forefront of the siting difficulties for emergency shelters and transitional housing and represents one of the greatest challenges for both consumers and developers of housing for disabled populations. Even the most benign development projects encounter this form of opposition for a variety of reasons, including lack of information, fear, conflicts of interest, issues unrelated to the proposal itself, or discriminatory attitudes.¹⁸

2 African American Men are Greatly Overrepresented Among the Homeless Population of Skid Row.

Some of that NIMBY attitude no doubt has something to do with the race of those who would utilize the services that are being kept out of neighborhoods other than Skid Row. One cannot spend any time at all on Skid Row without observing that most homeless people on Skid Row are Black, and especially, Black men. Across the City of Los Angeles, African Americans are overrepresented among the homeless population by a factor of nearly 5, comprising nearly half the homeless population but only a tenth of the total.¹⁹ Across the City, men comprise 70% of the homeless population of the City.²⁰ The concentration of homeless people, including homeless Black men, in Skid Row reflects the relative lack of shelter outside Skid Row, as we discuss below. Some of the reasons for the high rate of homelessness among Black men generally in Los Angeles are complex. Others are not.

Among the latter is the fact that virtually every institution in society fails different groups at different rates. Although there is no good current data, past surveys have shown that most homeless people on Skid Row grew up in Los Angeles and attended local schools. Los Angeles schools, like other California schools, continue to fail African American children at a high rate.²¹

¹⁶ Central City Association, *Downtown’s Human Tragedy: It’s Not Acceptable Anymore*, p. 7, November, 2002, available at www.ccala.org/new/assets/CCA_documents/legislative_affairs/LegAffrsPublications/2002CCAhomelessnesswhitepaper.pdf

¹⁷ Id.

¹⁸ Shelter Partnership, Inc, *An Assessment of Los Angeles County’s Emergency Shelter System*, 77 (August, 2005).

¹⁹ African Americans comprised 47.5% of the 2005 homeless population of the City. Los Angeles Homeless Services Authority, 2005 *Greater Los Angeles Homeless Count*, January 12, 2006, p.44. According to the 2005 American Community Survey conducted by the Census Bureau, African Americans comprised 9.9% of the total population of the city.

²⁰ Id (LAHSA Homeless Count).

²¹ UCLA Institute for Democracy, Education and Access, *Separate and Unequal: 50 Years After Brown, California’s Racial “Opportunity Gap.”*

Many homeless men graduated from local high schools without being able to read or having learned a marketable skill. They have serious difficulty competing even for jobs that emphasize physical labor, given competition from a relatively skilled immigrant workforce. Other institutions and systems, including the health care, mental health, foster care, juvenile justice, and criminal justice systems have racially disparate impacts on Black children, youth and men. Many came of age in areas of the City plagued by the epidemic of crack cocaine. These phenomena and other institutions are beyond our scope here, but it bears keeping constantly in mind that the effects of discrimination and institutional failure, as well as bad luck and bad personal choices, are reflected in the composition of the people we see on the streets of Skid Row.

3 Most Homeless People on Skid Row are Severely Disabled by Mental Illness and Addiction or Both.

As the recent Shelter Partnership study points out, even assuming the existence of sufficient resources, housing and services for the disabled homeless are particularly difficult to site outside of Skid Row. For a variety of reasons, there is an especially high prevalence of severe and chronic mental illness, of substance addiction, and of individuals struggling with both mental illness and addiction among homeless people on Skid Row. The most methodologically sophisticated empirical research regarding the prevalence of mental disorders in the Los Angeles and Skid Row homeless population was conducted by Paul Koegel and associates in the 1980s and 1990s.²² Limiting the definition to diagnosable mental disorders of schizophrenia and major affective disorders, researchers found that about 28% of the Skid Row homeless had a severe and chronic mental illness. Two thirds of the sample described in 1999 were chronic substance abusers. More than three quarters (77%) of those with chronic mental illness were also chronic substance abusers. Based on sample surveys, projections from Countywide data, and informed estimates of experts and service providers with long experience on Skid Row, we can estimate that well over two thirds of the homeless population on Skid Row have a severe and chronic mental illness, a serious addiction problem, or very frequently, both major mental illness and a substance abuse problem.²³ Other estimates have been similar or higher. As noted above, the Central Area LAPD proposal for a “homeless reduction strategy” in 2002 stated that “reliable estimates claim some 60% of this population to be mentally impaired and 80% to be substance abusers.”²⁴

It should not require emphasis in 2007 that drug addiction alone is, both scientifically and legally, a disability with physiological roots. Recent science establishes that the vulnerability to addiction from cocaine or heroin is inherited, though the specific genes involved have not yet been identified.²⁵ Legally, drug addiction, like alcoholism, is an “impairment” under the definitions of a disability set forth in the Fair Housing Act, the Americans with Disabilities Act, and the Rehabilitation Act.²⁶ Current drug use may bar recovery under the ADA when

²² Paul Koegel, et al., *The Prevalence of Specific Psychiatric Disorders Among Homeless Individuals in the Inner City of Los Angeles*, 45 *Archives of General Psychiatry* 1085-1092 (1988). Paul Koegel, et al., *Utilization of Mental Health and Substance Abuse Services Among Homeless Adults in Los Angeles*, 37 *Medical Care* 306-17 (1999). The latter study also included a Westside sample.

²⁴ LAPD document “Homeless Reduction Strategies: Central Area,” October 4, 2002. FI000754.

²⁵ Andrew Saxon, et al., *Genetic Determinants of Addiction to Opioids and Cocaine*, 13 *Harvard Review of Psychiatry* 218-232 (2005).

²⁶ *Regional Economic Community Action Program, Inc. v. City of Middletown*, 294 F.3d 35, 46 (2002), citing *Buckley v. Consol. Edison Co.*, 155 F.3d 150, 154 (2d Cir.1998) (in banc) (recovering drug addict may be considered to have a “disability” under the ADA); *Teahan v. Metro-North Commuter R.R. Co.*, 951 F.2d 511, 518 (2d Cir.1991) (discrimination against substance abusers illegal under the Rehabilitation Act); *Rodgers v. Lehman*, 869 F.2d 253, 258 (4th Cir.1989) (holding that “[a]lcoholism is a handicapping condition within the meaning of the [Rehabilitation] Act”); *Sullivan v. City of Pittsburgh*, 811 F.2d 171, 182 (3d Cir.1987) (“Case law establishes that alcoholics are handicapped within the meaning of [the Rehabilitation Act].”).

a covered entity acts on the basis of that use²⁷ but the law recognizes that addiction itself can be a disability. The public has also come to understand that addiction is better treated than punished. In 2000, 65.5% of Los Angeles County voters supported Proposition 36, which mandated treatment instead of jail for nonviolent drug possession convictions.²⁸ As we shall see in the next sections, however, public policy in other areas has not caught up with either science or the understanding of the general public.

C. Access to Shelter and Housing for Homeless People on Skid Row

1 Introduction: The Meaning of “Available” Shelter or Housing.

People tend to frame the issue of availability of shelter or housing in two distinctly different ways, depending on whether they are homeless or not. First, for those who are not homeless the issue is often seen only at the “macro” level: how many beds are there, and how many of them are vacant at any point in time? At least implicitly, if there were significant numbers of available shelter beds, then those people still on the streets must be “shelter resistant,” seen as merely exercising a personal preference for street-dwelling.

The second perspective on the availability of shelter or housing is that of a homeless person. Obviously, knowing the total number of shelter beds in an area, or even the number of vacancies, is not enough. Consider the perspective of a homeless individual living makeshift on the sidewalks of Skid Row. Assume away for now any mental impairment brought on by mental illness or addiction. This person has accumulated a few things, including a tent and tarps to offer protection from sun or rain, some clothing, water bottles, and a few other “comfort” items. In order to make a rational decision about whether and where to seek more formalized shelter, simply knowing the number of shelter beds or housing units, or even the number of available beds or units, is not quite enough. He or she also needs to consider:

1. How do I find a vacant bed or housing unit if there is one?
2. If there are vacant beds, will they accept people of my gender?
3. Will I be back on the street early tomorrow morning anyway, given that the shelter is emptied every morning?
4. Will I have to give up some or all of my possessions for one night off the street?
5. Will I be separated from my spouse or significant other?
6. If my mental illness causes me to act out sometimes, will I still be admitted, and might I be thrown out?
7. Will I be subjected to religious sermons that conflict with my own beliefs?
8. Is this shelter, or the available bed, accessible to someone with my disabilities?

Depending on the real-world answers to these questions, the behavior of homeless people may be better described as making the best of a very bad situation rather than as “shelter resistant.”

²⁷ For example, ADA protection does not extend to “an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.” 43 U.S.C. 12210(a).

²⁸ California Proposition 36, County-by-County Breakdowns of the 2000 Initiative Votes (2000), www.prop36.org/county_results.html.

Our research focused on both levels of analysis: On the “macro” level: We reviewed and analyzed all available data on shelter beds. We obtained through formal public records act requests the data collected by the LAPD as to shelter vacancies. We reviewed other efforts to assess issues of availability or vacancy. We visited and interviewed people at virtually every shelter and temporary housing provider in Skid Row. We also conducted our own “experiment” in order to assist people we interviewed on the street who were looking for alternatives when the Winter Shelter Program ended. Finally, we consulted with knowledgeable people at LAHSA and at the County’s 211 program. On the “micro” level, we interviewed dozens of homeless people about their experiences in seeking shelter and housing. These interviews were conducted in multiple sites: the DPSS welfare office in Skid Row, the Twin Towers jail, the sidewalks of Skid Row, and Frank Rice Safe Haven operated by LAMP Community on San Julian Street. We also spoke with staff in shelters and housing providers, typically people with detailed knowledge of daily operations.

As explained in much greater detail below, what we found at the macro level was a dramatic imbalance between supply and demand for shelter in Skid Row, particularly when restrictions on access are taken into account. Put simply, there have been far more people seeking shelter in Skid Row than there are spaces for them. Until the launch of the Safer Cities Initiative by the Mayor, City Attorney, and LAPD, there was little controversy about this fact.²⁹ On analyzing LAPD’s routine collection of shelter data, we found that LAPD’s own data contradicts the often repeated claims by some within LAPD and of SCI supporters that there are many homeless people on the sidewalks by deliberate choice despite ample adequate alternatives.

As we also explain below, the shelter shortage at the macro level does not fully account for the inability of homeless people, particularly those with mental or other disabilities, to find and maintain shelter. Rather, as our interviews with both homeless people and shelter providers revealed, what may appear to be an “available” bed is available only at a very high personal and practical cost to the homeless person. When viewed with even a modicum of understanding, the choice to remain on the streets may be entirely rational, even for people whose decision-making may be somewhat impaired.

2 The Supply of Housing and Availability of Shelter in Los Angeles and in Skid Row.

The supply of very low cost housing has a direct impact on homelessness. To be sure, personal circumstances including disability play a role. Some social scientists have used the children’s game of “musical chairs” to make the point: individual abilities and some luck may determine which children are most likely to be left standing when the music ends. But if we increase the number of children or decrease the number of chairs, we can be sure that the total number of children left out will increase, and that those most often left standing will be those who are less adept at the game.³⁰

In Los Angeles, there are many more very poor people than there are housing units even remotely affordable to them. When the market and City policy lead to the loss of last-resort housing, as

²⁹ Los Angeles Homeless Services Authority’s inventory of emergency, transitional shelter beds on Skid Row does not meet demand. (LAHSA Exhibit 1 to 2006 SuperNOFA application to HUD, Page 45. FI006063.

³⁰ See, e.g., Kay McChesney, Family Homelessness: A Systemic Problem. 46 *Journal of Social Issues* 191-205 (1990); E. D. Sclar, E. D. Homelessness and Housing Policy: A Game of Musical Chairs., 80 *American Journal of Public Health* 1039-1040 (1990).

in the recent well-publicized case of the Alexandria and Frontier Hotels,³¹ amelioration of the loss comes in the form of developer subsidies to maintain rents for a small number of units at the “extremely low” levels defined by HUD. For Los Angeles, this means a rent affordable to a person with an income of \$1,295 per month.³² Notably, even the most fortunate of disabled homeless people *may*, after overcoming obstacles we document in a separate report, succeed in obtaining federal/state Supplemental Security Income (SSI) benefits amounting \$856 per month,³³ a third less than the income level defined as “extremely low” by HUD and the City. In some cities, such an income (to which most people in Skid Row can only aspire) is enough to afford stable housing. But when it comes to low-end housing, Los Angeles is the toughest market in the United States.

A recent national survey by the Center for Housing Policy found that Los Angeles ranked worst in the country in terms of the percentage of lower income tenants with a “critical housing need” (paying more than half of their income in rent or living in severely inadequate conditions). The rate of “critical housing need” for lower income people was 25.3% in Los Angeles, exceeding even that of New York City, which reported 21.6%.³⁴ In the competition for scarce housing, we should not be surprised to see those with impairments beyond poverty fail to secure any housing at all. Turning from the causes of homelessness to its amelioration, we examine in the next section the availability of shelter and nonstandard housing in Los Angeles, using data only recently collected.

a. The Inventory of Shelter and Temporary Housing.

