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**NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY**

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National Law Center on Homelessness & Poverty

Before the Subcommittee on Housing and Community Opportunities  
House Committee on Financial Services

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Good morning. My name is Maria Foscarnis and I am the Founder and Executive Director of the National Law Center on Homelessness & Poverty (NLCHP), a nonprofit advocacy organization whose mission is to serve as the legal arm of the national movement to prevent and end homelessness. I would like to begin by thanking the Chair for holding this hearing and for providing the opportunity to focus Congressional attention on the urgent issue of homelessness in America.

This year marks the 20<sup>th</sup> Anniversary of the enactment of the McKinney-Vento Homeless Assistance Act. While they were never intended as a sole solution to homelessness, over the past 20 years, the McKinney-Vento Act programs have made a substantial difference in the lives of thousands of homeless Americans. But for too long, the programs administered by the U.S. Department of Housing and Urban Development have not been reauthorized. Now is the time to reauthorize and improve the programs to make them reflect current knowledge and realities.

## **Background**

I want to begin with a little history. During the early 1980s, the U.S. experienced a rapid growth in the number of homeless persons not seen since the Great Depression. While the problem had once been associated with single males in inner cities, the 1980s brought about a dramatic increase in the number of homeless women and families as well as men. Homelessness also spread beyond the inner cities out to suburban and even rural areas. During the first half of the 1980s, there was little federal involvement, and cities and states were left to struggle with the problem on their own. Without federal help, few resources were available to provide shelter or other services.

I came to Washington to work with a coalition of advocates and other stakeholders to press Congress to take action. As a result of our advocacy, in 1986, Congress introduced the Homeless Persons' Survival Act. The Survival Act contained three parts: emergency measures, prevention measures, and measures to create permanent solutions to homelessness.

Recognizing the urgent need for emergency measures, we worked with Congressional sponsors to move those measures into a separate bill and seek passage of that bill first. Following a winter campaign – including sleep-outs on Capitol Hill joined by Members such as Stewart McKinney and Bruce Vento – that legislation was enacted in 1987 as the McKinney Act, now known as the McKinney-Vento Act. The Act was the first – and remains the only – major, coordinated federal response to homelessness. The Act included programs administered by the U.S. Department of Housing and Urban Development (HUD) to provide emergency shelter, transitional, and permanent housing.

In passing the McKinney Act, Congress explicitly stated that it was intended to be only a first step in addressing the national crisis of homelessness. Congress recognized that longer-term solutions – such as the prevention and long-term sections of the Homeless

Persons Survival Act – were needed. But to date, those have not been passed. As a result, national homeless policy has been built around primarily emergency measures.

After passage of the McKinney Act in 1987, the HUD Title IV programs were reauthorized several times. During those reauthorizations, Congress began to adapt the programs to provide more than just emergency solutions. The Supportive Housing Demonstration program was made a permanent program, and the Shelter Plus Care program was created to provide housing matched with services for persons with significant service needs.

Additional changes were proposed in legislation in 1994 but were never enacted. Since that time, no other HUD McKinney reauthorization bills have been enacted. This lack of authorization has meant that appropriators were left to set funding levels without guidance from the authorizing committee. Additionally, with no legislative authorizing mechanism to make amendments to the programs, HUD modified the programs through changes in the Notices of Funding Availability processes and appropriators also began setting priorities for funding in the appropriations bills.

While some of these changes, such as the institution of the Continuum of Care process, have been positive, others have created controversy, such as the heavy focus on chronic homelessness. Additionally, the lack of statutory authorization has resulted in variation in the process from year-to-year, making it more difficult for communities to plan. At the same time, eligible activities and program requirements have remained the same for the past fifteen years, and we have not been able to modify them to reflect current realities and best practices.

It is time for Congressional oversight committees to step in and exercise their authority. Reauthorization will provide stability and clarity in the planning process while providing flexibility to allow communities to serve all homeless populations in the most effective manner. Improving the programs will bring the Act – and national policy – closer to the original Congressional promise to put in place long-term solutions to end and prevent homelessness.

### **The HEARTH Act: Improving existing programs**

NLCHP has endorsed H.R. 840, the Homelessness Emergency and Rapid Transition to Housing Act, also known as the HEARTH Act. We believe it makes several important changes to existing law. In particular, the bill would:

- More closely align HUD’s definition of homelessness with that of other federal agencies;
- Establish a clear authorization level and provide guidance to appropriators
- Codify a community-based planning process and ensure a place at the table for key stakeholders; and
- Discourage communities from penalizing homeless status.

I would like to take a minute to talk about each of these points.

*A. Expanded definition of homelessness*

HUD's current definition of homelessness is too restrictive – it excludes many persons who are living in temporary accommodations, such as motels or doubled up with another household, even though they are living there because they have lost their housing and have nowhere else to go. It leaves people in unsuitable, unstable, and sometimes unsafe living arrangements. HUD's definition has been particularly problematic in rural areas, where homelessness is more hidden.

The HEARTH Act would more closely align HUD's definition with that of the Department of Education and allow grantees to serve the many homeless households who are excluded by HUD's current definition, such as homeless families and individuals living doubled up. It would reduce problems that service providers currently experience with dual definitions, such as being able to obtain McKinney education funded tutoring for homeless children in a doubled-up family but not being able to help that family to find stable and secure housing with HUD McKinney funds. It would also help homeless youth who may be selling their bodies in return for housing each night.

