

Washington State Coalition for the Homeless Advocacy for Homeless Families and Children, 1991-1999

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A. The Homeless Children's Litigation 1991-1997

On Christmas Eve 1997, the Washington Supreme Court ruled in the Homeless Children's case. Washington State Coalition for the Homeless et al v. Department of Social and Health Services (DSHS), 133 Wn.2d 894 (1997). In a significant victory for homeless families with children, the court determined that Washington State law required DSHS, the state's human services agency, to devise and implement a "coordinated and comprehensive plan" to assist the state's growing numbers of homeless families with children. The court also ruled that judges in dependency cases have the authority to order DSHS to provide housing assistance to a family whose homelessness is the primary factor in causing or prolonging its child's foster care placement.

The history of this case began in the early 1980s:

In the early 1980s, homelessness began to increase among Washington State families with children to an extent not seen since the Great Depression. By FY (state fiscal year) 1987, an estimated 33,000 children with their families were homeless; nearly 20,000 of them were counted when they were turned away from shelter for lack of space. The evidence in the case would show that, as a result of homelessness, children suffer increased rates of acute and chronic illness, infant mortality (death prior to age 1), mental illness, emotional disturbance, abuse and neglect, and educational and developmental impairment. The Court would later find that "[h]omelessness has a devastating effect on children with significant adverse effects for growth and development."

In 1990, the Governor's Task Force on Homeless issued its report calling for a coordinated and concerted state response to the growing crisis.

By FY 1991, about 67,000 children were homeless with their families. Nearly 50,000 were turned away from shelter.

The Coalition and others continued to press for a state response, without success.

In 1991, after unsuccessful negotiations, the Coalition filed its lawsuit to determine DSHS's duty to respond. The Coalition would seek renewed settlement talks after every stage in the litigation, always without success.

As the case was originally designed, it did not include the foster care issues. However, state Child Protective Services and Child Welfare workers helped the plaintiffs understand how homelessness was causing and prolonging unnecessary foster care placements and how ill equipped caseworkers were to address these cases. With the assistance of these caseworkers and others, the plaintiffs expanded the case to address the foster care issues.

The court certified the case as a class action on behalf of all families with children who were or would be homeless in Washington State. The court also certified a subclass of families whose children were placed or retained in foster care in whole or in part because of homelessness. The court expressly excluded from the case, however, those homeless children who were not accompanied by an adult - these are the street youth, the runaways, or the throwaway children. The court determined that these youth presented issues sufficiently distinct from issues presented by homeless families so as to require separate litigation to address. [The Coalition remained resolved to address the unaccompanied children and tried to include them in every effort to settle the case with DSHS, without success.]

In 1992, the Washington State Department of Community Development published a University of Washington study of a pilot program concluding that modest amounts of preventive or transitional assistance is 80% effective in leading families to stable housing.

The numbers of homeless children continued to increase. In 1996-1997, the number of children sheltered decreased to about 15,000 and the children turned away increased to nearly 60,000. They were now the largest segment of the homeless. They had overwhelmed the state's Emergency Shelter Assistance Program (ESAP). That program funded only 2.6% of the annual demand for shelter by families with children at the time this was written (about 20% of shelter actually provided.)

In 1992, the court denied DSHS's motion to dismiss the case.

In 1994, the trial court issued a partial summary judgment. It ruled that state law required DSHS to devise and implement an adequate plan to assist homeless families with children. It also ruled that a trial was necessary to determine the adequacy of the state's plan. The judge did grant full judgment on the foster care issues, ruling that dependency judges have the authority to order DSHS to provide housing assistance to a family whose homelessness is the primary factor in causing or prolonging a placement.

The case came to trial in September 1994 and the court issued its written ruling in March 1995 finding for the Coalition and the other plaintiffs. DSHS appealed.

On December 24, 1997, Christmas Eve, the Washington State Supreme Court ruled. Among the most significant aspects of its ruling, the Court affirmed the trial court's requirement that DSHS "perform its duty according to professionally accepted procedures and standards." The Court also adopted the findings of the experts that an adequate plan will have at least the following elements:

- It must provide prevention assistance because it is much less expensive and more human.
- It must provide emergency shelter to get the children warm and safe at night.
- It must provide transitional assistance to get the children out of the shelters into stable housing.
- It must have a process for ongoing monitoring and evaluation.

The court also ruled that DSHS's planning process must have the following elements:

- It must state that DSHS recognizes and acknowledges its responsibility;
- It must reflect coordination within DSHS's separate divisions, and with other state agencies.
- It must include consultation with experts;
- It must include data collection and analysis.

The Coalition's success in the litigation is attributable in large part to a very effective presentation of evidence from some of the nation's premier experts and practitioners in the fields of child welfare, foster care, homelessness and homelessness assistance, and planning.

