



Homeless Commission

MEETING AGENDA April 13, 2022 – 7:00 PM

Join Zoom Meeting:

<https://zoom.us/j/96645301465>

To join by phone: Dial 1-669-900-6833 and enter Meeting ID: 966 4530 1465

Commission Secretary: Josh Jacobs (jjacobs@cityofberkeley.info; 510-225-8035)

Mayor Arreguin:
Paul Kealoha-Blake

Rashi Kesarwani:
Vacant

Terry Taplin:
Vacant

Ben Bartlett:
Vacant

Kate Harrison:
Mary Behm-Steinberg

Sophie Hahn:
Alexandria Rodriguez

Susan Wengraf:
Carole Marasovic

Rigel Robinson:
Cyn Gomez

Lori Droste:
Todd Andrew

All agenda items are for Discussion and Possible Action.

1. Roll Call.
2. Public Comment.
3. Approval of minutes from March 9, 2022. [Attachments 1].

Updates/Action Items:

4. Agenda Approval.
5. Presentation from Fred Finch Youth Services on the scope of, and status of, their program and of transition age youth in Berkeley. Possible Action
6. Chair update including on crisis stabilization center.
7. Staff update to include updates on changes in the Coordinated Entry System (CES) at to transition age youth, funding at the Golden Bear Inn, status of Horizon/SPARK, updates on Ashby freeway encampment (Caltrans), status of the South Berkeley Homeless Coordinator, planned encampment actions.
8. Housing preference policy inclusion of persons displaced into homelessness. Possible Action.
9. Discussion on safe injection sites and models implemented elsewhere.
10. Adjourn

Attachments:

1. Minutes from Meeting of March 9, 2022.
2. Fred Finch Youth Services Description.
3. Crisis Stabilization Center.

A Vibrant and Healthy Berkeley for All

4. Housing Advisory Commission Housing Preference Policy.
5. Safe Injection Sites: San Francisco, Boston, Philadelphia.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Meeting ID: 938 4539 3201. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

Correspondence and Notice of Decision Requests:

Deadlines for Receipt:

- A) Supplemental Materials must be received by 5 PM the day before the meeting.
- B) Supplemental Communications must be received no later than noon the day of the meeting.

Procedures for Distribution:

- A) Staff will compile all Supplemental Materials and Supplemental Communications received by the deadlines above into a Supplemental Packet, and will print 15 copies of this packet for the Commission meeting.
- B) For any Supplemental Material or Communication from a Commissioner received after these deadlines, it is the Commissioner's responsibility to ensure that 15 printed copies are available at the meeting. Commissioners will not be reimbursed for any printing or materials expenses.
- C) Staff will neither print nor distribute Supplemental Communications or Materials for subcommittee meetings.

Procedures for Consideration:

- A) The Commission must make a successful motion to accept and receive all Supplemental Materials and Communications into the record. This includes the Supplemental Packet compiled by staff.
- B) Each additional Supplemental Material or Communication received by or before the meeting that is not included in the Supplemental packet (i.e., those items received after the respective deadlines above) must be individually voted upon to be considered by the full Commission.
- C) Supplemental Materials subject to a Commission vote that are not accepted by motion of the Commission, or for which there are not at least 15 paper copies (9 for each Commission seat, one for staff records, and 5 for the public) available by the scheduled start of the meeting, may not be considered by the Commission.

****Supplemental Materials*** are defined as any items authored by one or more Commissioners, pertaining to an agenda item but available after the agenda and packet for the meeting has been distributed, on which the Commission is asked to take vote at the meeting. This includes any letter to Council, proposed Council report, or other correspondence on behalf of the Commission for which a full vote of the Commission is required.

*****Supplemental Communications*** are defined as written emails or letters from members of the public or from one or more Commissioners, the intended audience of which is the full Commission. Supplemental

Communications cannot be acted upon by the Commission, and they may or may not pertain to agenda items.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

Public Comment Policy:

Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

COMMUNITY ACCESS INFORMATION

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least 3 business days before the meeting date. Please refrain from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content. Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content.

ADA Disclaimer "This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting."



Berkeley Homeless Commission

MEETING MINUTES

March 9, 2022

1. **Roll Call:** 7:01 PM
Present: Kealoha-Blake, Marasovic, Andrew (7:04), Behm-Steinberg.
Absent: Gomez.
Staff: Radu.
Council: None.
Public: 3.

2. Public Comment: 0

3. Approval of minutes from February 9, 2022.

Action: M/S/C Kealoha-Blake/Marasovic move to approve the minutes as written.

Vote: Ayes: Marasovic, Andrew, Kealoha-Blake, Behm-Steinberg.
Noes: None. *Abstain:* None. *Absent:* Gomez.

Updates/Action Items:

4. Agenda Approval

Action: M/S/C Marasovic/Kealoha-Blake move to approve the agenda, but skip the chair update.

Vote: Ayes: Marasovic, Andrew, Kealoha-Blake, Behm-Steinberg.
Noes: None. *Abstain:* None. *Absent:* Gomez.

5. Options presentation with two components: a presenter on how the Options system works, all of its programs with various sources of funding, how those sources of funding intersect, and how the programs are coordinated; and a second Options presenter directly working with the homeless on the streets under the recent \$640,000 crisis response monies allocation.

Discussion; no action taken.

Meeting adjourned at 8:52 PM due to technical difficulties.

Minutes Approved on: _____

Josh Jacobs, Commission Secretary: _____

FRED FINCH YOUTH & FAMILY SERVICES

Turning Point

For more information, call (510) 482-2244 or
visit www.fredfinch.org/turning-point



Fred Finch Youth & Family Services is a leading mental health agency that delivers services across systems of care. Our mission is to provide innovative, effective services supporting children, youth, young adults, and families to heal from trauma and lead healthier, productive lives.

At Fred Finch, we welcome and invite people from all backgrounds to address life challenges in a safe and compassionate environment. We commit ourselves to working together with participants to navigate complex challenges that may include traumatic experience, mental health concerns, drug and alcohol use, or other disabilities. We provide innovative, effective services to support participants and their families to reach their goals.



Turning Point



Turning Point provides transitional housing and supportive services to
homeless young adults age 18—25.

OVERVIEW

Located in Berkeley, California, Turning Point is a transitional housing program designed to assist homeless youth age 18-25 to obtain and maintain independent permanent housing. Program participants may reside in the program for up to 24 months depending on their needs.

Fred Finch Youth & Family Services staff customizes a menu of services to help residents address individual goals. Turning Point provides services to up to 12 youth at any given time.

We have staff members who have worked in the program for many years, creating an environment of continuity and consistency. Additionally, we are able to provide each participant with daily meals and provide on site or on call 24/7 staffing at our location. We are able to provide supportive services that vary in setting, length, and frequency to fit each participant's need. We offer six months of aftercare services, which can include case management, therapy, or other supports.

Turning Point residents stay in the program for an average of 12 months. Three out of four youth who leave the program transitioned into permanent housing.

REFERRALS

Eligible youth are between 18 and 25 at move-in and homeless and low income; and may face other life challenges such as a history of trauma, mental health or substance abuse problems.

Find Turning Point and other valuable community resources by calling 211 from within Alameda County or visiting www.edenir.org.

To initiate a referral, please contact **Senior Director, Kellie Knox** at kellieknox@fredfinch.org, (510) 485-5277

SERVICES

Turning Point provides participants with services at its King Street site, which is staffed 24 hours a day. Phone support is available to both sites 24 hours a day. Turning Point services include:

- Transitional housing with the goal of obtaining permanent housing
- Individual, family, and group therapy
- Case management
- Psychiatric services
- Support in rapidly finding and keeping a job; career development
- Life skills training (for example, using public transportation and financial literacy, conflict resolution with roommates)
- Transportation assistance
- Health education
- Aftercare services

PHILOSOPHY

Turning Point draws on the philosophy and techniques associated with the evidence-informed practices of the Transitions to Independence Process system and on evidence-based supported employment practices. The program aims to partner with participants to promote wellness and discovery: learning or maintaining healthy lifestyles, finding and keeping a job, living independent lives, and discovering their identities as members of society. Our approach and philosophy focus upon building supportive and respectful relationships, connecting participants with community resources, promoting sustainable changes, and navigating a pathway to permanent housing. We bring a Trauma-Informed Care approach, assisting participants to recover from trauma they may have experienced and which may be impacting their opportunities. Staff works to build active communication and collaboration with participants, working towards a common goal to create change and help the participant live the life they intend to live.

Find Turning Point and other valuable community resources by calling 211 from within Alameda County or visiting www.edenir.org.





CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin

Subject: Crisis Stabilization Center

RECOMMENDATION

Refer to the City Manager to develop a Crisis Stabilization Center based on the Deschutes County Health Services model, and to identify and index potential sites in the City of Berkeley available for Crisis Stabilization Center operations.

FINANCIAL IMPLICATIONS

Staff time.

In September 2021, Deschutes County Health Services estimated in a correspondence with the District 2 Council office that the Crisis Stabilization Center in Bend, Oregon was saving approximately \$51,000 in Law Enforcement time and approximately \$430,280-815,040 in Emergency Room costs per year.

In 2021, an estimated \$2.4 million from Measure P funds were allocated annually for 5150 response & transports due to the lack of a Berkeley-based location to transport persons in mental health crises.¹

CURRENT SITUATION AND ITS EFFECTS

In April 2021, the US Justice Department announced that its investigations had found violations of the Americans with Disabilities Act (ADA) and potential Constitutional violations in Alameda County's mental health services, including facilities at John George Psychiatric Hospital and Santa Rita Jail.² The City of Berkeley is one of two local jurisdictions in the state of California with its own Mental Health Division separate from the County.

RDA Consulting issued its Mental Health Crisis Responses and Stakeholder Perspectives Report³ in October 2021 as part of the Reimagining Public Safety process. The report highlights that Berkeley has "an overall insufficient level of resources to meet the volume and types of mental health crisis needs across the city." According to a qualitative analysis by the Berkeley City Auditor, roughly 40% of BPD's welfare check

¹ <https://www.cityofberkeley.info/uploadedFiles/Clerk/Item%204%20Measure%20P%20Memo.pdf>

² <https://www.justice.gov/opa/pr/justice-department-finds-alameda-county-california-violates-americans-disabilities-act-and-us>

³ <https://drive.google.com/file/d/1Ink4P-SLna-HPaNp4WBcfv07knmpTNTy/view>

calls involved a mental health issue; 20% of disturbance calls, and 10% of calls regarding suspicious circumstances also involved mental health.