LAHSA conducts an annual inventory of homeless beds and services in the LAHSA service area (County of Los Angeles excluding Pasadena, Glendale and Long Beach). In addition to information about beds and services, the survey obtains information about target populations, services provided, and daily capacity. Pursuant to the public records laws, the staff at LAHSA provided us with the forms used to collect information from shelter and service providers for 2007. We conducted our own analysis of these raw data. The table below summarizes our analysis of this as-yet unreleased data.

As is clear from Table 2, there is a very high concentration of shelter and housing for the homeless in the Skid Row area. Skid Row occupies about 0.85 square miles, equivalent to about .02 percent of the 4,060 square miles in the County or 0.18 percent of the 469 square miles in the City of Los Angeles.³⁵ As we discuss elsewhere, the concentration of shelter and services on Skid Row is largely the result of the conscious efforts of City officials beginning in the 1970s to “contain” homeless services to Skid Row. In addition to shelter or housing, other survival essentials for homeless people, including food, clothing, health care, and addiction treatment services, are also concentrated in Skid Row.³⁶ It is thus hardly surprising that Skid Row has long been “home” to the largest concentration of homeless individuals in the United States. Despite

³¹ See, e.g., David Zahniser & Jessica Garrison, “City Funding for Developer Angers Housing Advocates,” *Los Angeles Times*, September 15, 2007, p. 3.

³² Income limits for geographical areas are available through HUD at www.huduser.org/datasets/il/il2007_docsys.html.

³³ Social Security Administration, *Supplemental Security Income (SSI) in California*, 2007.

³⁴ Center for Housing Policy, *The Housing Landscape for America's Working Families*, 2007, available at www.nhc.org/pdf/pub/landscape2007_08_07.pdf.

³⁵ U.S. Census Bureau, *State and County Quickfacts*, available at quickfacts.census.gov/qfd/states/06/06037.html.

³⁶ Los Angeles Homeless Services Authority, 2005 *Greater Los Angeles Homeless Count*, January 12, 2006. See also: Shelter Partnership Inc., *An Assessment of Los Angeles County's Emergency Shelter System*, August, 2005.

the publicity given to cases of hospitals and police from other jurisdictions “dumping” homeless people in Skid Row, the vast majority of homeless people come to Skid Row on their own because they have few other alternative sources of the means to survive. Others are referred to shelters in Skid Row by parole officers and others who know as well as anyone how difficult it will be for an indigent person to find the means to survive elsewhere in the City or County. What homeless people find when they come to Skid Row depends on the season and upon their gender, disability status—and, of course—how many other homeless people are looking for the same scarce resources.

	Emergency Shelter	Transitional Housing	Permanent Housing
SPA 1 (Antelope Valley)	85	81	0
SPA 2 (San Fernando Valley)	172	656	207
SPA 3 (San Gabriel Valley)	52	193	0
SPA 4 (Metro)	2,243	2,537	4,032
SPA 5 (Westside)	116	689	425
SPA 6 (South)	195	444	181
SPA 7 (East)	176	513	81
SPA 8 (South Bay)	176	513	81
LAHSA Area Total	3,086	5,350	5,088
Skid Row (InSPA 4)	1,337	1,977	2,771
Skid Row % of County Total	43.3%	37%	54.5%

b. Overall Vacancy Rates in Skid Row Shelters.

There is no dispute that there are extremely few vacancies in the transitional and permanent housing in Skid Row potentially available to homeless individuals. In addition, all of the emergency shelter operators with whom we spoke³⁷ indicated that they must routinely turn away some homeless people seeking shelter. Nevertheless, in relation to the Safer Cities Initiative in Skid Row, there has been some controversy over whether there is or has been vacant and available space in the emergency shelters of Skid Row. The official gloss on the City’s policy regarding the enforcement of the City ordinance prohibiting sleeping on sidewalks was that the LAPD did not “apply the law when beds in shelters aren’t available.”³⁸ Moreover, every night,

³⁷ Shelters included in interviews were Union Rescue Mission, PATH, LAMP, Midnight Mission, and New Image Shelter.

³⁸ Captain Andy Smith, quoted in Richard Winton and Patrick McGreevy, “Appeal of Skid Row Ruling is Urged,” *Los Angeles Times*, April 19, 2006, p. B-4.

assigned officers of the LAPD call seven shelters in Skid Row and record the number of reported vacancies, generally finding between 70 and 150 available beds.³⁹

Through the California Public Records Act, we requested and obtained from LAPD the original call sheet records of these calls. We analyzed these nightly call sheets provided by LAPD for the periods both before and after the beginning of the Safer Cities Initiative. Table 3, below, provides a summary of the data collected by LAPD between September 1, 2006 and March 14, 2007. From one point of view, given the numbers of homeless people in Skid Row, the difference between two unused beds and 200 is of minimal policy relevance. However, when many shelter providers and a small research study conducted to try to replicate the findings of the LAPD found far fewer vacancies than LAPD was reporting,⁴⁰ the LAPD responded with outrage.⁴¹ We therefore report on this issue in more detail than might otherwise be warranted.

Shelter	Capacity: Male	Median Available Beds: Male	Median Vacancy Rate: Male	Capacity: Female	Median Available Beds: Female	Median Vacancy Rate: Female	Median Vacancy Rates Combined
Los Angeles Mission	148	0	0.0%	0			0.0%
Midnight Mission	20	0	0.0%	20	0	0.0%	0.0%
Salvation Army Safe Harbor	150	0		0			0.0%
St. Vincent Cardinal Manning Center	58	0	0.0%	0			0.0%
Transition House	80	16	20.0%	36	19	52.8%	30.2%
Union Rescue Mission	216	13	6.0%	300	48	24.0%	14.7%
Volunteers of America	24	2	8.3%	8	2	25.0%	12.5%
Total	696	36	4.5%	264	69	26.1%	10.4%
T-House and URM	296	29	9.8%	236	67	28.4%	18.0%
Total Excluding Transition House and URM	400	2	0.5%	28	2	7.1%	0.9%

³⁹ Anat Rubin, "Critics Dispute LAPD's Assessment of Shelter," *Los Angeles Daily Journal*, Anat Rubin, "Police Deny Inventing Empty Beds on Skid Row," *Los Angeles Daily Journal*, December 18, 2006, p. 1.

⁴⁰ Gary Blasi, Shelter Availability In Los Angeles' Skid Row and The Enforcement Of L.A.M.C. § 41.18(D), November 13, 2006.,

⁴¹ *Supra*, [Rubin, 12-19]. *The Daily Journal* did not publish a letter from Captain Andy Smith which we obtained through the Public Records Act. In that letter Captain Smith attacked the story as reflecting "what happens when a journalist's personal views blind them from reality" (sic) as well as the motives of a source quoted in the story, referring without specifics to "UCLA Professor Gary Blasi, a longtime critic of our department." Blasi is unaware of prior criticisms of the LAPD other than those associated with police "sweeps" of the homeless in Skid Row in the 1987. See Penelope McMillan, "L.A. Homeless on Skid Row to Face Arrest," *Los Angeles Times*, May 29, 1987, p. 1.

As Table 3 shows, the nightly LAPD surveys of seven shelters revealed a median nightly number of available beds of 100 (31 for men, 69 for women), for the period from September 1, 2006 to March 14, 2007. During the same period, LAPD was conducting biweekly counts of homeless people on the streets of downtown. The median number of street dwelling homeless counted by LAPD during this period⁴² was 789 men and 310 women,⁴³ or 25 men and 3.5 women for every reported open shelter bed.

LAPD reports of total open shelter beds, however, are seriously misleading, for reasons we now explain. We begin by noting that the vast majority of beds reported as available, both before and after SCI began, were at two facilities: Transition House and the Union Rescue Mission. While the other shelters surveyed by LAPD reported a median of four (4) available beds, for a median vacancy rate of 0.9%, Transition House and Union Rescue Mission together reported a median of 96 beds, computing to a vacancy rate of 18%. If all these shelter providers were truly serving the same “market” of homeless people, one would not expect to see two shelters with a combined vacancy rate nearly 20 times that of others in the same “market.”

We thus made some effort to determine the source of the apparent discrepancy. As for Transition House, one clue is provided on the very form used by LAPD to collect data. That form notes that Transition House requires a “referral from any downtown mission.” It is not clear how a homeless person obtains such a referral, or if any such referrals in fact happen. On further inquiry, however, we determined that the disparity between reported vacancy rates at Transition House and other shelters in Skid Row was almost certainly, in the words of the warden in *Cool Hand Luke*, a “failure to communicate.” Transition House only has 29 emergency shelter beds. The other beds are reserved for program purposes and funded by a variety of funding streams. Because of turnover in the programs and the vagaries of funding, there may often be beds that while, literally unoccupied, are not “available” in any meaningful sense. What was reported to LAPD was thus almost certainly the total number of unoccupied beds, whether or not those beds were, under any circumstances, available to a homeless person seeking shelter who was not enrolled in the program funding those beds.⁴⁴

There is a similar explanation for the vacancy data reported by the Union Rescue Mission. According to Carrie Gatlin, Vice President of Eimago (the secular arm of URM that accepts government funding), there are several factors at work. First, URM “holds” a certain number of beds for LAPD each night. A homeless person or social worker calling might be told that there were no vacancies, even though the beds reserved for LAPD were at that point unfilled.⁴⁵ Second, after questions were raised about vacancy numbers in the Daily Journal, Gatlin noted “There is no question that the time of day the calls are made for bed availability and the way LAPD qualifies the questions they are asking plays a critical role in getting an accurate count.”⁴⁶ Third, 48 of the 61 median vacancies reported to LAPD by URM were “set aside” for women. According to Gatlin, many of these are less accessible or desirable “upper bunks” in the women’s shelter.⁴⁷ These were observed by our team to be steel beds with a small ladder to the upper

⁴² The street count of homeless conducted by LAPD did not coincide precisely. Figures here are for the counts conducted between November 1, 2006 and March 15, 2007.

⁴³ Computed from numbers provided by LAPD to Cartifact, and reported at www.cartifact.com.

⁴⁴ Telephone interview with Esther Rivera, Skid Row Development Corporation (operator of Transition House), May 22, 2007.

⁴⁵ Interview with Carrie Gatlin at Union Rescue Mission, February 27, 2007.

⁴⁶ Email from Carrie Gatlin to Andrew Smith and others, October 19, 2006.

⁴⁷ Id, [Interview with Carrie Gatlin at Union Rescue Mission, February 27, 2007.]

bunk that would require considerable physical ability to climb.⁴⁸ In any event, however, there is no controversy that the great majority of homeless individuals cited or arrested for sleeping on the sidewalk have been men, as might be expected. The 2005 Greater Los Angeles Homeless Count enumerated 2,303 homeless men and 579 homeless women on Skid Row.⁴⁹ The median number of available beds reported by URM as available for men, even given the qualifications above, was 13.

Although the nightly LAPD surveys cover a longer time period than any other available empirical data, we do have some independent evidence of the state of the shelter system in Skid Row during particular periods. One of the authors of this study (Blasi) supervised a study of shelter availability by having people effectively assume the role of a homeless person or shelter provider (but without misrepresenting their status) and asking about an available bed at a larger set of 18 shelter programs in Skid Row. The total number of beds reported available on a nightly basis over the 7 days of the survey ranged from zero to 15, with a median of 11 beds per night, many of which were likely filled after the time of contact with the shelters.⁵⁰

3 Housing and Shelter for People with Mental and Other Disabilities.

Just as knowing the total number of unoccupied shelter beds does not help a homeless person without the means to locate one of them, the existence of an unoccupied shelter bed or housing unit is irrelevant to a homeless person whose access to that bed or unit is restricted by gender or disability. For example, there are by all estimates far more homeless men in Skid Row than homeless women.⁵⁰ Yet, more than two thirds of all unoccupied beds reported by LAPD were restricted to women (see Table 3).

Beyond gender, shelter and housing providers both restrict and target the availability of their resources. As we explain below, people with serious mental disabilities, those addicted to drugs (also a disability under the Americans with Disabilities Act), and most problematically, those suffering from both, are excluded by these restrictions. On the other hand, some shelter and housing providers specifically aim to serve the homeless population with one or more of these disabilities. Our analysis of LAHSA shelter inventory data reveals that there are 971 emergency or transitional housing beds throughout the entire County for people with mental disability or mental disability and addiction. By comparison, the mental health wing of the Twin Towers jail houses approximately 2,000 prisoners with mental disabilities,⁵² many of them homeless people caught up in the Safer Cities Initiative in Skid Row.

The imbalance between need and availability of shelter for homeless people with severe mental disabilities, chronic substance abuse, or both is particularly striking. Table 4 compares the most recent available counts of homeless individuals in Los Angeles County with the complete inventory of shelter and housing for homeless individuals in Los Angeles County. These data

⁴⁸ Observations at URM on March 1, 2007.

⁴⁹ LAHSA, 1005 Greater Los Angeles Homeless Count, at 26.

⁵⁰ Gary Blasi, *Shelter Availability in Los Angeles' Skid Row and the Enforcement of L.A.M.C. § 41.18(d)*, UCLA School of Law, November 13, 2006, available at www.law.ucla.edu/docs/SHELTER%20AVAILABILITY%20IN%20LA-1113.pdf.

⁵¹ Shelter Partnership Inc., *An Assessment of Los Angeles County's Emergency Shelter System*, August, 2005.