Several prominent organizations also supported the plaintiffs as friends of the court from the trial stage through the final appeal:

Washington Academy of Family Physicians
American Academy of Pediatrics
Washington Psychological Association
The Children's Alliance

Washington Association of Churches
Church Council of Greater Seattle
Northwest Women's Law Center
YouthCare

The law firm of Preston, Gates & Ellis represented the friends of the court.

The Coalition and the other plaintiffs were very ably represented, from beginning to end, by Columbia Legal Services, assisted by the law firm of Garvey, Schubert & Barer. The case shows the importance of having a local legal services program with a long term acquaintance with the needs of its clients and the skills and stability to undertake such complex litigation over a prolonged period of time.

B. The 1998 Legislative Session

The Supreme Court issued its decision only a few weeks before the beginning of the 1998 Legislative Session. In response, DSHS drafted legislation that would have reversed the decision by removing DSHS's statutory obligation to assist homeless children. DSHS explained that the legislation would clarify the respective responsibilities of DSHS and the Department of Community, Trade and Economic Development (DCTED). Although, it did not transfer the statutory duty to DCTED. The Coalition's representatives sought to inform legislative leaders about the case and the important opportunity it presented for serious legislative attention to the crisis. The Coalition reconfirmed its willingness to fashion an appropriate division of responsibility between the two state agencies but noted that new legislation was not necessary for that purpose. The Coalition was not prepared to support legislation that would undo the mandate of the Supreme Court.

In the end, a temporary arrangement emerged from discussions with the legislative leadership and the Governor's Office. By this agreement, the Coalition and the DSHS asked and received from the court a schedule that gave DSHS until after the end of the 1999 legislative session to submit its proposed plan to the judge. In advance of that time, DSHS would also draft and submit its proposed plan to the Coalition for comment.

This arrangement also allowed the parties and others to prepare a proposal for the 1999 Legislature to consider.

C. The Homeless Children's Plan, 1998

The Homeless Children's Plan was written by state agency staff. It was submitted to WSCH by the required date in early September 1998. After careful examination of the

Plan, WSCH determined that the draft plan was inadequate and did not "detail how and to what extent it will actually assist the state's population of homeless children."

The Coalition submitted detailed comments and suggestions on the draft plan. Discussions, however, did not take place before the beginning of the 1999 legislative session.

D. The Homeless Children's Campaign, 1998-1999

In the fall of 1998, WSCH convened a Strategy Team of lobbyists and advocates representing many related agencies and organizations including Children's Home Society, City of Seattle, Washington Low Income Housing Congress, Washington State Coalition Against Domestic Violence, and Fremont Public Association. In a series of meetings and working sessions, the Strategy Team determined that we should advocate for the following budget items for the 1999-2001 state budget:

Homeless Families (non-domestic violence)	
Homelessness Prevention	\$11,300,000
Emergency Shelter	\$2,900,000
Transitional Assistance	\$3,800,000
Homeless Families Fleeing Domestic Violence	
Transitional Space	\$3,200,000
Shelter Space	\$1,500,000
Rental Subsidies with Case Management	\$1,300,000
Capital Costs	
Transitional Housing	\$800,000
Permanent Housing	\$3,600,000
Homelessness Assistance to Prevent or Shorten Foster Care Placement	
	\$2,700,000
Total	\$31,100,000

Although this was only 10% of the need, it would be a significant step in the right direction to begin to assist our state's growing number of homeless children.

A grassroots organizer met with stakeholders throughout the state including our key statewide allies to educate people about the Campaign and to sign them up as citizen advocates for the coming legislative session. The Campaign established contacts with advocates in every legislative district.

The Campaign worked hard to get letters to the Governor as he began to write his budget proposal. The grassroots organizer began a postcard campaign in which 100 agencies from across the state sent weekly postcards to the Governor, telling him how many children the agencies had seen that week. Members of the Strategy Team

concentrated on getting information out to the media. Articles appeared in several newspapers.

When the Governor's budget for 1999-2001 came out in early December it contained:

Housing Stability Assistance	
Transitional Assistance	\$5,000,000
Additional Requirements (DSHS)	\$6,000,000
Cash Diversion (DSHS)	\$4,000,000
Emergency Shelter	\$2,500,000
Transitional Housing	\$5,000,000
Data Collection	\$500,000
Total	\$23,000,000

The Coalition and its allies determined that this proposal was a "worthy start" and thanked the Governor for putting homeless children in his priorities. We met with DSHS and DCTED to tell them of our support for the Governor's proposal but that additional funds were needed for families in domestic violence situations and children in foster care.

E. The Legislation, 1999

Through 1998 and into 1999, WSCH maintained that no new legislation was needed, that the law on which the court case was based was adequate to provide services to homeless children and their families and to allow for a sensible division of responsibility between DSHS and DCTED. However, DSHS and some legislators believed that legislation which clearly delineated the roles of DSHS and CTED was necessary.

All of the parties--WSCH, legislators, agency staff, legislative staff, OFM staff and Governor's staff--began to negotiate a bill with which all parties could concur. Negotiations were complete in mid-February and HB 1493 began to wind its way through the legislative process--at times with great difficulty. Messages from the grassroots continued to come in: "Please pass HB 1493 with no damaging amendments."