Berkeley's Mental Health Division offers a variety of crisis response services including the Mobile Crisis Team (MCT), Crisis Assessment and Triage (CAT), Transitional Outreach Team (TOT), and the Homeless Full Service Partnership replacing the Homeless Outreach and Treatment Team (HOTT). The MCT is not fully staffed and is unable to provide services even 5 days a week. These programs currently do not provide 24-hour services, and providing transports to longer-term care facilities can incur substantial costs, aforementioned Constitutional issues notwithstanding.

Berkeley contracts out with many community-based organizations to provide drop-in, shelter and other services. These organizations provide a different role than a crisis stabilization center, which would provide linkage to the network of the other Berkeley-based organizations as needed for the person in a mental health crisis. There are currently no Berkeley programs that provide 24/7 crisis stabilization services. Transports to jail or to hospitalization, for persons who would be better served in a community-based alternative, comes at substantial cost to the City in addition to presenting possible constitutional violations earlier cited.

Alameda County operates a 24-hour crisis phone line under Crisis Support Services (CSS) that is available to Berkeley residents, and Alameda County Behavioral Health Care Services refers callers to CSS after-hours. These phone lines do not provide the services that a locally-based crisis stabilization center would provide.

In short, the City of Berkeley does not currently offer 24/7 in-person crisis stabilization, and the County's services are severely under-resourced. A 24/7 crisis stabilization center would help provide part of a round-the-clock mental health support system.

Crisis Stabilization is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

BACKGROUND

The Deschutes County Stabilization Center (DCSC) opened in Bend, Oregon in June 2020 with state and federal grant funding for opening and operations. In 2020, Deschutes County Health Services (DCHS) in Oregon was awarded a second two-year grant from the Substance Abuse & Mental Health Services Administration (SAMHSA), under the U.S. Department of Health & Human Services, and funding from the Oregon Criminal Justice Commission for 24-hour operations. Future funding has not yet been secured⁴ but is likely to be renewed: DCHS reports to the District 2 Council office that they expect to receive another two-year grant from the Oregon Criminal Justice Commission, and will receive \$500,000 annually in Medicaid funding.

⁴ Hernandez, R. (2022). The Bend stabilization center's future is unknown. *OPB*. Retrieved from <https://www.opb.org/article/2022/01/12/the-bend-stabilization-centers-future-is-unknown/>

In the first year of operations, Deschutes County reported an 8% reduction in emergency room referrals from law enforcement, averaging 30 emergency room diversions per month and saving approximately \$431,280-\$815,040 per year (Attachment 1). The average length of stay in respite was 10 hours. The observation unit offers 23-hour stays, because 24-hour and longer periods would constitute “residential” treatment.

Crisis receiving and stabilization services offer the community a no-wrong-door access to mental health and substance use care, operating much like a hospital emergency department that accepts all walk-ins, ambulance, fire and police drop-offs.

Some considerations for operating a Crisis Stabilization service include:

1. Accept all referrals, regardless of insurance;
2. Offer walk-in and first responder drop-off options;
3. Not require medical clearance prior to admission but rather assessment and support for medical stability while in the program;
4. Design their services to address mental health and substance abuse crisis issues and provide linkage to related services if needed beyond the 23-hour crisis stabilization period;
5. Employ the capacity to assess physical needs and accommodate persons with physical disabilities while identifying additional medical needs, and provide linkage to those medical services, if needed;
6. Provide respite;
7. Provide intensive case management, if needed;
8. Be fully staffed 24/7/365 with a multidisciplinary team of clinicians and peers capable of meeting the needs of individuals experiencing all levels of crisis in the community, providing access to other community resources including extended case management, psychiatric evaluation, medical resources and housing/shelter navigation;
9. Provide full assessments, including screening for suicide and violence risk;
10. Provide follow-up, following the crisis stabilization stay, to ensure that the person who stayed at the crisis stabilization center is now receiving the proper resources so as to minimize the risk of returning to crisis.

SAMHSA defines crisis stabilization services as:

- Direct service that assists with de-escalating the severity of a person’s level of distress.
- Providing support for urgent care associated with a substance use or mental health disorder.
- Preventing or ameliorating a mental or behavioral health crisis.
- Reducing acute symptoms of mental illness by providing continuous observation and supervision for people who do not require inpatient services.

On November 15, 2021, following a discussion on October 13, the City's Homeless Commission voted "to request City Council refer to the City Manager to develop a crisis stabilization program based on the Bend, Oregon crisis stabilization model tailored to Berkeley, and that this report be incorporated into the Homeless Commission's recommendation." (See Attachment 4.) On February 2, 2022, the Homeless Services Panel of Experts voted to support the Homeless Commission's recommendation.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Possible reduction in Vehicle Miles Traveled (VMT) from transport diversions.

CONTACT PERSON

Councilmember Taplin Council District 2 510-981-7120

Attachments:

- 1: Deschutes County Stabilization Center One-Year Operations Report
- 2: Deschutes County Stabilization Center Prospectus
- 3: Homeless Commission 10/13/21 Agenda
- 4: Homeless Commission 11/15/21 Meeting Minutes
- 5: Homeless Services Panel of Experts 2/2/22 Meeting Minutes



STABILIZATION CENTER

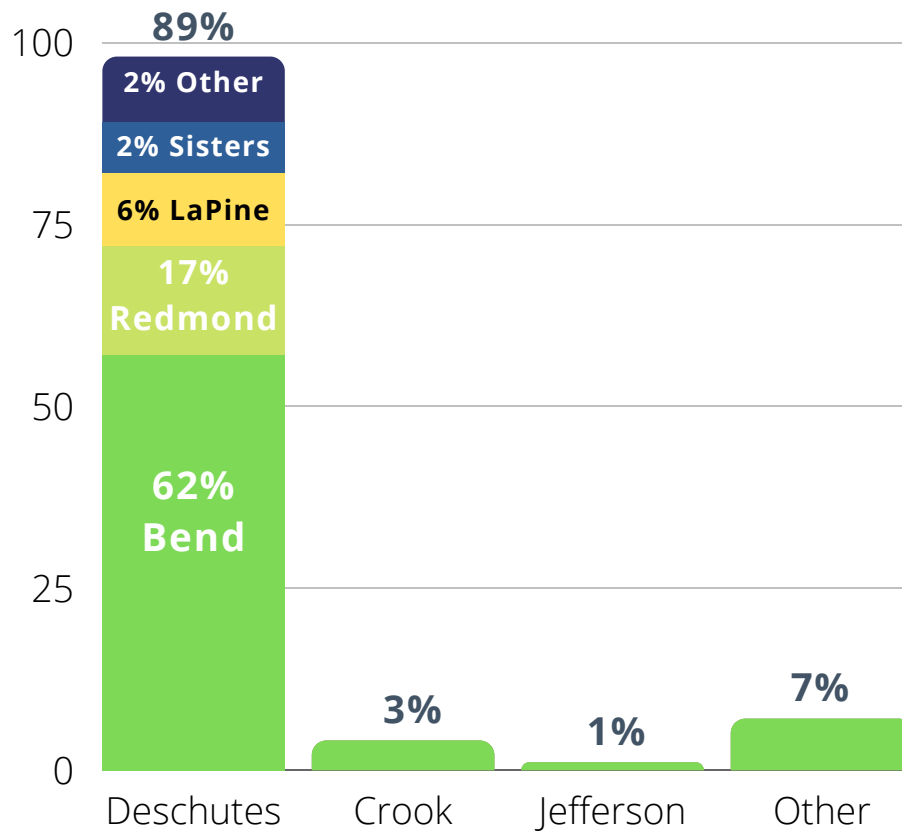
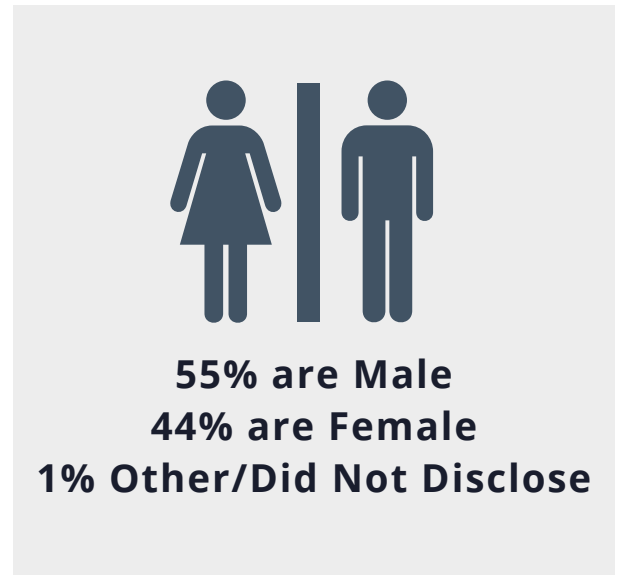
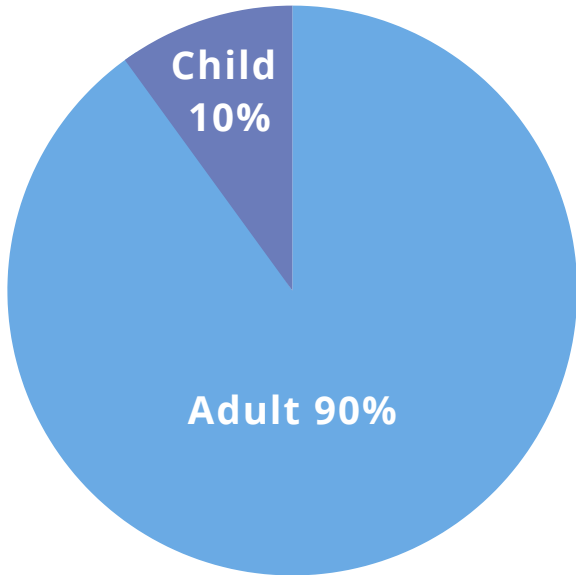
One Year Operations Report

OPENED JUNE 1 2020

24/7 OPERATIONS BEGAN 10/19/2020



DEMOGRAPHICS



31% of DCSC clients experience homelessness

STATISTICS

The Stabilization Center averages

8.5

 visits per day

2,808 visits since opening

4.7

is the average number of minutes Law Enforcement spends at DCSC per drop off

1,609

The number of crisis evaluations

309

Brought in by Law Enforcement

20% of clients have utilized respite.