While we are well aware that current programs are woefully oversubscribed, we believe the best way to address this problem is through increasing resources and giving communities more discretion in how and when to serve people. Instead of forcing communities to wait for people to enter shelter or live on the streets, communities should be allowed to stabilize homeless individuals and families more quickly.

The Senate legislation, S. 1518, recognizes the need to expand beyond HUD's definition and expands the definition somewhat. However, we are concerned about the Senate definition because it requires persons in the new categories to have moved several times in order to meet the definition. We are concerned this encourages instability.

*B. Authorization level*

The HEARTH Act would provide an authorization level of \$2.5 billion and the Senate bill would provide \$2.2 billion. While these amounts will not be enough to end homelessness, we believe it is a step in the right direction. Current funding levels are inadequate to meet the need. According to HUD's 2007 Annual Homeless Assessment Report to Congress, approximately 45% of the population considered homeless by HUD is unsheltered. In order to give cities and states the resources they need to address homelessness, we must significantly increase funding for the HUD McKinney programs.

### *C. Renewal Funding*

One important provision in the Senate bill not currently in HEARTH would provide for the renewals of HUD McKinney permanent housing projects from the Housing Choice Voucher program. We would like to see this provision included in the House bill. Currently, renewal funding for the McKinney-Vento Section 8 Single Room Occupancy (SRO) Moderate Rehabilitation Program comes from the Housing Choice Voucher Program. This provides a steady revenue stream for nonprofits to use to pay back financing used for rehabilitation. By creating a secure source of funding for housing rehabilitation, it enables nonprofits to more easily obtain financing for the rehabilitation.

As the Committee consolidates the three competitive programs, I urge the Subcommittee to shift renewals of all McKinney-Vento funded permanent housing projects over to the Housing Choice Voucher program. This would provide a more secure funding stream, allowing nonprofits to obtain financing more easily and on better terms. Additionally, it would recognize that persons in permanent housing are no longer homeless and thus renewal funding should come from mainstream housing assistance programs. The Committee should also ensure such renewals do not displace other vouchers and authorize additional funding for this purpose.

### *D. Codification of Continuum of Care process and ensuring inclusion of key stakeholders*

H.R. 840 would codify the Continuum of Care planning process and guarantee key stakeholders an opportunity to participate in a meaningful way in the planning process. It would require Community Homeless Assistance Planning Boards (CHAPBs) to include homeless persons, as well as advocates and service providers. We strongly believe it is necessary to require communities to ensure homeless persons and their advocates have a seat at the planning table, in order to ensure the most effective plan possible.

We believe it is important to give communities more flexibility to determine what housing and services to provide and to whom, rather than providing proscriptive set-asides. However, communities should be required to consider the needs of all homeless populations. To ensure hard-to-serve populations are not overlooked, the Committee could establish a presumption that plans that provide no resources to individuals with disabilities have not adequately considered the needs unless the CHAPBs can document there are no homeless individuals with disabilities in the relevant jurisdiction.

### *E. Discouraging cities from criminalizing homelessness*

A growing number of cities are enacting or enforcing ordinances or policies that penalize homeless persons for engaging in necessary, life-sustaining activities in public spaces even when they have nowhere else to go. These ordinances include

anti-sleeping, anti-sitting, and anti-camping ordinances. More recently, we have seen an increasing number of ordinances prohibiting public feeding as well, even though mobile soup kitchens are the only daily source of food for some homeless persons.

In most cities, there are not enough shelter beds to meet the need, and homeless persons have no choice but to be in public spaces. Unsheltered persons are the most vulnerable to these types of ordinances.

These ordinances and actions criminalize the condition of homelessness and are harmful to the goals of the McKinney Act. For example, such ordinances and policies hinder the movement of persons out of homelessness by:

- Creating unnecessary arrest records;
- Requiring fines that homeless persons are unable to pay and resulting in bench warrants for the arrest of those persons; and
- Driving homeless persons away from services intended to address their homelessness.

These ordinances are also expensive. The costs of incarceration can exceed the costs of providing housing and services. For example, a study by the Lewin Group found the average cost of jail in nine major cities ranged from \$45.84 per day to \$164.57 per day, while the average cost of supportive housing ranged from \$20.54 per day to \$42.10 per day.<sup>1</sup>

The HEARTH Act would require HUD to consider the extent to which cities penalize homeless status as one of the award criteria for grants. We strongly support this and believe it will encourage cities to adopt more constructive alternatives, such as Housing First models, to address homelessness.

HEARTH also requires HUD to educate local governments regarding best practices, and we encourage the Subcommittee to direct HUD to include alternatives to criminalization in its best practices models.

## **Conclusion**

Thank you again for this opportunity to testify. I look forward to working with you to secure passage of a bill to reauthorize and strengthen the HUD McKinney-Vento programs and to move towards the elimination of homelessness in the United States.

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<sup>1</sup> Lewin Group, *Costs of Serving Homeless Individuals in Nine Cities*. Prepared for the The Partnership to End Long-Term Homelessness. (November 19, 2004).