⁵² Los Angeles County Department of Mental Health, "Jail Transition and Linkage Services Program Description," document provided in response to Public Records Act request.

make clear why there are on a daily basis so few available or vacant beds or spaces for homeless people, particularly those with mental disabilities or substance abuse problems. There are about 3.6 homeless people for every shelter or housing bed in the inventory countywide. For people with disabilities, the situation is even worse. For every shelter bed or housing unit developed to serve them, there are more than 13 homeless people with severe mental illness. And there are 21.5 homeless people suffering from chronic drug or alcohol addiction for every shelter bed or housing unit developed to meet their needs.

Category	Homeless in Category	Targeted Beds in Inventory	Homeless Per Targeted Bed
Total Homeless Population	48,103	13,400	3.6
Mentally Ill	17,077	1,294	13
Substance Users	22,079	1,026	21.5

The available data do not provide a means for estimating the number of homeless people suffering from both mental illness and addiction disease. According to many of the experts we interviewed, homeless people with mental disabilities, including the very large number who receive no routine mental health care and thus have no access to prescription medication, often “self-medicate” with drugs much more easily obtained on the street. In addition, addicts who find themselves homeless—like other homeless people—experience the kind of stress that often brings on mental disorders, especially major depression. The service delivery system is still catching up to the reality of the prevalence of “dual diagnosis” or “co-occurring disorders.” Shelters that accept those with mental disabilities often exclude active drug users. Shelters that accept addicts often exclude people whose mental disabilities cause behavior problems. Though we do not know the total number of homeless people with co-occurring disorders, we do know from LAHSA’s current survey of the shelter and housing inventory that there are in the entire County only 36 emergency shelter beds and 355 transitional housing units targeting this population. And in Skid Row, with by far the heaviest concentration in the County of homeless people with co-occurring disorders, there are zero (0) emergency beds, 66 transitional housing units, and 232 units of permanent housing that target this population.

The residual population of street-dwelling homeless people in Skid Row, so many of whom quite evidently suffer from both mental disabilities and addiction disease, is thus not surprising—unless they can find shelter in one of the general purpose shelters or housing programs. However, we know from the discussion above that all homeless people in Skid Row face stiff competition for even a bed for the night, to say nothing of a housing unit, with or without supportive services. There is certainly no reason to believe that those suffering from severe mental illness, serious drug or alcohol addiction, or combinations of these problems are *more* able to compete for shelter than recently homeless individuals suffering from no disability beyond lack of money

⁵³ Population totals are point in time numbers from 2005 Greater Los Angeles Homeless Count, p. 44. Available shelter beds are from unpublished LAHSA data, 2007.

for rent. Further, even if the disabled can locate an empty bed in Skid Row, they face additional obstacles. The shelters and missions of Skid Row vary in their degree of tolerance for the mentally ill, addicts, and alcoholics.

For example, homeless women at the Union Rescue Mission are told that they may be suspended for “verbal abuse” and that “drugs/alcohol use and paraphernalia or possession, are grounds for loss of shelter privileges.” A woman who leaves the dormitory after 8:00 p.m. faces “automatic loss of shelter privileges” for 30 days.⁵⁴ The Midnight Mission requires total abstinence from drugs or alcohol and requires people with opiate-based addictions to sign a form confirming that they will undergo withdrawal without close supervision.⁵⁵ The Weingart Center has a “zero tolerance policy” regarding a range of behaviors; each guest is required to sign an acknowledgment regarding 22 specific rules.⁵⁶ The Weingart Center’s Project Paycheck transitional housing program requires proof of 90 days of sobriety.⁵⁷ Other Weingart Center shelter programs exclude people with certain mental disabilities or mentally ill people taking certain medications.⁵⁸ Access to shelter also generally requires that a homeless person with an addiction problem deal with that problem on the street, before being admitted to a shelter. Transition House requires 30 days sobriety.

Indeed, LAMP is the only shelter in Skid Row that does not exclude active drug users from its shelter programs.⁵⁹ Approximately 80% of LAMP’s clients have co-occurring mental and addiction disorders, nearly all of whom have been screened out of other shelter programs in Skid Row.⁶⁰ And all shelters have behavior standards with which some homeless individuals with severe mental disorders simply cannot comply. Skid Row Housing Trust reports that more than half of their clients have mental disorders, a fact attributed to the fact that most other shelter and housing programs exclude the mentally ill.⁶¹ The imbalance between need and services is illustrated by the fact that when Skid Row Housing Trust opened the Rainbow supportive housing facility designed to serve homeless individuals with mental disabilities, the Trust received more than 500 applications for 90 available slots.⁶²

D. The Policing Response: The Safer Cities Initiative

In every community and across time, the police are often called upon to deal with the consequences of social problems and policy disasters, whether they relate to gangs, mental health problems, family breakdowns, and so on. Dealing with homelessness in Los Angeles is no exception. Over the years, LAPD has repeatedly been called on to deal with issues of homelessness in Skid Row, even before the term “homelessness” was known to local public discourse. Twenty

⁵⁴ Union Rescue Mission, Women and Family Programs, *Policy and Procedures*, revised November 7, 2006.

⁵⁵ Interview at Midnight Mission with Orlando Ward, February 28, 2007.

⁵⁶ Weingart Center Association, *Zero Tolerance Acknowledgment*, part of Weingart Access Center Intake Form package, provided February 23, 2007.

⁵⁷ Interview at Weingart Center with Charles Suttles and Tracey Weathers, February 23, 2007.

⁵⁸ Interview with Jason Mitchell, Program Manager of Weingart Access Center, February 23, 2007.

⁵⁹ Interview with Shannon Murray, Deputy Director, and Casey Horan, Executive Director of LAMP, March 2, 2007.

⁶⁰ Id.

⁶¹ Interview with Molly Rysman, Director of Special Projects, Skid Row Housing Trust and Craig Fenner, Supportive Housing Director of Skid Row Housing Trust, February 23, 2007.

⁶² Id.

years ago, an aggressive Police Chief Daryl Gates announced that homeless people had seven days to get off the streets of Skid Row or face arrest.⁶³ Prefiguring some of the arguments set out by the Ninth Circuit Court of Appeal in *Jones v. City of Los Angeles* in 2006, then-City Attorney James Hahn refused to prosecute those arrested so long as there was inadequate shelter,⁶⁴ and the *Los Angeles Times* of that era editorialized that homeless people “need safe shelter, not jail cells. Mayor Bradley and Chief Gates should call off the arrests.”⁶⁵

Almost exactly two decades later, a new Mayor—a former President of the ACLU of Southern California elected with strong support from liberal and progressive elements in the City—would announce an effort that former Chief of Police Darryl Gates might never have imagined—an unprecedented “deployment of 50 more police officers to Skid Row, marking the launch of the Safer City Initiative to reduce crime in that area.”⁶⁶ To be sure, the press release also spoke of “... leading those who need help to housing and services.” Chief William Bratton was quoted as saying “... we will never arrest our way out of this problem [homelessness], nor do we intend to.”⁶⁷ In addition to these 50 officers of the “SCI Task Force,” over the next few months LAPD also launched a series of “buy/bust” sting operations that resulted in literally thousands of arrests. As of the first year anniversary of the heralded launch of the SCI, two things have become clear. First, the Los Angeles Police Department has expended enormous effort and resources on law enforcement in Skid Row, sending thousands of Skid Row residents to jail or State Prison and issuing well over 10,000 citations for less serious violations. And, to be sure, crime of most kinds is down on Skid Row—although the causal nexus between that fact and the SCI deployment appears more complicated than might first appear. And the numbers of homeless individuals sleeping on the streets of Skid Row declined significantly, before stabilizing at between 700 and 800.

Based on our research and investigation, we agree with Chief Bratton’s assessment that the “Police Department has done what it said it would do.” But we also share his assessment that in other respects, there has often been “lip service” rather than action or resources.⁶⁸ The promised expansion of outreach and services has paled by comparison. While just the 50 officers assigned to the SCI Task Force have cost approximately \$5 million, the “Streets or Services” program that was to have provided an option to those facing arrest for the crime of sleeping on the sidewalk was funded with \$100,000, and even that came out of the discretionary budget of the City Attorney rather than as part of any allocation for the Skid Row SCI. In the press release announcing the launch of SCI, the Mayor promised an expansion “of the “Streets or Services” program (SOS, which provides misdemeanor arrestees with the opportunity to enroll in rehabilitation programs).”⁶⁹ The City continued to tout SOS as showing the SCI involves a helping hand and not just handcuffs. We report below in greater detail on both the successes and limitations of the SOS program. There is, however, little question about the relative magnitude of the “helping hand” approach in SCI, as revealed by LAPD’s own data. We were able to obtain through the Public Records Act the necessary databases to compare both aspects of the program for the first three months of this year.

⁶³ “Gates Orders Homeless to Leave,” *Los Angeles Times*, May 28, 1987, p. 1.

⁶⁴ Bill Boyarsky and Penelope McMillan, “Won’t Prosecute Homeless Who Are Arrested – Hahn,” *Los Angeles Times*, May 30, 1987, p. 1

⁶⁵ “Jail for the Homeless,” [unsigned editorial], *Los Angeles Times*, June 1, 1987, p. 4.

⁶⁶ Office of the Mayor Press Release, “City Launches Initiative to Reduce Crime on Skid Row; 50 More Police Officers Deployed to Area.”

⁶⁷ *Id.*

⁶⁸ Interview with Chief William Bratton, June 28, 2007.

⁶⁹ *Id.*

Table 5⁷⁰: LAPD Arrests and SOS Services – 1/1/07 – 3/14/07

	Number	Percentage of Total
Total Arrests in Period (Estimated)	2,073	100%
Misdemeanor Arrests (Estimated)	580	28%
Evaluated for SOS Referral	303	15%
Substance Users	101	5%
Admitted to SOS Program	7 ⁷¹	0.3%

Table 6⁷²: Safer Cities Initiative Summary – 8/1/06 – 6/1/07

Citations Written	10,342
Felony Arrests	5,070
Misdemeanor Arrests	2,218
Arrests on Warrants	240
LAPD Mental Health (MEU/SMART) Contacts	306
SOS Program Graduates	34

While the “services” side of SCI has been minimal, the policing side has not. In one of the most intensive police deployments in history, the LAPD has issued a relatively huge number of citations and made a remarkable number of arrests. The geographical area of Skid Row (Main Street to Alameda Street, Third Street to Seventh Street) comprises about 0.85 of the 465.9 square miles

⁷⁰ All data from Los Angeles Police Department, “Central Division Safer Cities Initiative” PowerPoint and Fact Sheet dated March 14, 2007. Arrests during period estimated from total arrests reported and on proportion of SCI Task Force arrests made during stated time period, compared to total arrests in data in database of arrests supplied pursuant to California Public Records Act. 1059 of the 2867 (37%) of SCI Task Force arrests occurring through March 14, 2007 occurred on or after January 1, 2007. Multiplying by the total arrests reported (5613) produces the estimate of 2073 arrests during this period. Of these, we would expect 28%, or 580, to be misdemeanors, based upon the overall proportion of misdemeanors to total arrests. Only alleged misdemeanants are eligible for SOS services.

⁷¹ More recent data, through June 5, 2007, indicates that a total of 34 people had completed the 21 day program offered by PATH (People Assisting the Homeless) as part of SOS—out of 195 referrals of persons arrested for sleeping on the sidewalk, and while LAPD was making 7,528 arrests of all kinds as part of SCI. *Safer Cities Initiative Fact Sheet*, June 5, 2007, obtained from Office of the Mayor pursuant to the California Public Records Act.

⁷² All data from *Safer Cities Initiative Fact Sheet*, June 5, 2007, obtained from Office of the Mayor pursuant to the California Public Records Act.

of the City.⁷³ The population of Skid Row, both sheltered and unsheltered, is generally estimated to be less than 10,000 people, living in residential hotels, in shelters, and on the streets.⁷⁴ LAPD's nightly street count of homeless people on the sidewalks of Skid Row counted 1,876 people on the streets just before SCI began. In this small area during the first 10 months of the Safer Cities Initiative, LAPD reported the arrests, citations and other contacts summarized in Table 6.

While the basic data on arrests and citations are thus straightforward, the meaning of these data— and the consequences of this police activity (intended and otherwise) is not. In this section we first provide a context and history of the SCI on Skid Row, and then examine these data and their implications more closely.

1 Introduction: The History Leading to the Expanded “Safer Cities Initiative” in September, 2006.

The current policing initiative in Skid Row appears to have begun in 2002, the same month that Chief William Bratton assumed command of the Department. But it does not appear to have originated with Chief Bratton, who was sworn in on October 25, 2002.⁷⁵ Three weeks earlier, on October 4, 2002, LAPD's Central Area, which covers Skid Row, had produced its own internal strategic document called *Homeless Reduction Strategies*.⁷⁶ Given the subsequent history, the candor of both the document's title and some of its content are notable. This document noted that “Reliable estimates claim that some 60% of this population to be mentally impaired and 80% to be substance abusers.” It drew parallels to earlier concentrations of LAPD resources to address prostitution in Hollywood in the 1980's and homicide in the South Bureau some years later. It noted that Central Area had “developed multiple strategies to address this issue” but that “without sufficient personnel resources even the best strategies will be unsuccessful.” It proposed “A minimum of twenty additional officers deployed, in addition to the existing eight officers currently assigned to the enforcement of homeless quality of life type issues.” And it proposed working with the City Council offices, the Business Improvement Districts, and the City Attorney to “impact the problem of the criminal homeless.” In addition to at least 20 officers, the document recommended adoption of “anti-camping and anti-public urination/defecation ordinances” and “disbursement [sic] of Social Services providers from within Central Area.”