Reductions and Cost Savings

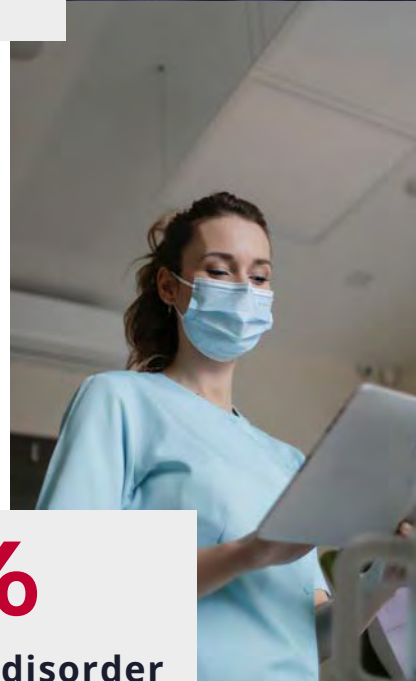
- 8% reduction in Emergency Department (ED) visits from Law Enforcement to St. Charles Medical Center since opening.
- DCSC averages 30 ED diversions/month. Saving approx. \$431,280-\$815,040 per year.

12% of people served self-reported they would have gone to the ED if not for the Stabilization Center.

- 33% reported they didn't know where they would go.
- 1% reported they would have taken their life.

27%

Have a psychotic disorder



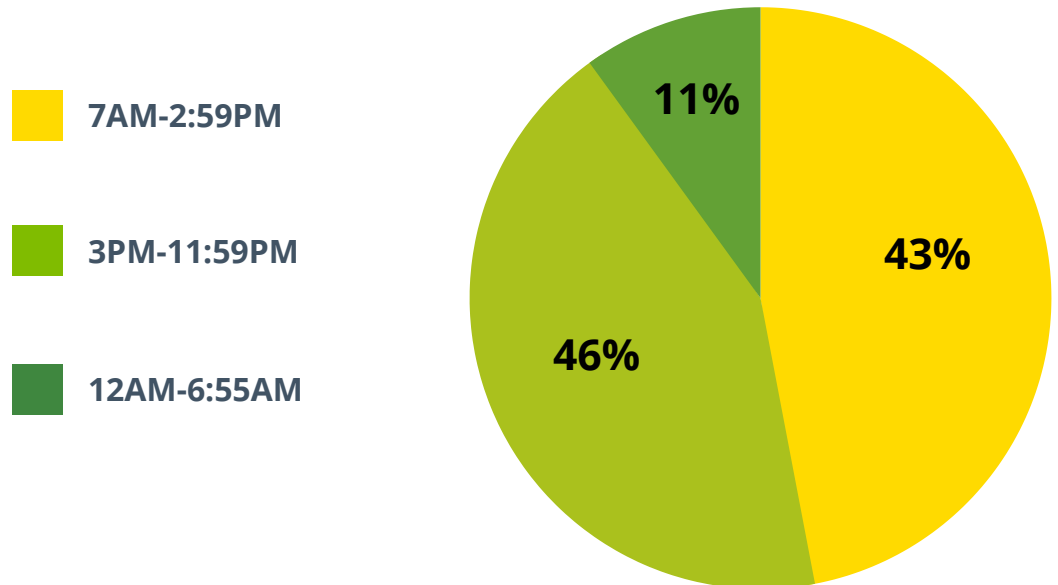
24/7 STATISTICS

10/19/2020 - 6/01/2021

1113

Crisis evaluations since being open 24/7.

When are clients arriving to DCSC?



THE AVERAGE LENGTH OF STAY IN RESPITE IS 10 HOURS.





Deschutes County Health Services



STABILIZATION CENTER Prospectus 2020



PROJECT PURPOSE



Data show that nearly half of all individuals arrested for low-level crimes sought mental health services either in the jail or following their release. In hospital emergency departments in Central Oregon, one in three patients receives or has previously received behavioral health services. In both instances, these individuals are often repeat visitors to the jail or the emergency department. Collaboration between the Deschutes County Health Services Department and the Sheriff’s Office seeks to address the burden on the jail and emergency departments while providing needed behavioral health services to individuals with mental health conditions.

With the establishment of the Deschutes County Stabilization Center (DCSC), which includes crisis stabilization and a sobering station, individuals apprehended by law enforcement can be brought to the center instead of being arrested or taken to the emergency department. Once clients arrive at the DCSC, they can receive direct services from behavioral health professionals.

PROJECT GOALS



Provide crisis stabilization services to individuals suffering from mental illness, not fit for the jail or Emergency Department.



Offer a solution to a critical need which has been identified as a top priority within the community



Connect individuals with available community resources within Deschutes County.

PROJECT STAFFING

Core Project Team (Clinical Program)

Deschutes County Health Services

- (LEAD) Holly Harris, Crisis Program Manager
- Katie Pineda, Project Manager
- Melissa Thompson, Crisis Program Supervisor
- Jill Kaufmann, Forensic Diversion Supervisor
- Adam Goggins, Crisis Program Supervisor
- Kimberly Bohme, Administrative Support
- Dr. Wil Berry, Behavioral Health Medical Director

Deschutes County Sheriff's Office

- Captain Mike Shults, Jail Captain
- Lieutenant Mike Gill, Admin Lieutenant
- Eden Aldrich, FNP, Medical Director

Design Team (Construction)

Deschutes County Facilities

- Lee Randall, Director of Facilities
- Dan Hopper, Project Manager

Deschutes County Health Services

- Holly Harris, Crisis Program Manager
- Katie Pineda, Project Manager

PROJECT LEADERSHIP

Executive Project Leadership

- Dr. George A. Conway, Deschutes County Health Services Director
- Sheriff L. Shane Nelson, Deschutes County Sheriff's Office

PROJECT GOVERNANCE

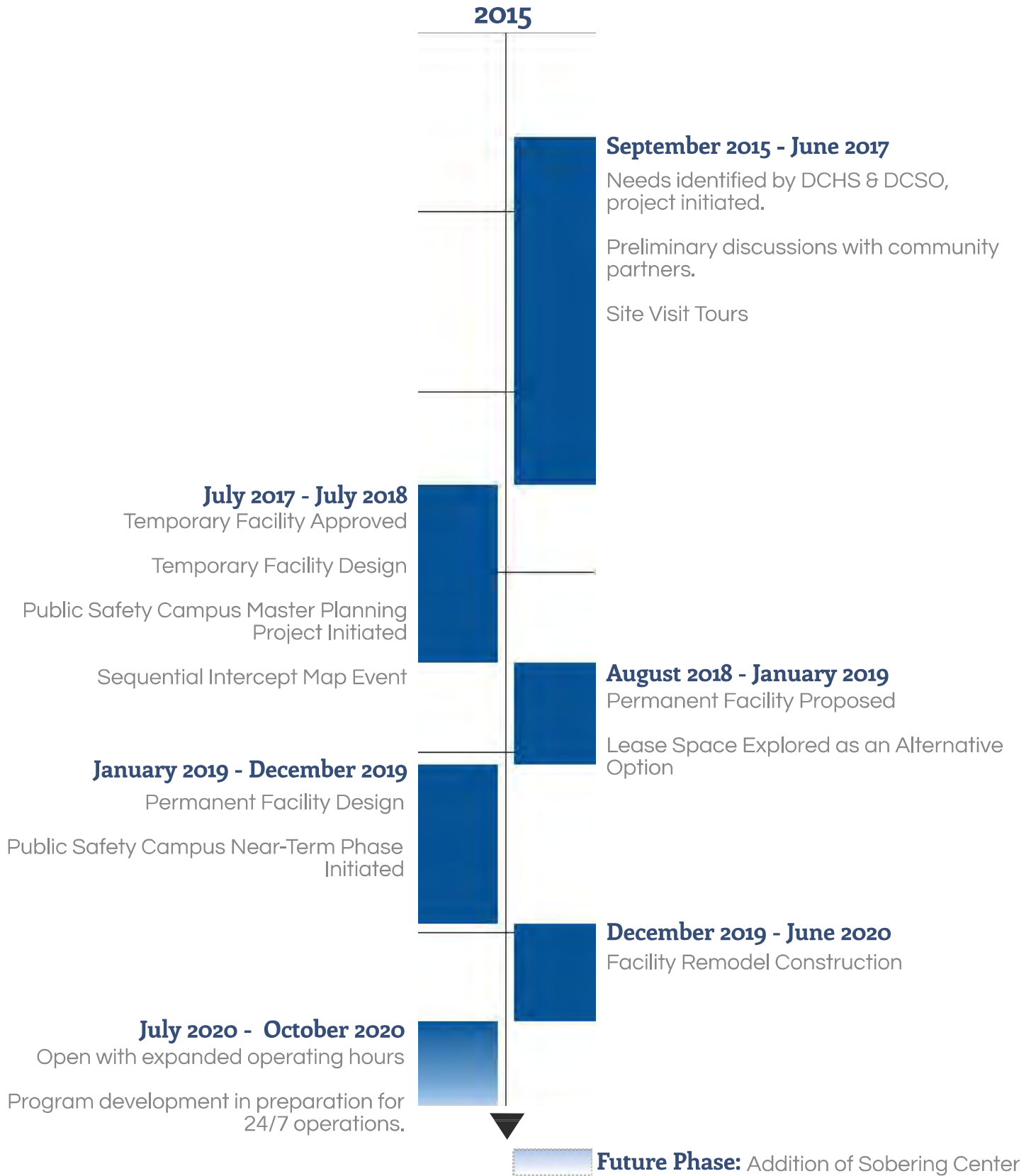
Deschutes County Board of County Commissioners (BOCC)

Crisis Intervention Team (CIT) Steering Committee

Behavioral Health Advisory Board (BHAB)

CHRONOLOGY

Summary of project activities to-date



ENHANCED SERVICES



Walk-in Crisis Services

Phone or face to face intervention. Brief stabilization.



Critical Care Coordination for Hospitalized Individuals & Pre-Commitment Services

Determining if individuals placed on involuntary holds are a danger to self or others and in need of commitment.



Mobile Crisis Assessment Team (MCAT)

Crisis response in community (primarily with law enforcement).