In final form, passing the closing night of the legislative session, E2SHB 1493 took a significant step toward addressing the growing homelessness among Washington State children:

- The bill strengthens the obligation of the state to assist homeless families with children.
- The bill codifies a sensible division of responsibility between DSHS and DCTED.

- The bill codifies the authority of superior court judges to order DSHS to provide housing assistance in cases where the family's homelessness is the primary factor in causing or prolonging a child's foster care placement.
- The bill includes the HOPE Act to assist homeless, unaccompanied children.
- The bill facilitates the legislature's appropriation of substantial increases in money to assist homeless families with children and homeless unaccompanied children.
- The bill codifies and funds an improvement in the state's on-going collection of data about the population of homeless people.
- The bill will allow the State to move beyond the present litigation to a more collaborative effort. As part of the negotiations, the Coalition has agreed to join DSHS in asking the court to dissolve the injunction.

F. The Budget, Part II, 1999

In the second half of the legislative session, the Coalition began in earnest to advocate for \$31.1 million over and above existing programs for homeless children and families.

The WSCH lobbyist and lobbyists from related organizations including the Washington State Coalition Against Domestic Violence, the Children's Home Society and the Washington Low Income Housing Congress met with every member of the Legislature's financial committees educating them about our budget request. WSCH Board members and others attended and testified at hearings. Advocates from all over the state--recruited and kept informed by the grassroots organizer by phone, mail, fax and email--wrote letters, made phone calls and sent e-mail messages in support of expanding resources for homeless children and their families.

When the budget was finally passed, also on the last day of the session it contained the following:

Housing Stability Assistance	
Transitional Assistance	\$5,000,000
TANF Additional Requirements	\$6,000,000
Cash Diversion	\$4,000,000
Emergency Shelter	\$2,500,000
Transitional Housing (Capital Expense)	\$5,000,000
Design Data Collection System	\$50,000
Total	\$22,550,000

We advocated that money available because of reduced welfare caseloads be used for items not included in the budget: \$6 million for housing and services for homeless and at-risk survivors of domestic violence and \$2.7 million for foster care prevention. As this goes to press, we are awaiting word on those "welfare box" allocations.

G. The Plan, Part II, 1999

During the legislative session, negotiations began on the Homeless Children's Plan between WSCH, DCTED, DSHS, and the Governor's office. Negotiations continue as we go to press.

H. The Homeless Children's Quilt, 1998-1999

In an effort to make a visual image of the approximately 7,500 children the Campaign's budget proposal would help, a group of volunteers decided to make a quilt with 7,500 pieces. Word went out through several church networks that two-inch squares of fabric were needed for the Quilt. Boxes and envelopes of squares began arriving at the WSCH office. In the end 61 people from across the state contributed squares and nine volunteers from the Puget Sound area did the sewing. The quilt was finished in mid-April and it was displayed in the Capitol Rotunda April 19-23, the last week of the legislative session. The Quilt will be on permanent display at the Columbia Legal Services office in Seattle in honor of the important role Columbia Legal Services played in this long-term advocacy on behalf of homeless children and their families.

I. The Beginning Effects of the Campaign, Spring 1999

Programs across the state which serve homeless families with children are beginning to gear up to effectively put to work the new shelter funding. They are looking forward to assisting more homeless families and having to turn fewer of them away.

The Washington State Coalition for the Homeless looks forward to implementing HB 1493 and the Homeless Children's Plan. Changes in practice and policy will bring an opportunity to prevent even more of Washington's children from becoming homeless.

J. Winter 1999 Newsletter Article on Progress

Good Progress on the Homeless Families' Plan

The Homeless Families' Plan came into being as a result of nine years of legal and legislative advocacy on behalf of homeless children and their families. We are pleased to report on the progress made to date on the Washington State Homeless Families' Plan.

Several parts of the plan are already in place. The additional dollars for sheltering families with children, as well as dollars for homelessness prevention have been at work in all of Washington's counties since late summer. Local DSHS offices and housing providers are implementing new policies for homelessness prevention in the Temporary Assistance for Needy Families (TANF) program. The new transitional housing programs are now designed and will be in local communities soon.

In October we sponsored three one-day forums explaining the new services outlined in the Homeless Families' Plan which is funded by the state biennial budget passed by the State Legislature in 1999. The forums were well received by the 275 DSHS staff, community housing providers and advocates who attended. The forums were a good example of new partnerships developing in connection with the Homeless Families' Plan. The forums were co-sponsored by DSHS, DCTED, the Washington State Association of Community Action Agencies and the Washington State Coalition Against Domestic Violence with financial support from Washington Mutual and the Washington Community Reinvestment Association.

In addition, we have met with DSHS as they plan statewide training for their local offices and community-based housing and service agencies.

We are looking forward to continuing the work for homeless children and their families in cooperation with people, agencies and organizations all across the state.