The Central Area police command found an astute and receptive audience in the new Chief three weeks later. In November, 2002, the month after he assumed command of the Los Angeles Police Department, Chief William Bratton “embraced two massive sweeps of Skid Row” that had been planned earlier. Three months later, in February, 2003, he announced that he would be implementing a “broken windows” policing strategy for dealing with three areas of the City, including Skid Row.⁷⁷ The theory postulates that serious crime is spawned by the perceived or

⁷³ City of Los Angeles Information Page, at www.ci.la.ca.us/facts2.htm.

⁷⁴ The “homeless count” conducted by the Los Angeles Homeless Services Authority counted 3668 homeless people in Skid Row, including 1994 in shelters and 1674 on the streets. See, www.lahsa.org/archive/homelesscount2005/pdfs/LAHSAR%20Report%20-%20Final%20Version6-4.pdf at 33. The number of people in residential hotels is dynamic and declining, as some of these hotels have been taken out of the low cost rental housing stock for conversion to other purposes.

⁷⁵ LAPD Press Release, “Police Commission Reappoints Chief Bratton to Second Term,” June 19, 2007, available at www.lapdonline.org/newsroom/news_view/35667.

⁷⁶ FI000755.

⁷⁷ Richard Winton and Kristina Sauerwein, “LAPD Tests New Policing Strategy; Chief Picks Three Areas as Proving Grounds for His ‘Broken Windows’ System to Fight Crime,” *Los Angeles Times*, February 2, 2003, p. 1.

actual tolerance of minor crime and “quality of life” offenses.⁷⁸ James Q. Wilson, UCLA emeritus professor and an originator of the “broken windows” theory of policing was quoted in the same newspaper article as saying that looming in the background is the real problem facing the LAPD: a lack of resources, with no relief in sight, given the local and state budget crises. “I think it will affect how people feel about their neighborhood for the better. If you can prove that a strategy works in these places, ... then maybe the politicians will come up with money to make real improvements.”⁷⁹

George Kelling, Professor of Criminal Justice at Rutgers and a Senior Fellow at the conservative Manhattan Institute, was author with Wilson of the original “broken windows” article. He was also a member of Chief Bratton’s transition team and put under contract with the City for an initial \$20,000 for a three month period beginning November 1, 2002, one month after Chief Bratton assumed command.⁸⁰ Over the next four years, through June 30, 2006, Kelling and his Hanover Justice Group, LLC, received contracts totaling \$458,000 for consulting services related to the Safer Cities Initiative.⁸¹ Shortly after the commencement of the Safer Cities Initiative in Skid Row, the Mayor asked for another \$108,000 for Kelling’s group, bringing the total to \$556,000.⁸²

Professor Kelling’s many contributions to the evolution of the initiative from “Homeless Reduction Strategy” to the “Safer City Initiative” are apparent from the minutes of the meetings of Kelling with the group of City officials and key private figures⁸³ as the strategy – and the public relations spin – evolved. By September, 2003, LAPD was estimating that 50 additional officers would be needed to enforce a proposed anti-camping ordinance in Skid Row, and that it would take “a couple of months of enforcement action to change the culture, and then foot beat would be needed to maintain.”⁸⁴ For his part Kelling was arguing that it would be necessary to “get the high moral ground” and that “the group should have op-ed pieces ready for submission, explaining the strategy and tactics of the group, before enforcement action begins.”

The concern with appearances and public relations continued as a major focus of planning. At the September planning meeting, the group discussed the problem by beginning a crackdown before the forthcoming holiday season:

[Deputy City Attorney Dena] Sohn raised the question about whether a kick-off date in November was realistic – i.e., getting additional officers trained – and appropriate – i.e. the holiday season” The group agreed on both counts and pushed the target date back until the first of the year.⁸⁵

⁷⁸ James Q. Wilson and George Kelling, “Broken Windows: The Police and Neighborhood Safety,” *Atlantic Monthly* 29-38 (March, 1982).

⁷⁹ *Supra*, note 77.

⁸⁰ City Council File C-104308, January 29, 2003.

⁸¹ Memorandum from William T. Fujioka, Chief Administrative Officer, to City Council, dated February 8, 2006.

⁸² Memorandum from William T. Fujioka, City Administrative Officer, to Mayor and Council RE Los Angeles Safer City Initiative, dated October 20, 2006, p. 1.

⁸³ These included Tracy Lovejoy, of the Central City East Association and Ralph Plumb of the Union Rescue Mission.

⁸⁴ Minutes, “LA Safer City Initiative, Central City East,” September 19, 2003,” obtained through the California Public Records Act, quotations attributed to Rick Dedmon of LAPD.

⁸⁵ Minutes of L.A. Safer City Project – Central City East, September 19, 2003, obtained through the California Public Records Act.

Councilmember Perry's Chief of Staff, Kathy Godfrey, suggested that a proposed anti-camping ordinance be brought before City Council after the holidays in January, 2004.⁸⁶

The October 3, 2003 meeting noted that "moral arguments need to be developed from every point of view: health concerns, child safety, etc."⁸⁷ On November 6, 2003, the press liaisons from the different agencies met to "develop a coordinated strategy for communication to the press regarding the forthcoming effort in Skid Row" and developing the "message of the effort" (i.e. the problem is 'lawlessness,' not 'homelessness').⁸⁸ However, there was *no* discussion at the meeting about lawlessness other than violations that inevitably accompany homelessness in the absence of adequate shelter or other facilities: sleeping or sitting on the sidewalk, conducting biological functions in locations other than bathrooms. Rather, the focus was entirely on discouraging visible homelessness in Skid Row. For example, the second item on the agenda addressed whether the sidewalks in Skid Row could be narrowed to make sidewalk dwelling more difficult.⁸⁹

Indeed, one of the more remarkable aspects of the minutes of the initial planning meetings for the Safer City Initiative in Skid Row is that the *only* "lawlessness" discussed in *any* of these meetings involved the crimes that arise directly out of homelessness in the absence of available shelter or facilities, like sleeping or "camping" on the sidewalk. Although it would figure prominently in the public relations effort that accompanied the Safer Cities Initiative in Skid Row, in the meetings of August, September, October, and November, 2003, there was in the minutes of these meetings not a single mention of any "crime" that does not necessarily accompany homelessness when there is a lack of shelter or other facilities: nothing about drug sales, nothing about violence perpetrated against homeless people. Nothing.

The unintended ironies in the planning meeting minutes are sometimes rather striking. For example, at the same time the group was discussing the need for legislation to be able to arrest homeless people for urinating or defecating in inappropriate locations, the following comments were reported in the minutes for August 6, 2003 (marked "not for circulation outside of committee"):

There was a general consensus that the existing portable toilets are deplorable. Councilwoman Perry's office counted that over 1,000 individuals used the portable toilets in an eight hour period at St. Julian Place. LAPD officers have pictures of individual defecating beside the toilet.⁹⁰

The minutes of this group, which included not only police officers, politicians and Skid Row business interests but also Ruth Schwartz of the Shelter Partnership organization and Joel Roberts of People Assisting the Homeless, reveal that the group apparently did not discuss

⁸⁶ Id. Councilmember Perry introduced a motion to ask the City Attorney to draft an ordinance to ban camping in public in Downtown Los Angeles on October 9, 2002. Los Angeles City Council File Number 02-214, available at www.lacity.org. The ordinance was drafted by February 19, 2003. Letter of that date from Luis Li, Office of the City Attorney, to Chief William Bratton. The motion never emerged from the Public Works Committee to which it was referred. Los Angeles City Council File Number 02-214, available at www.lacity.org.

⁸⁷ Minutes, "LA Safer City Initiative, Central City East," October 3, 2003," obtained through the California Public Records Act.

⁸⁸ Minutes, "LA Safer City Initiative, Central City East," November 7, 2003," obtained through the California Public Records Act. This meeting was also attended by Ruth Schwartz of the Shelter Partnership.

⁸⁹ Id.

⁹⁰ Minutes, LA Safer City Project – Central City East, August 6, 2003, obtained through California Public Records Act.

the shortage of facilities that might result in 1,000 people using a single toilet in 8 hours or some having to go beside the (presumably occupied) portable toilet. Also not reported is the amount of City resources devoted to counting homeless people using a toilet for 8 hours or having police officers photograph those forced to defecate next to the portable toilet.

As the “broken windows” theory came to be applied to Skid Row after the 2002 holiday season, the vast majority of arrests were for sitting or lying on the sidewalk, a violation of Section 41.18(d) of the Los Angeles Municipal Code.⁹¹ This section provides in pertinent part as follows:

No person shall sit, lie or sleep in or upon any street, sidewalk or other public way. The provisions of this subsection shall not apply to persons sitting on the curb portion of any sidewalk or street while attending or viewing any parade... nor...to persons sitting upon benches or other seating facilities provided for such purpose by municipal authority...

In January, 2003, LAPD presented 135 cases of 41.18(d) violations to the City Attorney, whose office prosecuted 116.⁹² In February, 2003, not long after the crackdown in Skid Row began, Attorney Carol Sobel and the ACLU sued the City in federal court to enjoin 24 hour per day enforcement of Section 41.18(d).⁹³ But the federal district court dismissed the case on summary judgment.⁹⁴ Between January 1, 2003 and March 4, 2004, LAPD had made 1,474 arrests for violations of this section.⁹⁵ Section 41.18(d) continued to be the major tool of the early Safer City Initiative. But it was ineffective in reducing the visible homeless population in Skid Row. Even as arrests and prosecutions rose, so too did the number of encampments on the streets of Skid Row. Between May, 2003 and December, 2003, the number of encampments more than doubled, from 128 to 344.⁹⁶

There are two reasons that 41.18(d) and associated “quality of life” arrests could not and did not significantly decrease the offending visible homeless population in Skid Row. First, those convicted of sleeping on the sidewalk might be sentenced to a jail cell (and bed) for a time, but they would be released back to the streets after a short time because of the overcrowding in the County jail system. Released a few blocks from Skid Row and with few other options for food, shelter and other basic needs, these individuals very often returned to the scene of their “crime.” More dramatically, however, in April, 2006, the United States Court of Appeals for the Ninth Circuit held that Section 41.18(d) was unconstitutional as applied to the streets of Los Angeles. Finding that “Section 41.18(d) is one of the most restrictive municipal laws regulating public spaces in the United States” and that the application of the law to homeless people in an area

⁹¹ For example, of 1,154 “quality of life” arrests referred to the City Attorney for prosecution between July 1, 2003 and March 31, 2004, 731 were for violations of Section 41.18(d), nearly five times the next most frequent violation, the 143 arrests for violation of Penal Code Section 647(j), which makes it a crime if a person “lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.” Notably, during that entire period, only one 41.18(d) and one 647(j) case went to trial. The rest of the homeless defendants, presumably represented by the Public Defender, pleaded guilty or in some cases had their cases dismissed. Documents provided by City Attorney in response to request under California Public Records Act.

⁹² Chart, “LAMC 41.18D Cases Submitted to Reyes and Number of Encampments.”

⁹³ Jocelyn Stewart, “ACLU Sues to Block Enforcement of L.A. Ordinance Against Homeless,” *Los Angeles Times*, February 20, 2003, p. 3.

⁹⁴ The case was reinstated by the Ninth Circuit Court of Appeals nearly three years later, on April 14, 2006. *Jones v. City of Los Angeles*, 444 F.3d 1118 (2006).

⁹⁵ Analysis of arrest-level database provided by LAPD and City Attorney under California Public Records Act.

⁹⁶ Chart, “LAMC 41.18D Cases Submitted to Reyes and Number of Encampments.”

with “the highest concentration of homeless individuals in the United States” and in a City with a great shortage of shelter beds and housing, the Court ruled that

the Eighth Amendment [prohibiting cruel and unusual punishment] prohibits the City from punishing involuntary sitting, lying, or sleeping on public sidewalks that is an unavoidable consequence of being human and homeless without shelter in the City of Los Angeles.⁹⁷

Although the City would appeal the decision of the Ninth Circuit panel and was then free to resume use of Section 41.18(d), an informal accommodation of sorts was reached: that Section 41.18(d) would only be enforced during the daytime.

As we explain below, however, misdemeanor enforcement of Section 41.18(d) and other “quality of life” laws—all of which may result in a stay in jail followed by release back to the streets—was supplemented by another strategy focused on the very high proportion of drug addicts and those who are both mentally ill and drug addicted and living on Skid Row. This effort resulted in sending many homeless addicts to State Prison, from which they would not be returning anytime soon to the streets of Skid Row. In the meantime, the officers of the Safer Cities Initiative wrote thousands of citations in Skid Row for every imaginable infraction, including citations for “littering” upon the dropping of a cigarette ash, that would be ignored elsewhere in the City. If a homeless person receiving such a citation does not pay a substantial fine, a warrant is issued for his or her arrest. The next encounter with the police then results in a warrant check and a trip to jail because of the outstanding warrant. Thus, even for those with no drug problems and little chance of being sent to State Prison, the “Safer City Initiative” made Skid Row a very risky place for a homeless person to be. A less mentally impaired population, particularly one with more choices, might have gotten the message and moved out of the area. Although some did, many remained.