Family Drug Court Partnership with Deschutes County District Court

Treatment for adults with substance use disorder who have committed a crime and whose children are at risk of removal.



Co-Responder Program

Clinician rides with Bend PD officers to respond to mental health related calls for service.



Law Enforcement Partnership including Crisis Intervention Training (CIT)

CIT steering committee includes a large number of key stakeholders who provide a 40 hour training for law enforcement on how to better respond to people experiencing a mental health crisis.



Forensic Diversion Program

Reducing recidivism and entry to state hospital.



23-hour Respite

Low-stimulation and peaceful milieu environment for individuals so they are able to stabilize from a mental health crisis and connect to the appropriate community services



Sobering Station (future phase)

A safe place for people to sleep off the effects of alcohol and other substances.

EMERGENCY DEPARTMENT DATA

The following data has been provided by St. Charles

Among Emergency Department arrivals with a mental health or substance use disorder chief complaint, but without a hold order between 04/07/2018 - 12/03/2019, there have been 7996 arrivals for 5448 patients. The information and visualization below apply to this specified population unless otherwise noted.

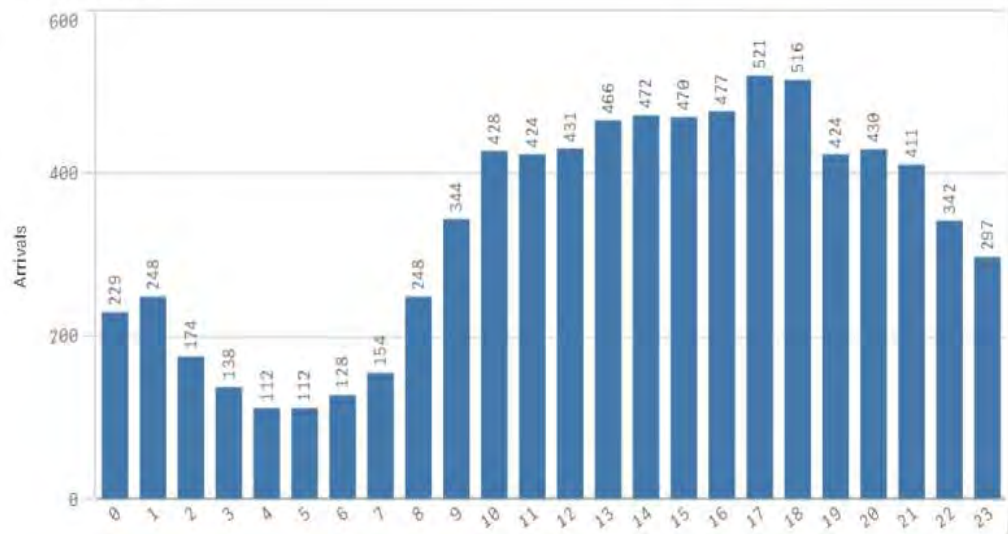
Adult Arrivals

7,148^{11.8}
Per Day

Child Arrivals

848^{1.4}
Per Day

Arrivals By Hour



72 Hour Bounceback Rate

8.0%^{4.3%}
All others

SERVICE PROJECTIONS

- Estimated additional 3,592 total individuals served by Crisis programs annually.
- Estimated 110 individuals per year diverted from jail.

Thus preliminary estimates suggest that DCSC will serve 5,849 individuals or approximately 16 individuals per day (24/7).

CLIENT PROFILE

Example Candidate for Stabilization

- Single mother of an adolescent girl.
- Diagnosed with Bipolar Disorder.
- Daughter has been removed from her care by DHS due to her mental health diagnosis causing her to be unable to care for her child's needs.
- Engaged in services with several DCHS teams in the past and at the present.
- Over the past year, has lived at the Bethlehem Inn.



With the help of the DCHS, she was able to stabilize on medication, consistently attend therapy, qualify for a grant which awarded her a year's rent paid for, obtain custody back of her daughter and obtain employment.

As individuals with Severe and Persistent Mental Illness do at times, she stopped taking her medication a few months ago and started to decompensate. She became floridly psychotic and was involuntarily hospitalized. She was evicted from her apartment, lost custody of her daughter again to DHS and is now homeless.

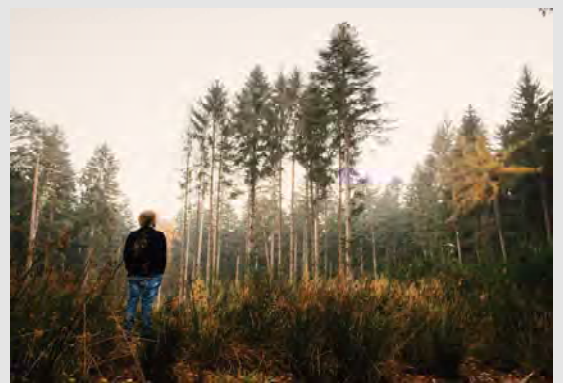
Due to the strict nature of the civil commitment laws, she did not qualify for a civil commitment and although she began taking medication again while in the hospital, she is not currently taking it as prescribed while living on the street. It is very difficult for her treatment team to find her to ensure that she has the correct medication or attends her appointments. Because of her complete disorganization due to her mental illness, she did not attend a court hearing and was arrested on a warrant for failure to appear. She is extremely vulnerable to being taken advantage of by others and she does not have a place that she can go each day to ensure that she can connect with her treatment providers, which ultimately would get her back on the path to recovery.

The Stabilization Center would provide a place that she could come to see her treatment providers, ensure that her basic needs are being cared for, assess as to whether she meets criteria for hospitalization, begin to case plan as to how to move forward and ultimately get well.

CLIENT PROFILE

Example Candidate for Stabilization

- Diagnosed with schizophrenia
- Refuses medication due to the belief that he is not mentally ill
- Homeless
- Has a good relationship with law enforcement



Individual was evicted at the completion of his allotted time living in a supported housing unit. He believes he is the owner of the housing facility from which he was evicted and therefore refused to leave the premises. He had to be physically removed and would not assist in planning for alternative housing due to the belief that he owned the facility.

There are no friends or family to help with care taking and meeting basic needs. He does not meet the required criteria to be involuntarily committed to the hospital and is unwilling to admit himself voluntarily. Upon contact with his support specialist at DCHS, he reported that he had paid for one night at a local motel and would have nowhere to go after that time.

The Stabilization Center would provide a resource within the community for this individual to have his basic needs met and engage in treatment including psychiatric services. He would have the ability to socialize with treatment team, peer support specialists, staff and others, as loneliness and isolation are a significant trigger for this individual. It would provide opportunities to engage with peers that can help to support him through re-engagement with his team and allow him to work with case management to develop a plan for housing solutions.



Homeless Commission

MEETING AGENDA
October 13, 2021 – 7:00 PM

Join Zoom Meeting:

<https://zoom.us/j/96645301465>

To join by phone: Dial 1-669-900-6833 and enter Meeting ID: 966 4530 1465

Commission Secretary: Josh Jacobs (jjacobs@cityofberkeley.info; 510-225-8035)

All agenda items are for Discussion and Possible Action.

1. Roll Call.
2. Public Comment.
3. Approval of minutes from September 8, 2021. [Attachment 1].

Updates/Action Items:

4. Agenda Approval.
5. Staff to report on current numbers of persons receiving housing through Shelter Plus certificates, Section 8 vouchers for homeless, flex subsidies under Measure P and other subsidies; number of people placed in permanent housing from Project Roomkey motels and hotels; and number of people currently at Horizon.
6. Chair and vice-chair update.
7. Q&A with Peter Radu, or his designee, from City Manager's office, on enforcement of sidewalk ordinance and RV ordinance.
8. Presentation update on COVID vaccine from Healthcare for the Homeless.
9. Recommendation for crisis stabilization program in Berkeley.
10. Discussion, and possible action, regarding the RV lot on Grayson.
11. Discussion of shelter designated expressly for seniors.

Attachments:

1. Minutes from Meeting of September 8, 2021.
2. Development of Crisis Stabilization Program in Berkeley.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

A Vibrant and Healthy Berkeley for All

To join by phone: Dial 1-669-900-6833 and enter Meeting ID: 938 4539 3201. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

Correspondence and Notice of Decision Requests:

Deadlines for Receipt:

- A) Supplemental Materials must be received by 5 PM the day before the meeting.
- B) Supplemental Communications must be received no later than noon the day of the meeting.

Procedures for Distribution:

- A) Staff will compile all Supplemental Materials and Supplemental Communications received by the deadlines above into a Supplemental Packet, and will print 15 copies of this packet for the Commission meeting.
- B) For any Supplemental Material or Communication from a Commissioner received after these deadlines, it is the Commissioner's responsibility to ensure that 15 printed copies are available at the meeting. Commissioners will not be reimbursed for any printing or materials expenses.
- C) Staff will neither print nor distribute Supplemental Communications or Materials for subcommittee meetings.

Procedures for Consideration:

- A) The Commission must make a successful motion to accept and receive all Supplemental Materials and Communications into the record. This includes the Supplemental Packet compiled by staff.
- B) Each additional Supplemental Material or Communication received by or before the meeting that is not included in the Supplemental packet (i.e., those items received after the respective deadlines above) must be individually voted upon to be considered by the full Commission.
- C) Supplemental Materials subject to a Commission vote that are not accepted by motion of the Commission, or for which there are not at least 15 paper copies (9 for each Commission seat, one for staff records, and 5 for the public) available by the scheduled start of the meeting, may not be considered by the Commission.

***Supplemental Materials** are defined as any items authored by one or more Commissioners, pertaining to an agenda item but available after the agenda and packet for the meeting has been distributed, on which the Commission is asked to take vote at the meeting. This includes any letter to Council, proposed Council report, or other correspondence on behalf of the Commission for which a full vote of the Commission is required.

****Supplemental Communications** are defined as written emails or letters from members of the public or from one or more Commissioners, the intended audience of which is the full Commission. Supplemental Communications cannot be acted upon by the Commission, and they may or may not pertain to agenda items.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

Public Comment Policy:

Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

COMMUNITY ACCESS INFORMATION

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least 3 business days before the meeting date. Please refrain from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content. Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content.

ADA Disclaimer "This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting."



Berkeley Homeless Commission

MEETING MINUTES

September 8, 2021

1. Roll Call: 7:05 PM

Present: Kealoha-Blake, Marasovic, Behm-Steinberg.

Absent: Andrew, Gomez.

Staff: Jacobs, Carnegie.

Council: None.

Public: 6.

2. Public Comment: 1

3. Approval of minutes from July 14, 2021.

Action: M/S/C Kealoha-Blake/Marasovic move to approve the minutes from July 14, 2021 as written.

Vote: Ayes: Kealoha-Blake, Marasovic, Behm-Steinberg.

Noes: None. Abstain: None. Absent: Andrew, Gomez.

Updates/Action Items:

4. Agenda Approval

Action: M/S/C Marasovic/Behm-Steinberg move to move item 6 above item 5 and to approve the agenda.

Vote: Ayes: Kealoha-Blake, Marasovic, Behm-Steinberg,

Noes: None. Abstain: None. Absent: Andrew, Gomez.

5. Presentation from Women's Daytime Drop-In Center on new system of transitioning placement of family homelessness in Albany, Berkeley and Emeryville, from Family Front Door to the Women's Daytime Drop-In Center and challenges in addressing family homelessness.

Discussion; no action taken.

6. Chair and Vice-Chair Update.

Discussion; no action taken.

7. Presentation from Neighborhood Services in City Manager's office on sidewalk ordinance, RV ordinance, disposition of persons displaced from the freeway

encampments and other encampments following notice, plans in process for alternative shelter and housing placement.

Discussion; no action taken.

- 8. Statistics on COVID vaccination and testing of persons experiencing homelessness, sheltered and unsheltered, and outreach being conducted to promote vaccinations among persons experiencing homelessness. Staff to report data and outreach practices on COVID vaccination.

Discussion; no action taken.

- 9. Staff to report number of current, and recent, COVID positive cases for persons in Berkeley shelters and encampments/streets and on current protocol followed when COVID-positive cases are identified in shelters.

Discussion; no action taken.

- 10. Explanation of how HMIS data is used on a day-to-day basis, how it is used to set priorities and how it can be used to create system-wide reports to track progress on homelessness.

Discussion; no action taken.

Meeting adjourned at 9:00 PM

Minutes Approved on: _____

Josh Jacobs, Commission Secretary: _____



Berkeley Homeless Commission

To: Mayor and Members of the Berkeley City Council
From: Homeless Commission
Submitted by: Paul Kealoha-Blake, Chair, Homeless Commission
Carole Marasovic, Vice-Chair, Homeless Commission
Subject: Development of Crisis Stabilization Program in Berkeley

RECOMMENDATION: That City Council refer to the City Manager to develop a crisis stabilization program based on the Bend, Oregon crisis stabilization model, tailored to Berkeley, consistent with Councilmember Terry Taplin's proposal for same.

FISCAL IMPACTS: The exact fiscal impact will have to be determined by the City Manager's office. However, the costs will be substantially offset by the costs that will be saved by reducing the number of 5150 transports for which the City of Berkeley currently allocates 2.4 million annually from Measure P monies. Grants are also available that will fund the crisis stabilization program.

CURRENT SITUATION and ITS EFFECTS: Currently, Berkeley has no options to transport persons in mental health crisis except to the County John George mental health facility or the Santa Rita Jail. As such, the City absorbs the cost of transporting persons which are not covered by insurance and persons, in mental health crisis, are at best, generally, brought to an inpatient facility that stigmatizes them and warehouses them briefly, only to discharge them back to the same situation from where they came, and at worst, acts punitively in placing them into a correctional setting without needed mental health treatment and linkage to resources in their own community.

The United States Department of Justice recently released a scathing investigative report on the lack of community mental health models in Alameda County.

[Justice Department Finds that Alameda County, California, Violates the Americans with Disabilities Act and the U.S. Constitution](#)

Disability Rights California has filed litigation based on the same premise. <https://www.disabilityrightsca.org/press-release/disability-rights-california-files-lawsuit-against-alameda-county-for-its-failed>

Berkeley is one of two mental health divisions in the state that has its own mental health division, independent from the County, with its own mental health streams of funding. Thus, Berkeley is responsible, in large part, for establishing its own community mental health programs. Yet, Berkeley has provided no alternative for persons in mental health crisis to seek stabilization, on a voluntary basis, nor an alternative for law enforcement to transport persons in mental health crisis, when the Berkeley Police Department is actively engaging with a person in mental health crisis, other than the same County facilities, being John George and the Santa Rita Jail, that the Department of Justice has found to be deficient in providing needed mental health services, and as overly restrictive and punitive.

It has been estimated that 40%-50% of Berkeley's 5150 transports are homeless. Thus, the unhoused are greatly impacted by the inappropriate and punitive transports to John George and Santa Rita because of the lack of community mental health models. The unhoused are also greatly impacted by the lack of models so that they are frequently returned to the streets, in the same situation, instead of facilitating linkage to resources in the Berkeley community. The substantial number of unhoused persons that receive 5150 transport has resulted in 2.4 million of Measure P monies, allocated for homeless services, directed towards this transport.



Berkeley Homeless Commission

BACKGROUND: On October 13, 2021, the Homeless Commission passed a motion as follows:

That City Council refer to the City Manager to develop a crisis stabilization program based on the Bend, Oregon crisis stabilization model tailored to Berkeley, consistent with Councilmember Terry Taplin's proposal for same and that this report be incorporated into the Homeless Commission's recommendation.

M/S:

Yes:

Noes:

Abstentions:

ENVIRONMENTAL SUSTAINABILITY and CLIMATE IMPACT: Following the implementation of a crisis stabilization program, a substantial number of persons in mental health crisis will be diverted away from transport to farther away unnecessary institutionalization and incarceration into a community-based model in their own Berkeley community.

RATIONALE for RECOMMENDATION: As an independent mental health division, Berkeley has a responsibility to step up and establish appropriate treatment community mental health models that are community-based. At this juncture, persons in mental health crisis have no local place to stabilize and voluntarily seek assistance, to take respite and to intensively linked up with other services on a 24/7 model. The Berkeley Police Department has no location to bring persons in mental health crisis other than the inappropriate ones provided by the County.

Bend, Oregon has successfully implemented a 23 hour crisis stabilization program that is an excellent model for Berkeley to tailor to Berkeley needs.

There are multiple reasons that the Bend model would work in Berkeley. First, Bend's population, at 93,917, is similar to Berkeley's in numbers. The Bend program is a 24/7 program with recliners where people rest while they are provided intensive mental health support and linkage to community resources as needed. Unlike some crisis stabilization programs elsewhere, Bend's crisis stabilization program is focused on mental health needs. It is not a program directed exclusively towards sobriety or a homeless shelter as are some programs elsewhere. Albeit that they have behavioral health clinicians on staff, Bend's focus is not a medical model. With Bend's current increasing homelessness, they estimate that 30% of persons in mental health crisis utilizing their crisis stabilization program are of homeless status.

Bend's program takes walk-ins unlike some programs. Any person seeking mental health crisis stabilization can walk in voluntarily on a 24/7 basis. There are no financial eligibility requirements. Thus, whether or not a person is medically insured, they will be easily welcomed and accepted into Bend's mental health crisis stabilization program. Persons can come in from any source as long as they voluntarily choose to do so.

When law enforcement engages with a person in mental health crisis in Bend, they present them with three options: the inpatient mental health facility, the jail or the crisis stabilization program. The choice is that of the person in crisis. They will not otherwise be involuntarily directed into the program but provided the three options where they can be transported. Persons in mental health crisis frequently choose the crisis stabilization program. Doing so not only allows them to receive respite and linkage to resources within their own community, it frees them from the stigma of being involuntarily committed or incarcerated.

A survey of participants in the Bend crisis stabilization program revealed that 3% of persons in mental health crisis who had come to the program (37 persons) had stated that had they not come to the



Berkeley Homeless Commission

program, they would have taken their lives. There is no greater cost-effectiveness than the cost of saving human lives.

Bend also found that when there was a transport from law enforcement, law enforcement spent only an average of four minutes transitioning persons into the crisis stabilization program as opposed to far longer time required of law enforcement when a person in mental health crisis was directed towards institutionalization or incarceration.

Berkeley's direction will have one distinction in that the Bend program is operated by their County which has an elaborate crisis system. Berkeley's program would be based in Berkeley and contracted out to a nonprofit provider competent to provide 24/7 crisis stabilization program services.

The issues that will have to be addressed by the City Manager's office, which, in part, will be within Councilmember Terry Taplin's proposal, will be funding issues, staffing (both numbers and qualifications) and location.

ALTERNATIVE ACTIONS CONSIDERED: The only alternative is to do nothing and to be complicit with the County in providing a lack of appropriate community-based mental health services for persons in mental health crisis.

CITY MANAGER:

CONTACT: Josh Jacobs, Homeless Services Coordinator, (510) 981-5435

Attachment: Powerpoint presentation from Bend, Oregon

Practical Tips to Open a Crisis Stabilization Unit: A medium-sized county perspective