As we also detail below, from the beginning, the “Safer Cities Initiative” was claimed to combine both aggressive policing and the provision of social services or alternatives to incarceration, especially for those whose offenses were the direct product of homelessness (i.e., sleeping on the sidewalk in violation of Municipal Code Section 41.18d). The Mayor’s press release announcing the launch of the 50-officer effort in September 2006, spoke of targeting crime “while also leading homeless individuals to housing and services,” and “expanding the ‘Streets or Services’ program” operated by the City Attorney.⁹⁸ Although the 50 additional officers were to be drawn from other areas, thus requiring no changes in the City Budget, the cost to the General Fund of 50 police officers for one year is approximately \$6 million.⁹⁹ By comparison, the Mayor requested additional funding for the City Attorney of \$175,000, to pay for one Deputy City Attorney and a paralegal, but with no funding for housing or services.¹⁰⁰ The City Attorney nonetheless carried on, with funding provided internally by City Attorney Rocky Delgadillo.¹⁰¹ Of the thousands arrested, however, only a small fraction has had access to the “services” branch

⁹⁷ *Jones v. City of Los Angeles*, 444 F.3d. 1118, 1138 (2006).

⁹⁸ Office of the Mayor, “City Launches Initiative to Reduce Crime on Skid Row: 50 More Police Officers Deployed to Area,” [Press Release], September 24, 2006.

⁹⁹ Calculated from the LAPD budget, including both personnel and support services, and the number of sworn officers deployed in the City.

¹⁰⁰ Memorandum from William T. Fujioka, City Administrative Officer, to Mayor and Council re “Los Angeles Safer City” Initiative, dated October 20, 2006.

¹⁰¹ Letter from CAO William T. Fujioka to Mayor and Council, October 20, 2006, p.2.

of the “Streets or Services Program.” In the sections that follow we also compare the promises of the Mayor’s press release announcing the SCI with what actually happened, both with regard to policing and the provision of services or alternatives to jail.

Finally, in this section we examine the contention that incarceration may be the best chance some mentally ill and addicted people have to receive treatment for their problems, that arrests by LAPD can constitute a sort of “outreach” for services provided by others, like the State Prison or County Jail. Although no one argues that this is in fact the purpose of the arrests, many—including Chief Bratton himself—argue that it may be a positive byproduct of the SCI.¹⁰²

2 12,000 Citations and their Consequences.

As noted above, the SCI resulted in 10,342 citations in the first 10 months of the initiative, almost exactly 1,000 citations per month, of which nearly 90% have been written by the 50 officer SCI Task Force.¹⁰³ We can thus expect the annual yield of citations of the SCI to be about 12,000. Although LAPD has been able to produce such summary statistics for internal City purposes, in response to several requests under the California Public Records Act, LAPD contends that it is unable to provide data on the nature of the infractions for which citations have been issued in Skid Row by officers affiliated with SCI. We have thus turned to two other sources of data to assess these summary data. First, we have sought and obtained access to data on 120 citations brought into a free legal clinic set up by the Legal Aid Foundation of Los Angeles and volunteer attorneys from the law firm of Fulbright and Jaworski, at the offices of the Los Angeles Community Action Network on Main Street in Skid Row. While we cannot say that the sample of citations brought to the clinic is a random sample of all citations issued, we have no reason to believe that there is any systematic bias in the sample. The other source of data on citations throughout the City is that collected and reported pursuant to a federal civil rights consent decree against LAPD.¹⁰⁴ Among the data collected are data on pedestrian stops and citations.

a. Pedestrian Citations are 48 to 69 Times More Frequent in Skid Row than Elsewhere in Los Angeles.

Infraction or Offense	Number of Citations	Percentage
Pedestrian Signal Violations (Walking on ‘Don’t Walk’ Signal, Flashing or Solid)	68	56.7%
Other Pedestrian Violations (Jaywalking, Walking in Roadway)	37	30.8%
Other Violations (Littering, Public Urination, etc.)	15	12.5%
Total	120	100%

¹⁰³ *Safer Cities Initiative Fact Sheet*, June 5, 2007, obtained from Office of the Mayor pursuant to the California Public Records Act, indicates that of 10,342 citations issued between August 1, 2006 and June 1, 2006, 8,943 were issued by the SCI Task Force.

¹⁰⁴ See, e.g., *Consent Decree Arrest, Discipline, Use of Force, Field Data Capture and Audit Statistics Covering Period of July 1, 2006 to December 31, 2006*, available at www.lapdonline.org/assets/pdf/Website%20Report,%20Jul-Dec%202006.pdf.

The latter data on pedestrian citations are significant for comparative purposes because, based on the sample data from the LACAN clinic, the great majority of citations issued are for pedestrian violations, as seen in Table 7.

Assuming these citations are reasonably representative, we can project that the LAPD officers assigned to the SCL are writing about 875 pedestrian citations per month in Skid Row. This compares to 6,977 pedestrian citations per month written by all the offices of LAPD across the entire City.¹⁰⁵ To give some sense of the frequency of citations in Skid Row, Table 8 compares the area, population, and number of citations.

Percentage of Area	0.18%
Percentage of Population	0.26%
Percentage of Pedestrian Citations	12.5%

In other words, all other things being equal, the odds of a person receiving a pedestrian citation are between 48 and 69 times greater in Skid Row than in the rest of the City. Of course, different areas of the City vary by the relative density of foot traffic as well as how observant people are of traffic signals and the like.

b. The Citations of Indigent, Mentally Disabled and Homeless People Can Lead to Arrest and Incarceration.

For most residents of the City, a citation for jaywalking or walking against a signal light are a reminder, an inconvenience, and an unplanned expense. The “fine or bail” for the most common violation, walking against the “don’t walk” signal is \$25.00. But by the time the various penalties and assessments are added (including sums earmarked for court facilities, DNA testing, and emergency medical services), the total comes to \$159.00.¹⁰⁶ Again, for many of us this may be an inconvenience. But to someone subsisting on County General Relief, it is equal to nearly three weeks total income.¹⁰⁷ And for a person with no income at all, there is no possibility of paying the “fine or bail.” Those who do not pay can try to contest the citation in court, but a very high proportion of those cited in Skid Row are simply too disabled to comprehend what that might entail. Some few hundred have sought help from the clinic mentioned above, and in the case of those who were subsisting on General Relief the citations have been dismissed with the concurrence of the City Attorney or by the Court on its own motion.¹⁰⁸ But for thousands of persons cited who are unable to pay the “fine or bail,” the result is an arrest warrant for failure to appear.

¹⁰⁵ Pedestrian Violation Citations for the last six months of calendar 2006 were 41863.

¹⁰⁶ Los Angeles Superior Court, 2007 *Bail Schedule for Infractions and Misdemeanors*, pp. 2, 33.

¹⁰⁷ The General Relief grant/loan is \$221 per month. About 60,000 Angelinos try to subsist on this income.

¹⁰⁸ Interview with Jose Egurbide, Deputy City Attorney, April 23, 2007.

An interaction that began with an officer writing a ticket to a mentally disabled person unable to get his shopping cart across the intersection in time¹⁰⁹ will have a more severe result the next time that person encounters a police officer: he will be arrested and taken to jail pursuant to the warrant. Fragile arrangements for food and shelter are likely to be disrupted and possessions lost in the shuffle. Certainly, there is no apparent mental health benefit to a trip to the County Jail, even for a short time.

c. “Homeless Court” and Other Programs Ameliorate Only a Small Fraction of the Impact of Citations.

As described on the website of the principal sponsor:

Public Counsel has worked closely with the Los Angeles County Superior Court, the Los Angeles City Attorney, and the Los Angeles County Public Defender to establish a procedure that will reward homeless and formerly homeless individuals for connecting with residential and rehabilitation programs by resolving minor traffic and quality of life offenses to help facilitate their efforts to reintegrate with society.¹¹⁰

Some might think that, given the long waiting lists at “residential and rehabilitation” programs that no additional encouragement or “reward” is necessary. Of the thousands issued citations, however, only a small fraction will qualify in any event. Applicants for “Homeless Court” must (1) complete 90 days in a “rehabilitative” program, (2) avoid getting any new citation for six months; and (3) obtain a letter of support from an agency caseworker.¹¹¹ We observed one session of “Homeless Court” and understand how valuable it can be for those who are able to access it. Given the number of citations and low grade misdemeanor arrests taking place as part of SCI, however, it is clear that “Homeless Court” offers scant amelioration for the effects of 1,000 citations per month.

The same must be said of the clinic staffed by the Legal Aid Foundation and volunteer attorneys from Fulbright and Jaworski and other firms. Initially established to assist tenants of downtown facing eviction to make room for development, the clinic operated out of the offices of the Los Angeles Community Action Network has expanded to offer legal assistance with citations. The clinic operates on one evening per week and has helped more than 200 people thus far. While there are no extensive barriers comparable to those to access “Homeless Court,” it is still the case that many people with significant mental and other disabilities will not be able to seek help at the clinic. Homeless people who must line up in the evening in order to secure a night of emergency shelter may forgo clinic services altogether. The efforts of these volunteer attorneys and law students are to be applauded as helping hundreds obtain their day in court, but cannot hope to serve 1,000 clients per month, even if those cited manage to get to the Thursday night clinic.

d. The Ostensible Purposes of the Citations are Not Well Served.

Generally speaking, police write citations in order to provide incentives to alter behavior and increase safety. And certainly the relatively large number of pedestrian citations written in Los Angeles produces visibly different behavior than one observes on the streets of New York City, for example. On the other hand, it is far from clear that issuing such citations

¹⁰⁹ This is perhaps the most publicized citation in Skid Row, as a result of the relationship between Nathaniel Ayers and Steve Lopez, columnist for the *Los Angeles Times*. See, Steve Lopez, “Here’s A Jaywalking Ticket That’s Nonsense,” *Los Angeles Times*, August 19, 2007.

¹¹⁰ www.publiccounsel.org/overview/hap.html.

¹¹¹ *Los Angeles Homeless Court Application Form*.

to people who are seriously mentally impaired will have the desired effect. Deterrence theory may in this case presuppose an unwarranted degree of economic rationality on the part of the affected population. Recall that the LAPD itself has estimated the prevalence of mental illness on the streets of Skid Row at well above 50%.

It is also not clear that the real purpose of issuing this massive number of pedestrian citations in Skid Row is truly increased safety of pedestrians. If that were the goal of the City, one might see some effort at improving the pedestrian signals themselves. Many areas of the City, for example, have “count down” pedestrian signals that provide some warning before the “don’t walk” signal appears. By our observations, there is not a single signal of this type in Skid Row, to say nothing of the audible and other signals of the kind one finds in many other cities with a more pedestrian-friendly culture. Absent some real effort in this regard—in addition to writing thousands of citations destined to lead to arrest warrants—the City risks confirming the suspicion that the real aim of even this aspect of SCI is to make the area sufficiently risky and unpleasant for poor and homeless people that they will leave the area.

There may be some parallel in the “littering” citations issued as part of SCI. Although these citations are outnumbered by pedestrian violations, newspaper accounts of citations issued to people in Skid Row for dropping a cigarette ash¹¹² have added to suspicions of the kind just mentioned. Having spent hundreds of hours in Skid Row over the past few months, we were often tempted to litter ourselves, for a simple reason: there are no public trash cans in the area. We were able to carry our trash out of the area in our pockets, but people who live in the area do not have that option. If the underlying purpose of citing people for littering is reducing trash on the street, it might not take a Masters in Public Policy to decide that providing trash receptacles might be a part of the solution. Sadly, we were told in recent weeks that an effort by people in the Office of the Mayor to secure funding for eleven (11) trash cans in Skid Row failed because of a lack of available funding. One is left to wonder about the relative cost of having uniformed police officers issuing, and our courts and City Attorney then processing, hundreds of citations for dropping litter that might have, literally, gone in the can if there had been one.

Finally, there is a possibility that the issuance of massive numbers of citations for pedestrian infractions, littering and the like is part of a “broken windows” theory of policing, intended to lead to the reduction of more serious crime. Certainly, Chief Bratton is a proponent of this theory, as we discuss below. The “broken windows” theory posits that “visible signs of disorder”—whether broken windows, accumulations of trash on the street, or rampant jaywalking—lead to a perception that law and order has broken down in an area, thereby encouraging criminality of a more serious sort. This is an interesting and controversial theory at a more general level. But in this case, the ground-level details are more complicated. For example, we were told by the City Attorney that the early belief that the massive amounts of trash on the streets of Skid Row were the product of homeless people turned out not to be true, when SCI police officers observed local businesses dumping their trash on the street. And it appears that the most common serious crime is declining more rapidly in the part of Central Area outside Skid Row than in Skid Row itself.

3 The Safer Cities Initiative Has Resulted in About 750 Arrests per Month.

As part of the management of the Safer Cities Initiative, LAPD has routinely produced a “Safer Cities Initiative Fact Sheet.” The data in Table 9 below is from the “Fact Sheet” produced June 5, 2007 and reports on all arrests made by all elements of the SCI:

¹¹² Anat Rubin, *One Downtown but Two Sets of Rules?* *Daily Journal*, June 20, 2007, p. 1.

Table 9: Safer Cities Initiative Arrests, by LAPD Unit – 8/1/06 – 6/1/07

LAPD Unit	Arrests	Percentage
Eastside Detail and Metro Mounted	3,263	56.7%
Narcotics Unit Teams	37	30.8%
Total Arrests	15	12.5%

In addition to these summary data, we analyzed two separate databases regarding arrests obtained through the California Public Records Act, one regarding arrests made as part of SCI between September 24, 2006 and April 25, 2007. The other included all arrests within Central Area (including Skid Row) made by all elements of LAPD, including the normal complement of officers assigned to Central Area as well as those officers specifically designated as part of SCI between August 1, 2006 and June 30, 2007.

a. More than Half SCI Arrests are for Drug Offenses

Adjusting for the fact that these databases cover slightly different time periods, we can conclude the following with regard to arrests made by all units associated with the Safer Cities Initiative on a monthly basis: more than half of all SCI arrests are for drug offenses.

Table 10: Safer Cities Initiative Arrests Drug-Related and Other Arrests Monthly Averages

Infraction or Offense	Monthly Average	Percentage
Drug Arrests (Total)	415.94	55.3%
Sales, Possession for Sale	194.77	25.9%
Possession, Other Drug Arrests	221.17	29.4%
Non Drug Arrests (Total)	336.86	44.7%
Average Monthly Total Arrests	752.80	100%

b. Few of the Non-Drug Arrests are for Serious or Violent Crimes

As part of its own COMPSTAT system and the federally mandated crime reporting system, LAPD compiles monthly reports on the incidence of crimes and of arrests in each of its geographic areas. These emphasize serious and violent crimes like homicide, robbery, rape and aggravated assault. We analyzed all arrests made within Skid Row, as well as all arrests made by the SCI Task Force. Again, because the datasets are for slightly different time periods, we calculated the monthly number of arrests for both drug-related and other crime, reported in Table 11.

Table 11: SCI Task Force Non-Drug Arrests – 9/25/06 – 4/25/07

Offense	Total Arrests
Non-drug arrests (total)	1,346
Homicide	1
Robbery	8
Rape	0
Aggravated Assault	13
Serious Violent Felonies (Total)	21

4 On Closer Examination, Much of the SCI Campaign Against “Drug Dealers” in Skid Row Appears to Target Ordinary Addicts, Many of Whom are Mentally Disabled.

Among the more striking facts reflected in Table 10 is that there are about as many arrests for drug sales as for drug possession. Could there really be as many drug dealers on Skid Row than there are addicts? The puzzle is solved when one realizes that most of the “drug dealers” caught in the SCI “buy/bust” operations have been ordinary addicts to whom LAPD undercover officers have made offers they cannot refuse.

Consider the case of Mr. Y, whose case file we reviewed with a Deputy Public Defender. Mr. Y, a homeless Black male addict, was approached on a Skid Row corner by an undercover police officer who offered him \$20 for two rocks of crack cocaine. Mr. Y told the supposed drug buyer that he didn’t have any drugs, but that for \$20 he could probably get some if the supposed buyer would share either the money or the drugs. Mr. Y then went to another homeless addict and obtained 2 rocks of crack cocaine weighing less than one fifth of a gram in total. When he took these drugs to the undercover officer and passed the \$20 to his friend, he was arrested for the sale of narcotics. The police report reflected that this “drug deal” sting involved no less than 25 LAPD officers (13 in plain clothes and 12 uniformed officers). Because Defendant Y has prior drug convictions on his record, the District Attorney initially insisted on a term of six (6) years in State Prison. This homeless crack cocaine addict finally agreed to accept a sentence of three years in State Prison for being the middleman in the sale of 0.0067 ounces of cocaine to a team of 25 police officers.

Our conversations with judges and public defenders in the Criminal Courts building suggest that what happened to Mr. Y – both on the streets of Skid Row and in the courthouse – is not at all exceptional. The operation of the “buy/bust” team in the case of Mr. Y was replicated in numerous other cases we reviewed. Even the amount involved (\$20) appeared to be uniform across virtually every case we reviewed. Public defenders and judges in a position to see hundreds of cases, including Judge Van Sicklin, Supervising Judge of the Criminal Courts, reported that drug

cases arising in Skid Row were receiving similar, and unprecedented, sentencing demands from the District Attorney.¹¹³ The Office of the District Attorney denies having a policy of demanding exceptionally stiff sentences in cases arising in Skid Row and offers an alternative account for why sentencing policy in Skid Row has changed so dramatically, if coincidentally, with the launch of the Safer Cities Initiative. We examine these issues in greater detail below.

a. Most Drug “Sales” Arrests are for the Small Quantities of Drugs Usually Possessed by Addicts.

We sought through the Public Records Act but were unable to obtain data on the quantity of drugs involved in the drug sales arrests made by all LAPD elements as part of the Safer Cities Initiative. We did obtain the data on arrests from one element, the SCI Task Force, for all arrests through April 25, 2007. Most drug arrests by the SCI Task Force officers (about 90%) are for possession rather than sales.¹¹⁴ Of those arrests for drug sales or possession for sale of drugs other than marijuana, the median weight of drugs involved was 2.58 grams (0.09 ounces). There has been one, but only one, well publicized case of a drug distribution ring connected to Skid Row taken down by LAPD during the course of SCI, 31 arrests of people connected to the “5th and Hill” gang that allegedly controlled much of the heroin trade in central Los Angeles.¹¹⁵ It is not really contested that the overwhelming number of arrests for drug sales, whether by the SCI Task Force or the “buy/bust” teams involve small quantities of drugs.¹¹⁶

Nor is there any doubt that the overwhelming number of drug sales arrests have been made in “sting” operations conducted by the “buy/bust” teams, in which a drug sale transaction is initiated by an undercover officer posing as a prospective buyer. The SCI Task Force officers, however, are not undercover and make drug sales and other arrests based on observation or information received from sources. In the seven months covered by the database of 2,901 SCI Task Force arrests we obtained, only 99 arrests (3.4%) were for sales or possession for sale of cocaine or heroin. Between August 20, 2006 and March 9, 2007, 88.5% of the 1,188 arrests by the Narcotics Division “buy/bust” teams were for drug sales (85.8%) or possession for sale (2.7%).

What do these numbers mean? Is there a difference between a person observed by an SCI Task Force officer offering to sell drugs on the street and an addict who is arrested after an undercover officer makes him what is, effectively, “an offer he can’t refuse?” There is no legal difference, unless the behavior of the undercover officer amounts to entrapment—and the routine “sting” procedure followed by the “buy/bust” teams certainly did not go over the legal line in this regard. But there may be a policy difference. In terms of their impact on the community, it seems one thing for people, addicts or not, to be hawking crack cocaine or heroin on the street. It seems quite another, however, for a homeless, mentally disabled person also crippled by addiction to be offered money by an undercover officer to help the undercover obtain drugs. For both the arrested addict and for the rest of us, the consequences of these small quantity drug sales arrests can be quite severe.

¹¹³ Interview with Judge Steven Van Sicklin, April 11, 2007.

¹¹⁴ Not counting marijuana arrests, through April 25, 2007, the SCI Task Force had made 1,011 possession arrests, compared to 99 arrests for sales or possession for sale.

¹¹⁵ Richard Winton, *Downtown Drug Gang Is Toppled*, *Los Angeles Times*, March 15, 2007, p. 1

¹¹⁶ Comments of Deputy Chief Sergio Diaz at meeting with LAPD command staff on September 6, 2007.

b. Homeless Addicts Arrested in Drug Sales Stings are Made Ineligible for Treatment and Programs Funded by Proposition 36

In 2000, the voters of California, including 65.5% of the voters in Los Angeles County,¹¹⁷ overwhelmingly enacted Proposition 36. The first two “findings and declarations” of Proposition 36 were as follows:

- (a) Substance abuse treatment is a proven public safety and health measure. Non-violent, drug dependent criminal offenders who receive drug treatment are much less likely to abuse drugs and commit future crimes, and are likelier to live healthier, more stable and more productive lives.
- (b) Community safety and health are promoted, and taxpayer dollars are saved, when nonviolent persons convicted of drug possession or drug use are provided appropriate community-based treatment instead of incarceration.¹¹⁸

Proposition 36 mandated that nonviolent drug possession offenders receive probation with specific conditions:

As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court may also impose as a condition of probation participation in vocational training, family counseling, literacy training and/or community service.¹¹⁹

However, the alternative sentencing mandated by Proposition 36 is not available to an individual convicted of either sales or possession for sale of drugs.¹²⁰

Consider the case of Defendant X (identity redacted for confidentiality reasons), described by an experienced criminal judge with whom we spoke, before whom the man had recently appeared. This homeless addict was arrested in Skid Row in the course of the police breaking up a homeless encampment. In the course of the arrest and search of his sleeping bag, three rocks of crack cocaine were discovered. He was arrested and prosecuted for the crime of possessing narcotics for sale. Following the policy of the District Attorney with regard to drug cases arising in Skid Row—and, according to the judge, only Skid Row—the Deputy District Attorney in the case refused to accept a plea for less than 3 years in State Prison. Both judges and public defenders told us that the same case before the Safer Cities Initiative on Skid Row would have resulted in a charge of simple possession and a diversion to a drug program under Proposition 36. The “possession for sale” charge made Defendant X ineligible for the treatment the voters mandated in Proposition 36. Although disagreeing about the motivations for the change, officials in the Office of the District Attorney agree that plea bargain and sentencing policies for drug offenses are now more severe for cases in Skid Row, but deny that these are more severe than elsewhere in the County, as we discuss further in the next section.¹²¹

¹¹⁷ California Proposition 36, County-by-County Breakdowns of the 2000 Initiative Votes (2000), www.prop36.org/county_results.html.

¹¹⁸ Section 2, The Substance Abuse and Crime Prevention Act (Proposition 36), available at www.drugreform.org/prop36/fulltext.tpl.

¹¹⁹ *Id.*, at Section 5.

¹²⁰ Penal Code 1210, as amended by Section 4 of Proposition 36, available at www.drugreform.org/prop36/fulltext.tpl.

¹²¹ Interview with Thomas P. Higgins, Head Deputy District Attorney, Complaints Division, September 12, 2007.

c. The Plea Bargain and Sentencing Policies of the District Attorney Combine with LAPD Drug Enforcement Tactics to Send Ordinary Addicts to State Prison.

As noted, the Office of the District Attorney denies that current plea bargaining and sentencing policies for offenses arising in Skid Row are harsher than elsewhere in the County. To the contrary, Head Deputy District Attorney Thomas P. Higgins told us that this is a misperception caused by the confluence of two events unrelated to the inception of the Safer Cities Initiative. First, the District Attorney's office, in collaboration with LAPD, adopted a program to impose a "stay away order" as a condition of probation for individuals arrested in the "5th Street Corridor" of Skid Row, to exclude from this area people who were coming to Skid Row from outside the area. This area (between 4th and 6th Streets and Broadway and Central) had long had a history of significant drug activity. Mr. Higgins indicated that the "stay away" order had been his idea, based on similar orders in prostitution cases. Whatever its origins, this policy was communicated to trial deputies by Janet Moore, Director of the Bureau of Operations of the Office of the District Attorney on October 24, 2006,¹²² three weeks after the public announcement of the Safer Cities Initiative by Mayor Villaraigosa.

The other factor Mr. Higgins identified as contributing to the alleged misperception of unequal treatment of addicts on Skid Row, compared to the rest of the County, was the fact that the downtown Criminal Courts Building had long had a "culture of lenient sentencing," a culture that Mr. Higgins described as a "cancer" that had developed because plea bargains based on lenient sentences increased the number of dispositions and resulted in fewer trials—and thus less work for deputy district attorneys, public defenders and judges. His office had made a concerted effort to bring the downtown criminal courts more in line with courts in the other parts of the County.

Mr. Higgins' account was disputed by judges and public defenders who have worked in other areas of the County, who allege that the same drug offense committed in Venice or another area of the City will result in a much less aggressive posture by the deputy district attorneys prosecuting these cases. The same arrest in Venice that would lead to probation and a drug treatment program, they assert, will lead to a demand for State Prison if the arrest occurs in Skid Row. They also report that deputy district attorneys assigned to these cases say that their hands are tied in Skid Row drug cases by office policy. We, of course, are not in a position to decide exactly where the truth lies here. We did make an effort to obtain actual data on sentencing from the Office of the District Attorney but were rebuffed. According to Mr. Higgins, the data would not be that helpful because it does not contain information on prior convictions, which plays a large role in sentencing in drug cases. We expect to continue to explore this area through the Public Records Act and by other means.

Where there is some agreement among all sides of the criminal justice system is with respect to the timing of the change in District Attorney's policy on plea bargains in Skid Row drug cases. Most connect the timing to the outraged response to the facts revealed in a column by Steve Lopez in the *Los Angeles Times* about a drug dealer, Miguel Muñoz, who served a couple of weeks of a 120 day County Jail sentence for selling a half pound of powder cocaine, enough to make \$15,000 worth of crack. Lopez' article quoted from Higgins extensively, as well as from LAPD Detective Ron Hodges. The Lopez article appeared ten days before the official launch of the Safer Cities Initiative. Several of the public defenders with whom we spoke noted that Detective Hodges seemed to often be in the courtroom, monitoring the plea bargains of Skid Row drug cases after the launch of the SCI. The LAPD has denied that either the department in general or Detective Hodges in particular monitored the disposition of cases.