Holly Harris, M.Ed., LPC – Program Manager, Crisis Services

Adam Goggins, MA, LPC – Crisis Team Supervisor

Deschutes County, Oregon

Population: 200K

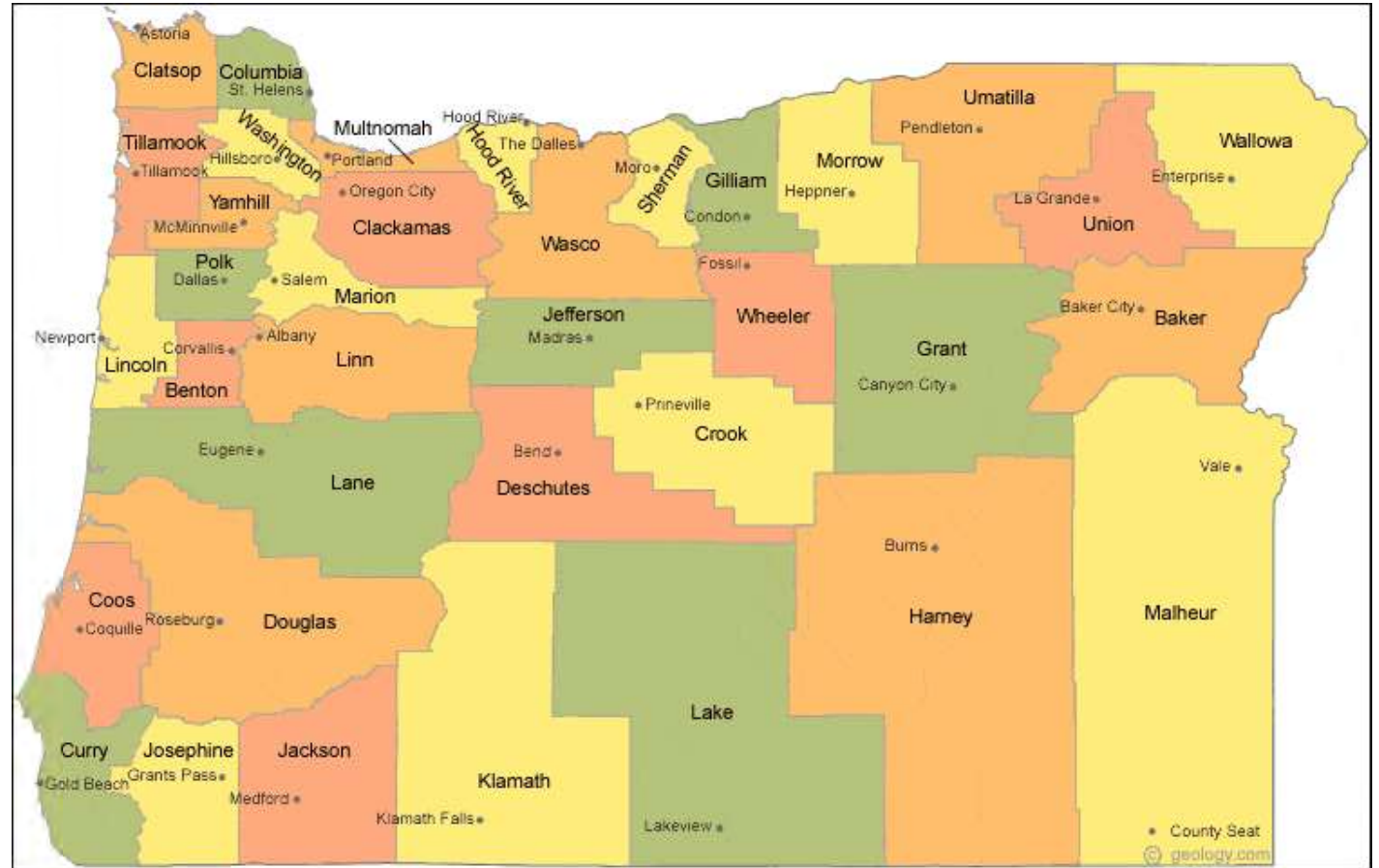
County Seat: Bend

Area: 3018 miles²

Person's per

Square Mile: 52

Topography: High Desert











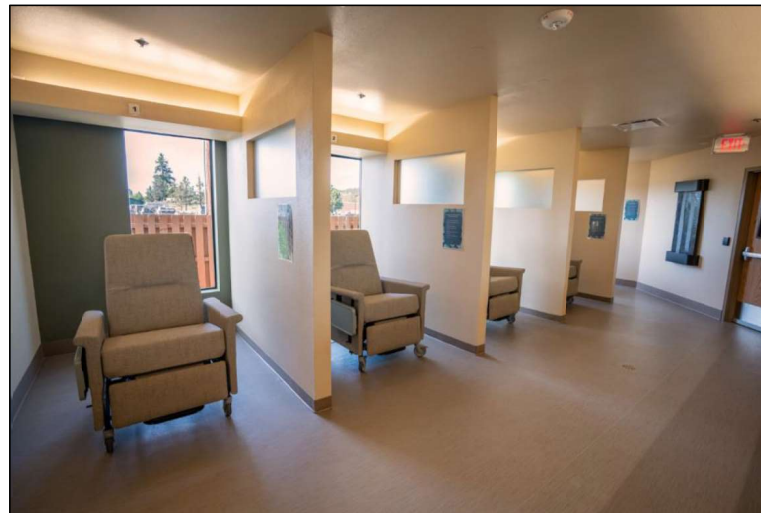
Deschutes County
Stabilization
Center (DCSC)

Est. June 2020

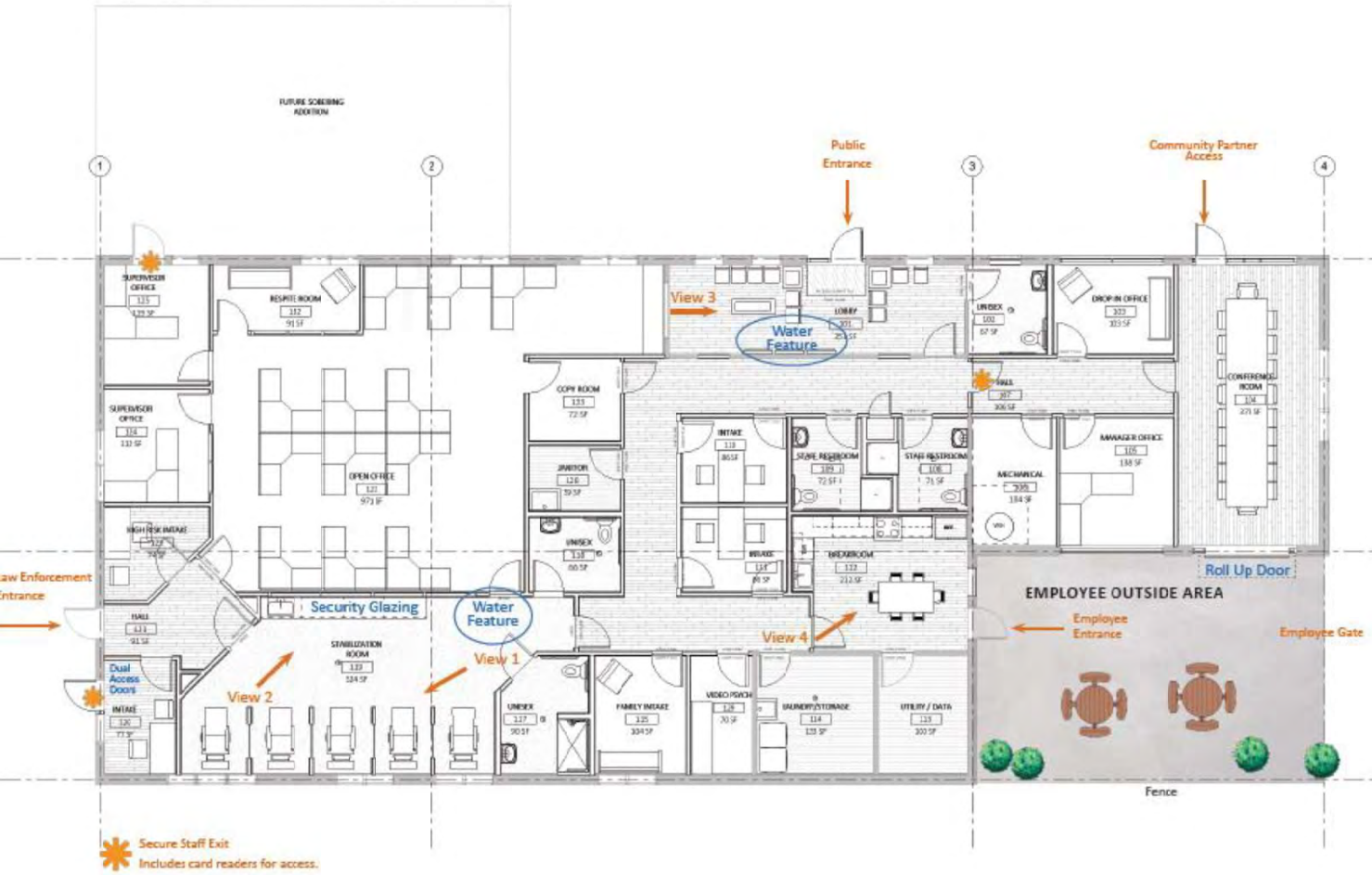


Quick Facts:

- Voluntary facility
- Treats children and adults
- Accepts walk in's and law enforcement drop off
- 23-hour respite unit



PROPOSED FLOORPLAN



3D VIEWS

View 1 (Stabilization Room 119)



Client seating area for comfort. Partitions for privacy.

View 2 (Stabilization Room 119)



Security glazing allows staff to view the stabilization room through two-way windows (clients cannot see into the office) for monitoring and observation.

View 3 (Lobby)



The lobby includes comfortable seating and an enclosed water feature to create a calm environment for visitors.

View 4 (Break Room)



An equipped employee break room provides a reprieve for staff with access to an outdoor fenced patio.

INSPIRATION



Example of an enclosed water feature.

Goals of the Stabilization Center



- To reduce the number of individuals with Serious Mental Illness who end up in the criminal justice system.

Goals of the Stabilization Center

- To provide a place for law enforcement to quickly bring someone in a crisis so they can get back to their duties



Goals of the Stabilization Center

- To reduce the number of individuals going to the Emergency Department for mental health crisis.