¹²² Memorandum to "All Deputy District Attorneys" from Jane Moore re: "5th Street Corridor Stay Away Order," October 20, 2006.

5 Homeless and Mentally Ill Addicts Sent to State Prison are More – Not Less – Likely to Return as Chronically Homeless Individuals.

As noted previously, there are a few possible motivations for trying to arrest addicts for sales rather than simple possession of the same small quantities of drugs: (1) those arrested for drug sales, as opposed to simple possession, are ineligible for diversion programs mandated by the voters when they enacted Proposition 36 and will thus be out of sight of Skid Row for much longer; by comparison, those sentenced to County Jail time will be released back to the streets of Los Angeles after serving only a fraction of their sentences because of the severe overcrowding in Los Angeles County Jails, and thus will soon be back among the visible homeless of downtown; and/or (2) addicted and/or mentally ill individuals who receive no treatment on the street may receive care and treatment in jail or prison. As we explain below, the second possible motivation rests on a false factual premise – that addicted and/or mentally ill inmates are likely to receive useful treatment or care while incarcerated in either County Jail or State Prison. As we have indicated above, the actions if not the public pronouncements of public officials in Los Angeles are consistent with their holding the first motivation, simply to remove the addicted and mentally ill from the streets of Skid Row.

Unfortunately for both these policymakers and for individuals with mental disabilities and/or addiction, the policies that flow from and demonstrate these motivations are counterproductive, with likely unintended but nevertheless severe consequences for both the City and the people involved. The same policies that may physically remove homeless mentally ill and/or addicted individuals from the streets of Skid Row for a time, may also insure that these same individuals are rendered permanently ineligible for the very treatment and housing they need to become non-homeless. Thus, at the end of this process, Los Angeles may face an even more intractable problem than the one it is currently attacking through the Los Angeles Police Department.

a. Addicts Returning to Los Angeles After Serving Time for Drug-Sales Offenses Face Exclusion from Federally Assisted Housing and the Food Stamp Program.

The short term effect of the Safer Cities Initiative in making thousands of arrests for drug sales may be to remove to State Prison a large number of homeless addicts for a few years. However, when these individuals are eventually released, they will be ineligible for the very housing and other programs that might enable them to avoid returning to the streets. Their drug felony convictions will bar them from receiving, among other things, some housing assistance, federal welfare benefits, or food stamps. Current policy may thus effectively be creating a class of potentially permanently homeless disabled persons in the City of Los Angeles.

Police tactics and prosecution policies that turn ordinary addicts, many of them mentally ill, into drug dealers and felons are also likely to create an entirely new class of the hyper-dispossessed: homeless and seriously disabled individuals who are categorically ineligible for the very housing and services that are essential to their treatment and recovery. Upon their inevitable release, every person arrested and convicted of a drug offense, whether possession or sales, faces exclusion from federally assisted housing – the vast majority of subsidized housing potentially available to them.¹²³ Those addicts caught up in the “buy/bust” operations of SCI for small quantity drug sales and prosecuted as felons face exclusion from both federally funded food stamps and federal welfare (TANF).¹²⁴ California has exercised its authority to “opt-out” of the food stamp ban on those convicted

¹²³ 42 U.S.C. § 13661(c) authorizes housing programs receiving federal funds to exclude persons who have “engaged in any drug-related or violent criminal activity.” The Housing Authority of the City of Los Angeles exercises this authority. HACLA, “Admissions and Continued Occupancy Policy,” available at www.hacla.org/public_documents/acop.pdf.

¹²⁴ 21 U.S.C. § 862a.

of simple possession who enroll or complete drug treatment programs, but the ban remains in place to those convicted of drug sales or distribution of any quantity.¹²⁵

b. Homeless People with Mental Disabilities and Addiction Problems Do Not Find Treatment in State Prison.

Given the wide publicity regarding the inability of the incredibly overcrowded California State Prisons or the County Jail system to meet basic needs of inmates, it is not surprising that neither system can be relied upon to provide useful treatment for either mental illness or drug addiction. To the contrary, there is significant evidence that incarceration in either system leaves released inmates facing more problems than those with which they entered. The mental health care provided to inmates in the State Prison system was found to violate the minimal standards imposed by the 8th Amendment's prohibition on "cruel and unusual punishment" in 1995 and has remained under federal court supervision ever since.¹²⁶ In February of last year, United States District Judge Thelton Henderson appointed a receiver "to take control of the delivery of medical services to prisoners confined in California state prisons."¹²⁷ As Judge Henderson would later write:

The Court took this extraordinary step of last resort because the State's conceded inability to discharge its constitutional obligations had led to such a crisis in the delivery of medical care in California state prisons that, on average, "one inmate needlessly dies every six to seven days due to constitutional deficiencies."¹²⁸

It requires optimism bordering on the delusional to believe that this State Prison system can or will provide significant, effective therapeutic interventions for inmates with either or both mental illness or the disease of drug addiction.

6 The "Streets or Services" and Other Non-Police Components of the Safer Cities Initiative Have Not Materialized to Any Significant Degree.

The Mayor's press release announcing the Safer Cities Initiative in Skid Row spoke of "expanding the 'Streets or Service' program (SOS, which provides misdemeanor arrestees with the opportunity to enroll in rehabilitation programs)."¹²⁹ The press release went on to note that:

The Safer City Skid Row Initiative is part of the City's comprehensive approach to addressing homelessness in Los Angeles. The Mayor recently announced the City will pay for housing for more than 2,000 homeless individuals and families through the City's Section 8 voucher program. He also announced the City will devote \$100 million to permanent supportive housing for the homeless and to other affordable housing units for the second year in a row.¹³⁰

¹²⁵ California Welfare and Institutions Code § 18901.3. AB508 (Swanson), passed on September 17, 2007 by the California legislature, would have California "opt out" completely of the federal ban on food stamps to drug felons. It has not as of this writing been acted upon by the Governor.

¹²⁶ *Coleman v. Schwarzenegger*, Slip Opinion, May 23, 2007, 2007 WL 1521567 (E.D. Cal., 2007).

¹²⁷ *Plata v. Schwarzenegger*, Slip Opinion, June 04, 2007, 2007 WL 1624495 (N.D. Cal., 2007).

¹²⁸ *Id.*, citing prior order in same case, Findings of Fact and Conclusions of Law Re Appointment of Receiver, October 3, 2005, at 1.

¹²⁹ Office of the Mayor, *City Launches Initiative to Reduce Crime on Skid Row: 50 More Police Officers Deployed to Area*, September 24, 2006.

¹³⁰ *Id.*

a. Emergency Shelter and Supportive Housing

Responses to our requests under the public records laws to various City agencies did not reveal any instance in which homeless individuals in Skid Row obtained Section 8 vouchers. Nor have we been able to identify units of City-funded permanent supportive housing for the homeless of Skid Row that have come on line since the Safer Cities Initiative began, other than the reprogramming of \$2.4 million in federal funds previously allocated to other housing and shelter programs to pay for 199 previously available but unfunded beds.¹³¹

One initiative was more directly connected to the Safer Cities Initiative. First, four days before the public launch of SCI, Council members Jan Perry and Eric Garcetti introduced a motion directing City officials to try to find the funding for 500 homeless shelter beds. The connection to SCI was clear from the motion as well as the timing:

The Police Department must have the necessary resources in order to implement the Safer Cities initiative in Skid Row. This means we need to have the funding necessary to immediately open additional shelter space in the City of Los Angeles. We need 500 beds.¹³²

The last entry in Council files on the matter, on March 6, 2007, reported the Council's vote to instruct City officials to

continue to work with the Los Angeles Homeless Services Authority, the Los Angeles Housing Department and other departments as necessary, to identify a budget and funding to establish and site 300 additional emergency beds...¹³³

It is not clear whether these additional beds (beyond the 200 (or 199) that had already been opened with reprogrammed federal funds) ever materialized.

b. The "Streets or Services" ("SOS") Program.

The "Streets or Services" Program has been the only effort at directly connecting the policing effort in Skid Row with shelter and other services. In addition to our own interviews and reviews of data, we are fortunate in this instance to have the independent research of another team from UCLA's Department of Public Policy, who conducted an evaluation of SOS for the Mayor.¹³⁴ Like the Public Policy Department researchers, we found that SOS has thus far provided relatively little assistance, despite the good intentions and hard work of many people in the Office of the City Attorney and the principal agency providing services, People Assisting the Homeless (PATH). This is not entirely surprising, given that during most of SCI, SOS received only \$100,000 in funding from the Office of the City Attorney. Although a more recent increase in funding and a redesigned program may improve the effectiveness of SOS, in relation to the numbers of people arrested in Skid Row during SCI, SOS has thus far had minimal impact.

¹³¹ CAO memorandum to Mayor, Council, December 19, 2006 re 2006-2007 CDBD Mid Year Reprogramming, p. 11. Council file index 07-0249, reporting Council action on January 30, 2007, to transfer additional funds for 31 beds from Harbor Interfaith Shelter to Weingart Center.

¹³² Motion presented September 20, 2006 and referred to the Budget and Finance and Housing, Community & Economic Development committees of the City Council on the same day.

¹³³ Los Angeles City Council File 06-322, last changed March 22, 2007, as of September 19, 2007.

¹³⁴ Alison Kidd, Lindsay Koshgarian, Ethan Scherer, Nick Teske, *SOS: A Process Evaluation of the Streets or Services Program*, April 30, 2007.

The purpose of SOS is to offer an alternative to misdemeanor prosecution. Eligible arrestees are to be referred to the program operated by PATH and, upon completion of the program, no charges are filed. As noted earlier, about 5% of all arrestees and 17% of those arrested for misdemeanors are admitted to the program. By the end of January, 2007, 11 formerly homeless people had completed the 21-day program offered by PATH as part of SOS.¹³⁵ By the end of May, 2007, out of 7,428 arrests (including 2,218 misdemeanors), a total of 34 people had completed the program.¹³⁶ According to our colleagues from the Department of Public Policy, the median number of days in the program was 3 days, with nearly a third leaving after the first day.¹³⁷ The reasons are to some degree contested, and in any case beyond our scope here. Suffice it to say that the promised “service” side of the Safer Cities Initiative has not been fulfilled by the “Streets or Services” Program.

7 There Has Been A Significant Decrease in Crime in LAPD Central Area and in Skid Row But the Causes are Unclear.

Leaving aside for now the drug trade targeted by the combined Narcotics Division effort, Skid Row in particular and Central Area in general have not been particularly exceptional in terms of serious, violent crime, relative to the other parts of the inner city. Table 11 below provides the data for the nine months ending September 15, 2007, just prior to the initiation of the Safer Cities Initiative.

Table 11: Violent Crimes by LAPD Area 2006 Through 9/15/06¹³⁸

Area	Homicide	Rape	Robbery	Aggravated Assault	Total
Central	10	25	617	454	1,106
Rampart	21	58	823	575	1,477
Newton	33	37	787	833	1,690
Northeast	15	24	367	494	900
Hollenbeck	23	25	369	648	1,065
77th	53	68	1,124	1,155	2,400

Of course, one can argue that the crime *rates* are higher in Central Area (including Skid Row) because of the greater population in the other areas. As between Skid Row and the rest of Central Area, population data outside Skid Row are inadequate, given the recent influx associated with

¹³⁵ PATH, *SOS Program Update Weekly Report* January 20-February 2, 2007.

¹³⁶ Safer Cities Initiative Fact Sheet, June 5, 2007.

¹³⁷ Kidd, et al, *supra*, note 138, p. 4.

¹³⁸ All data from the LAPD Area Profiles published at www.lapdonline.org.

gentrification. Data on *reported* crimes are also somewhat suspect, given the widespread belief (which we have no means of verifying) that much crime goes unreported, especially on Skid Row. We have not analyzed the COMPSTAT crime reporting data. We have, however, obtained and analyzed data on every arrest in Central Area. Most homicide *arrests* in Central Area occur outside Skid Row, while Skid Row accounted for about half of arrests for other violent crime.

To be sure, the reduction of crime on Skid Row was an important announced goal of the Safer Cities Initiative. While the 2002 “Homeless Reduction Strategies” document prepared by LAPD Central Area staff referred to the efforts to control the “criminal homeless element” almost as if the phrase was redundant,¹³⁹ the beginning of the Safer Cities Initiative in 2006 was marked by a more nuanced approach. Chief William Bratton was quoted as follows:

The condition of being homeless in and of itself is not a crime. Los Angeles police officers will focus their activities on behavior, not the condition of being homeless... The criminal element, which preys upon the homeless and mentally ill, will be targeted, arrested and prosecuted to the fullest extent of the law. But we will never arrest our way out of this problem, nor do we intend to.¹⁴⁰

And there is no doubt that serious crime has declined in Skid Row since the SCI began—as it has in most other parts of the City during the same time period, albeit the overall decline has been greater in Skid Row and Central Area than elsewhere. In the most recent public release on Skid Row crime statistics in June 2007, Chief Bratton noted that serious crime¹⁴¹ was down in the first 8 months of SCI by 35%.¹⁴² But such gross numbers can be someone misleading when it comes to attributing causation to the SCI.