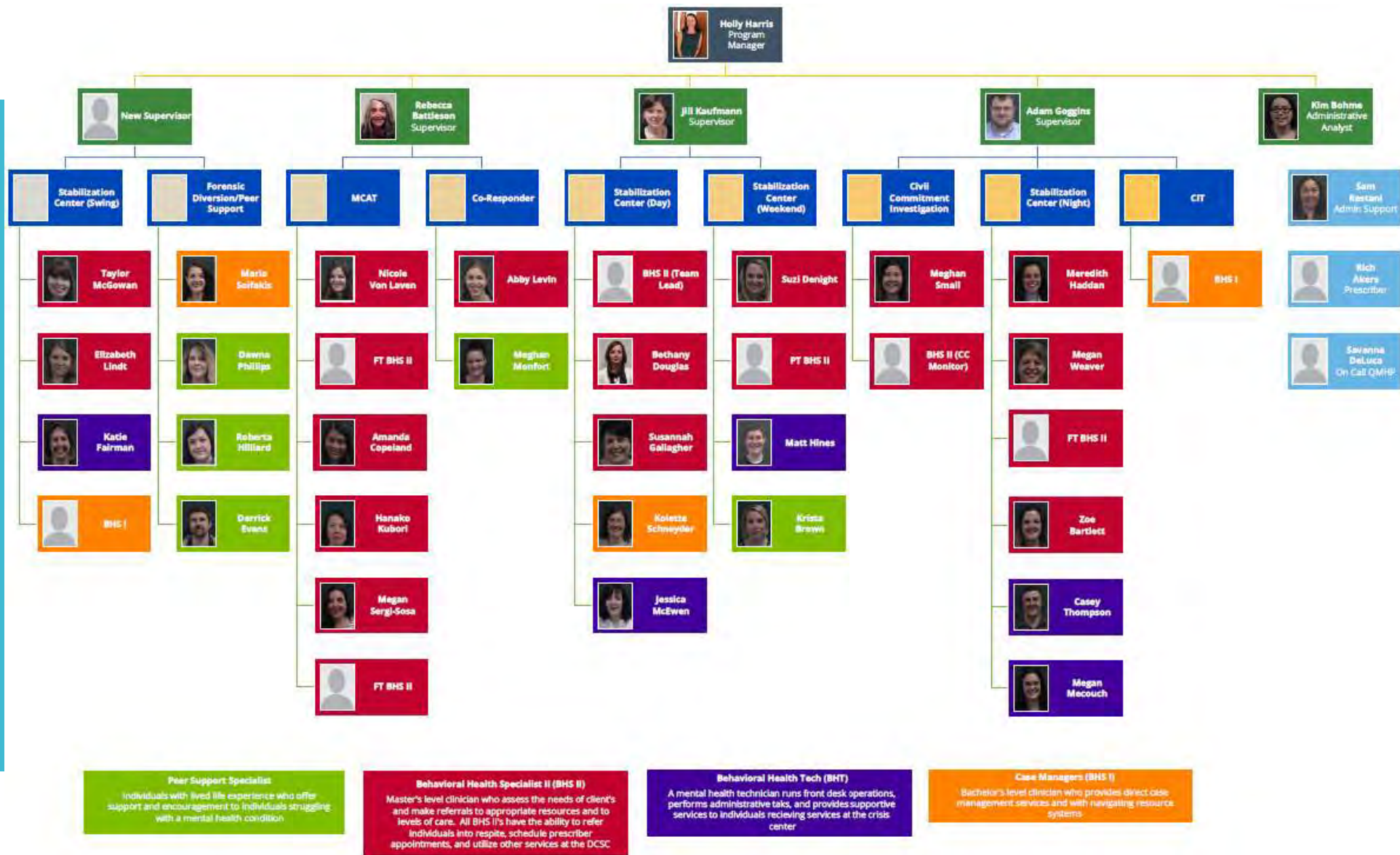
Goals of the Stabilization Center



- To help people experiencing a mental health crisis stabilize in their community and become connected to resources so they engage in mental health treatment to regain a better quality of life.

Services
Provided at
the
Stabilization
Center

Crisis Intervention
Case Management
Peer Support
Medication management
Respite
Civil Commitment Investigations
Jail Diversion Program
Crisis Line



Practical Tips to Open a Crisis Stabilization Unit



Practical Tip: Actively Use Sequential Intercept Mapping

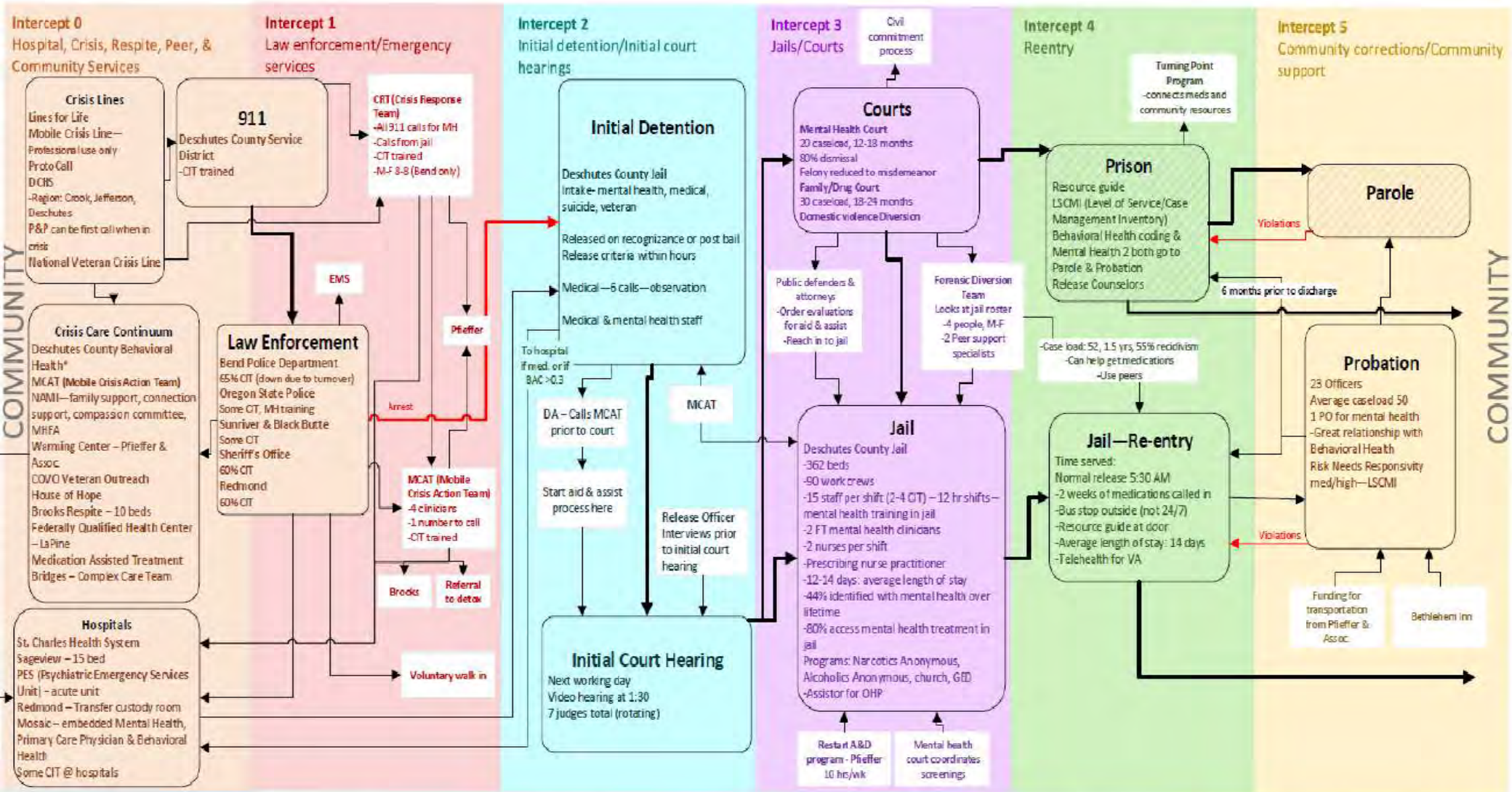
SEQUENTIAL INTERCEPT MAPPING

2012 Top Priorities

- Focus on High Criminal Justice Utilizers
- Expand Detoxification Services
- Hire Court Release Officer
- Enhancement of Jail Mental Health Services

2018 Top Priorities

- 24 hour Stabilization Center/23-hour respite
- Increase the number of Peer Support Specialist
- 100% of officers trained in CIT or MHFA
- Increase the number of LE agencies with a mental health unit



*Walk-in clinic M-F 8-4 -immediate assessment
 *Law enforcement agency average wait 2.5-3 hrs for police officer hold.
 Mosaic Mobile Clinic -Families can contact for help
 *Community Health Workers at hospitals and clinics

Practical Tip: Leverage Relationships Through a Robust CIT Program



Deschutes County has an active CIT Program with dedicated individuals and agencies who show up and contribute. We discuss difficult cases and ongoing systems issues. The meeting is solution focused and is based on mutual respect, trust, and accountability.

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Speaking: Melissa Thompson

Layout

Megan (Me) Kim Boh... (Host) Cory Darling Brandi S AbbyL

Chris Perry Melissa Thomps... Christy Drew Norris Jake Chandler

Michael Gill polela Rachel Gerken Call-in User_2 Call-in User_3

Dustyn Putzier Holly Harris Rachel Gerken

Unmute Stop video Share ☺ ... ❌ Participants Chat ...

Practical Tip:
Harness Existing
Collaborations
and Garner
Leadership Buy-
In



- Advocacy groups (NAMI)
- CIT steering committee
- Acute Care Advisory Board
- Behavioral Health Advisory Board
- Coordinated Care Organizations
- Commissioners
- Local City Councils
- Local Public Safety Coordinating Council (LPSCC)

**Present, present,
present....to anyone
who will listen!**

Practical Tip:
Have a Good
Referral
System in
Place BEFORE
You Open



Mobile Crisis Team and Co-responder

- Operational since approximately 2004
- Currently consists of 2 teams of 3 Masters level clinicians
- They operate in 24 hour shifts where one clinician is the primary on-call clinician for 12 hours with the other two positions serving as back up. They rotate primary
- Recently implemented response without police to certain call types



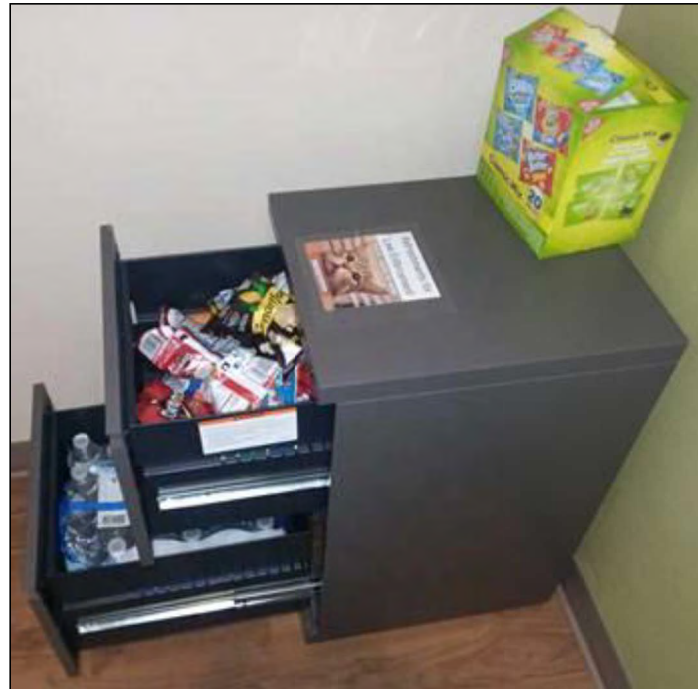
National initiative to reduce the number of individuals with mental illness in jails