For example, as in Central Area as a whole, the major component of the decline in violent crime in Skid Row has been in robberies, which have historically constituted about half of all the violent crimes in Central Area,¹⁴³ as elsewhere in the City.¹⁴⁴ What is especially interesting for purposes of this study, however, is that the decline in the most common violent crime, robbery, declined **more** in the parts of Central Area **other than** Skid Row area where SCI was deployed. Table 12 illustrates.

This suggests that the relationship between the decline in violent crime in Skid Row and the deployment of Safer Cities Initiative is, at the very least, more complicated than first seems.

¹³⁹ Central Area LAPD, *Homeless Reduction Strategies*, October 4, 2002. The interpretation that this might have referred to criminals who were also homeless, rather than conveying the notion that homelessness itself was criminal, is undermined by the specific recommendations (anti-camping and public urination laws and special prosecution and policing of all “quality of life laws.”

¹⁴⁰ Office of the Mayor, “City Launches Initiative to Reduce Crime on Skid Row: 50 More Police Officers Deployed to Area,” [Press Release], September 24, 2006.

¹⁴¹ The reference was to “Part I” crime, a term used by the national Uniform Crime Reporting system operated by the FBI to include criminal homicide, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft and arson. *Uniform Crime Reporting Handbook*, available at www.fbi.gov/ucr/handbook/ucrhandbook04.pdf

¹⁴² LAPD News Release, June 8, 2007, *Chief Bratton Gives Safer Cities Update on Skid Row*.

¹⁴³ For the first 8 months of 2006 (through 9/18/07), there were 595 reported robberies in Central Area, or 55% of the 1076 total violent crimes for the same period. Violent crimes include homicide, rape, robbery and aggravated assault. LAPD, COMPSTAT Central Area Profile, 08/12/07 – 09/08/07, available at LAPDonline.org.

¹⁴⁴ For calendar 2006, there were 14235 reported robberies in the City, comprising 47% of the 29737 total violent crimes. LAPD Crime and Arrest Weekly Statistics, through December 31, 2006, available at LAPDonline.org.

Table 12: Reported Robberies per Month, 2006 and 2007, Skid Row and Central Area

	Pre-SCI (2006)	Post SCI (2007)	Percent Decline
Skid Row	22.9 ¹⁴⁵	14 ¹⁴⁶	38.9%
Central Area Total	72.4 ¹⁴⁷	36.1 ¹⁴⁸	50%
Central Area <i>Outside</i> Skid Row ¹⁴⁹	40.5	22.1	45.4%

a. Reducing Serious Crime by Arresting Serious Criminals?

It is possible to test the theory that serious and violent crime is down in Skid Row because the officers specifically designated for the 50-officer Safer Cities Task Force have been arresting serious and violent criminals for serious and violent crimes. Unlike other elements of SCI, LAPD has kept separate data on the arrests made by the Safer Cities Task Force. We obtained a database regarding 2,901 arrests made by the SCI Task Force through April, 2007. Table 13 below identifies the number of arrests for violent crimes made by Task Force officers.

Table 13: Safer Cities Initiative Task Force Total Arrests and Arrests for Serious and Violent Crimes – 9/25/06 – 4/30/07

Total Arrests Made	2,901
Murder – Penal Code 187(a)	1
Rape – Penal Code 261	0
Robbery – Penal Code 211	8
Aggravated Assault – Penal Code 245	13
Total Part I Violent Crime	22 (0.7%)

It thus seems clear that if violent criminals are less active in Skid Row, it is *not* because the advertised centerpiece of the Safer Cities Initiative, the SCI Task Force, has been arresting them.

¹⁴⁵ Computed from numbers in LAPD News Release, June 8, 2007, *Chief Bratton Gives Safer Cities Update on Skid Row* (183 robberies in first eight months of 2006 in Skid Row).

¹⁴⁶ Computed from numbers in LAPD News Release, June 8, 2007, *Chief Bratton Gives Safer Cities Update on Skid Row* (70 robberies in first 5 months of 2007 (as of June 2, 2007) in Skid Row).

¹⁴⁷ Computed from LAPD, COMPSTAT Central Area Profile, 7/8/07 - 8/4/07 (507 reported robberies in first 7 months of 2006).

¹⁴⁸ Computed from LAPD, COMPSTAT Central Area Profile, 7/8/07 - 8/4/07 (253 reported robberies in first 7 months of 2006).

¹⁴⁹ Computed by subtracting Skid Row numbers from total Central Area numbers.

We also analyzed a database of every arrest in Central Area between August 1, 2006 and June 30, 2007 and compared these data to those for the SCI Task Force. Because the available data on the SCI Task Force arrests covered a seven month period¹⁵⁰ that was included within the 10 month period for all Central Area arrests,¹⁵¹ we computed for comparison purposes the monthly average of arrests for each of the major violent crimes. Table 14 below sets out the results.

Offense	Skid Row Total	Skid Row Task Force	Task Force Percentage
Homicide	0.4	0.14	35.7%
Robbery	6.5	1.14	17.6%
Rape	0.8	0	0%
Aggravated Assault	3.6	0.71	19.8%

To the degree that arrests for violent crimes *are* reducing violent crime, it is fairly clear that it is the other officers of Central Area, not the SCI Task Force, who deserve most of the credit.

b. The “Broken Windows” Theory?

A great deal of the work of the SCI Task Force has been the issuance of citations for quality of life and other violations on Skid Row, and only in Skid Row.¹⁵² This fact offers a potential test of the “broken windows” theory for reducing crime. If serious crime in Central Area is declining as much outside Skid Row as inside, however, then it is hard to argue that it is the policing the “visible signs of disorder” that is leading to reduction of serious crime in Skid Row. We lack the data to fully test the “broken windows” hypothesis as to the range of serious crime. We do not believe, however, that so complicated an explanation is really required, as we now explain.

c. More Cops = Less Crime?

While the “broken windows” hypothesis represents an interesting sociological theory, we might return to the general principle of science that simplest theories are often the best. Both Chief Bratton and Mayor Villaraigosa have long argued that LAPD did not have enough police officers to respond to all the challenges of a City as large and complex as Los Angeles. Indeed, one might argue that the Mayor’s signal accomplishment thus far was an increase in the trash collection fees in order to hire more police officers.¹⁵³ If more police officers lead to less crime in general, one would certainly expect that adding between 50-75 officers¹⁵⁴ to an area of 0.85 square miles of the City will reduce crime, regardless of the tactics they deploy.

¹⁵⁰ September 25, 2006 through April 28, 2007.

¹⁵¹ August 1, 2007 through June 30, 2007.

¹⁵² As of June 1, 2007, the SCI Task force had issued 8,943 of the 10,342 citations issued as a part of SCI. *Safer Cities Initiative Fact Sheet*, June 5, 2007, obtained through Public Records Act.

¹⁵³ Rick Orlov, “Mayor Signs \$6.7 Billion Budget; Trash Fee Hike to Go to Hire Additional Cops,” *Daily News*, June 1, 2006, p. N3.

¹⁵⁴ These numbers include the 50 officers assigned to the SCI Task Force, together with additional officers from the Narcotics Bureau and Metro Mounted officers.

For the sake of comparison, adding 50 officers to the geographical area of Skid Row would be the equivalent to adding 470 officers to the Rampart Area, 700 officers to 77th Street Area or 1700 to Van Nuys.¹⁵⁵ Whether the presence of additional officers deters crime, or simply causes those who would engage in crime to ply their trade elsewhere, the basic premise underlying the public policy advocated by both the Chief and the Mayor seems sound. But we can expect that residents of other neighborhoods of the city with even higher rates of serious and violent crime will at some point question the long term redeployment of police resources from their neighborhoods to Skid Row.

d. Reducing the Crime Rate or Reducing the Population?

A final possibility for the falling number of crimes in Skid Row is even more straightforward. The crime rate of an area is the number of crimes per 1,000 residents or another such ratio. If the crime rate remains the same but for one reason or another the population of the area is reduced, then the absolute number of crimes will decline, though the risk of being a victim will remain the same. We simply do not have the data to know what the impact of the Safer Cities Initiative and other changes in Skid Row (increasing rents, more evictions, and the like) have had on the population. There is certainly anecdotal evidence from our interviews that many people who had the option to do so left Skid Row for other neighborhoods in order to avoid what they perceived as police harassment. In an area with an estimated 10,000 or so residents (both homeless and housed) in which there have been about 12,000 citations issued and 9,000 people arrested, we should not be too surprised if a cross section of the population, law abiding and not, left the area. In that case, the number of reported crimes would decline, even if the crime rate remained constant.

E. Conclusion

The experience of the Safer Cities Initiative has confirmed the statement by Chief Bratton at the outset of the Safer Cities Initiative that policing alone cannot end the problem of chronic homelessness on Skid Row. The policing effort has, however, no doubt reduced crime in Skid Row, whether by sheer force of numbers and physical presence on a scale never before seen in Los Angeles, or otherwise. This result is certainly to be applauded. Unfortunately, however, the policing effort has also had consequences that, while perhaps unintended, have actually served to make it harder for many homeless people to find and maintain shelter off the streets of Skid Row. The 1,000 monthly citations, most of which will result in arrest warrants, do not seem to be having the desired affect on pedestrian violations, but will lead some people who are housed to lose their housing, and homeless people who have some protection from the elements to lose that protection. The several hundred (or more) ordinary addicts caught up in Narcotics Division “buy/bust” stings on the streets of Skid Row who lose their eligibility for drug programs funded by Proposition 36 or end up in State Prison will come back in Los Angeles much worse off than before.

On what was to have been the other, softer side of the Safer Cities Initiative, it is hard to find much more than lip service, given the scale of the entire effort. Despite all the good intentions and hard work of those involved, the poorly funded “Streets or Services” program has helped a tiny fraction of those caught up in the intensive police effort on Skid Row. The 199 supportive

¹⁵⁵ Geographical areas of LAPD areas are taken from LAPDonline.org.

housing units funded on Skid Row with money reprogrammed from other homeless services must be put in the context of the estimated 12,000 citations and 9,000 arrests in the first year of the Safer Cities Initiative.

Is this the best we can do? Philip Mangano, Executive Director of the federal Interagency Council on Homelessness, and the Bush Administration's key official on homelessness describes the response of the City to homelessness on Skid Row as "shameful."¹⁵⁶ Many other cities have done better, including Chicago, Denver, Philadelphia, Portland, San Francisco and New York.¹⁵⁷ To be sure, some of these cities lack problems, like the jurisdictional complications as between the City and the County, or the taxing limitations of Proposition 13. But some of them, like Portland, have comparable rates of homelessness, fewer general fund dollars to spend, their own city/county dynamics, and have still managed to do a *much* better job than Los Angeles at responding to chronic homelessness.

Since adopting an integrated plan to end homelessness in 2004, the number of homeless people on the streets of Portland has declined by 39%. The number of chronically homeless people on the street declined even more, from 1,284 to 386—a 70% reduction.¹⁵⁸ Portland has not accomplished these results by using police pressure to force homeless individuals out of view or into neighboring communities, but by moving them into temporary and then permanent housing, following the "Housing First" model for reducing chronic street homelessness, a model supported by the US Department of Housing and Urban Development.¹⁵⁹ Indeed, the Portland Police Bureau has direct access to temporary housing and is able to offer homeless individuals a true choice between incarceration and services. In the first two years of its plan, Portland had accomplished all of the following:¹⁶⁰

- Obtained housing for 1,039 chronically homeless people, including permanent housing for 379 individuals
- Housed 717 homeless families, including 310 into permanent housing
- Added 480 units of supportive housing

Given the relative sizes of their populations and budgets, had Los Angeles followed the same strategy as successfully as Portland since 2004, Los Angeles might have accomplished the following:

- Obtained housing for 7,500 chronically homeless people, including permanent housing for 2,750 individuals
- Housed 5,200 homeless families, including 2,250 into permanent housing
- Added 2,250 units of supportive housing

¹⁵⁶ Steve Lopez, *supra*, note 109.

¹⁵⁷ See, for example, *Fact Checker: Chronic Homelessness* (March 2007), an overview of the efforts by other cities prepared by the moderate, nonpartisan National Alliance to End Homelessness, available at www.endhomelessness.org/files/1623_file_10483_FactChecker_Chronic_2_.pdf.

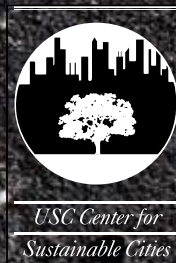
¹⁵⁸ "Home Again: A 10-year Plan to End Homelessness," in Portland and Multnomah County, *Second Year Report: Highlights of 10 Year Plan Successes*, March 26, 2007

¹⁵⁹ US Department of Housing and Urban Development, Office of Policy Development and Research, *Strategies for Reducing Chronic Street Homelessness* (2004). The report was authored by Martha Burt of the Urban Institute and several colleagues.

¹⁶⁰ Portland and Multnomah County, *Second Year Report: Highlights of 10 Year Plan Successes*, March 26, 2007

Of course, during in the same period Los Angeles accomplished nothing remotely close to the above. Indeed, the main source of additional shelter and housing for homeless people, at least on Skid Row, has been provided by the State Prison system or the Los Angeles County Jail, at enormous cost to both homeless people and the taxpayers.

The question of whether we can do better answers itself.



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