Jail Diversion

Deschutes County Forensic Diversion Program

- Established in 2015 through a State grant that later became ongoing funding
- 2 peer support specialist and a case manager
- In reach to the jail, follow up from mobile team contacts
- Consistent reduced the recidivism of the people served
- We Stay involved until the individual achieves four clinical contacts in 60 days

Practical Tip:
Maintain a
Good Referral
System Place
AFTER You
Open



Practical Tip:
Do Your
Research





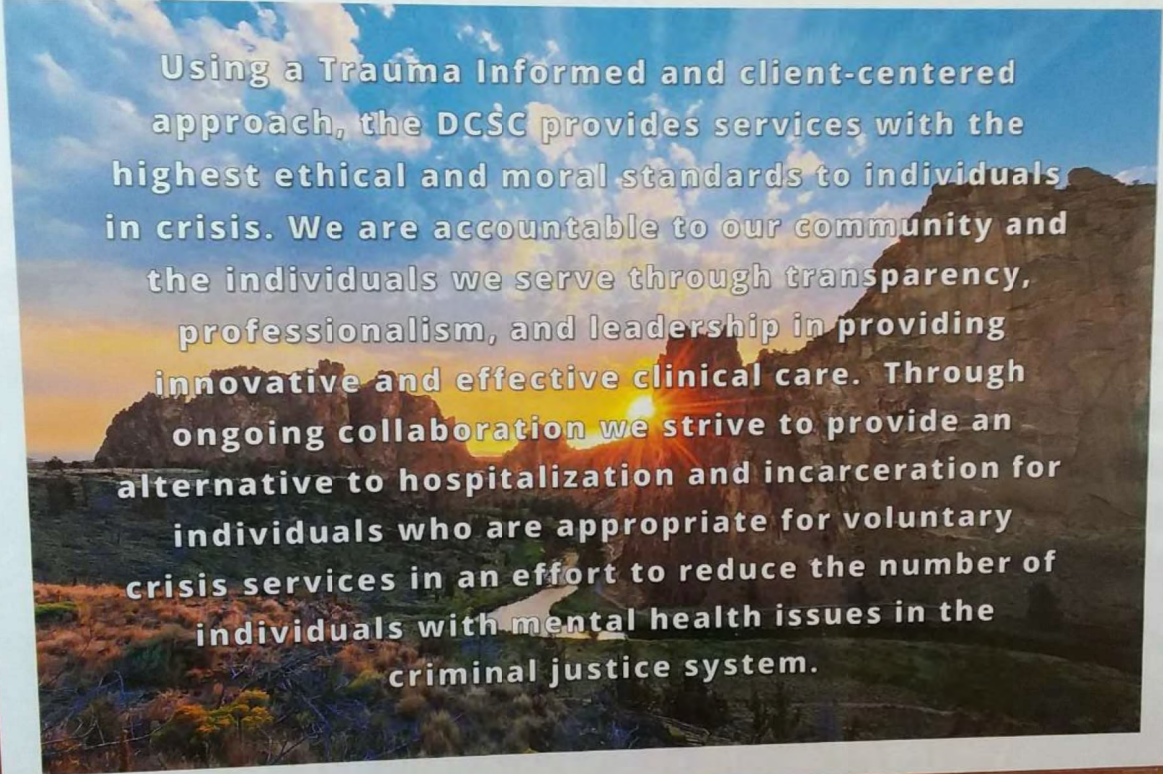
Researching other programs:

- Policies and procedures
- Services provided
 - Respite
 - Sobering
 - Case Management
 - Peer Support
 - Medication Management
- Staffing models
- Forms and paperwork
- Referral Sources
 - Police
 - Walk-Ins
 - Both
- Budgets and funding models
- Site reviews
- Hours and days of operation

Practical Tip: Have Consistent Messaging

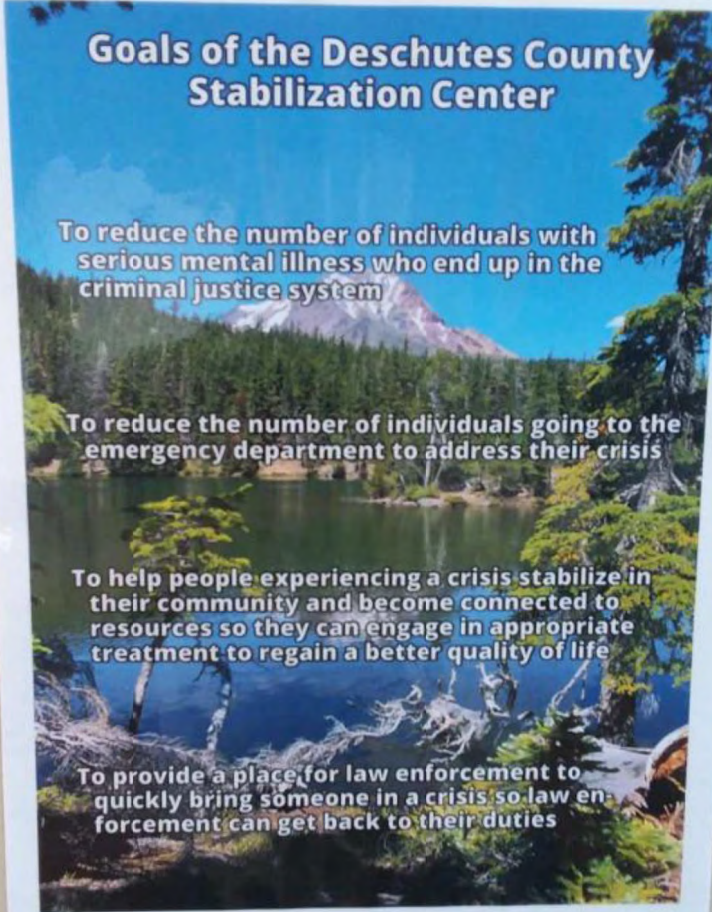
- Set Goals Early (in collaboration with key stakeholders) and stick with them
 - Stick to your mission
- Build the program around the goals
- Stay on message
- Garner Media Support when possible





Using a Trauma Informed and client-centered approach, the DCSC provides services with the highest ethical and moral standards to individuals in crisis. We are accountable to our community and the individuals we serve through transparency, professionalism, and leadership in providing innovative and effective clinical care. Through ongoing collaboration we strive to provide an alternative to hospitalization and incarceration for individuals who are appropriate for voluntary crisis services in an effort to reduce the number of individuals with mental health issues in the criminal justice system.

Goals of the Deschutes County Stabilization Center



To reduce the number of individuals with serious mental illness who end up in the criminal justice system

To reduce the number of individuals going to the emergency department to address their crisis

To help people experiencing a crisis stabilize in their community and become connected to resources so they can engage in appropriate treatment to regain a better quality of life

To provide a place for law enforcement to quickly bring someone in a crisis so law enforcement can get back to their duties

The Bulletin Local & State Coronavirus Sports Business Opinion Lifestyle Obituaries Explore Classifieds e-Edition

Deschutes County appears to be moving forward with mental health crisis center

\$1 million in grant funding no longer in jeopardy

By Brenna Vester
The Bulletin May 23, 2019

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Stabilization Center a new tool for mental health professionals
6/17/2020

It puts a strain on emergency rooms and law enforcement - people in the middle of a mental health crisis. Last year, there were 3,000 calls to the crisis line.

The Bulletin Local & State Coronavirus Sports Business Opinion Lifestyle Obituaries Explore Classifieds e-Edition

In Bend, mental health worker teams with police

Counselor rides with cops to keep mentally ill people out of jail

By Garrett Andrews • The Bulletin Jun 9, 2019



Ally Lewis, a licensed professional counselor with the Deschutes County Health Department, sits with Bend Police officer Jake Chandler while working a shift together. (Brenna Vester/The Bulletin)

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Decriminalizing Mental Illness

Deschutes County is set to open a stabilization center this spring. With a 17-fold increase in mental health calls over the past decade, it's a welcome addition.

BY LAUREL BRAUNS

Calls to the Bend Police Department involving people who were "allegedly mentally ill" increased by 172% from 2010 to 2017. People affected by mental illness end up in prison and jail at a much higher rate than people without a diagnosis. In response to the increase in calls, Deschutes County has created a number of innovative programs—backed by federal grants—aimed at intervening early to connect people with the resources they need to stay out of jail and the emergency room.

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Deschutes County Stabilization Center Opens

People experiencing a mental health crisis finally have a place to go that's not jail or the emergency room

BY LAUREL BRAUNS

Central Oregon has gained a national reputation for trying out progressive mental health approaches that cost less and help people more. Some of these innovative programs—such as the new Deschutes County Stabilization Center—demonstrate cooperation between local law enforcement, behavioral health agencies and emergency response teams.

For many people with entry into mental health county petty crimes ill Harris, crisis program four percent of people 2014, according to a sit then to get out, as the

On a national level, On America, comparing it of access to care. But H services for those with Oregon, and even othe

The Deschutes County Sta 2020 and will cost approx needs

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Deschutes County Sheriff visits Stabilization Center
DES. CO. SHERIFF'S OFFICE

Watch later Share

5:01 78° KTVZ.com 21

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power hour
an environmental center event of
Zero Energy Homes
Wed, June 24, 5:00-7:00 PM
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Submitting an event is free and easy.

During these difficult times, stress can feel more

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The Deschutes County Stabilization Center welcomed its first clients this week.

City and county governments across the U.S. are currently discussing new partnerships and programs to overhaul the criminal justice system and defund the police. This comes in response to worldwide protests against the killing of George Floyd by a police officer in Minneapolis and other incidents of police brutality. Some people in the reform movement believe that it would make more sense for someone in distress to work with a mental health professional rather than an armed police officer who could potentially hurt them or may be perceived as threatening, according to Vox.

In Deschutes County, the new stabilization center adopts this philosophy by providing a place for people to go besides jail when they have mental breakdowns or commit petty crimes.

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During these difficult times, stress can feel more

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NEWS » LOCAL NEWS December 03, 2019

A Progressive Approach To Health

An inside look at Deschutes County Behavioral Health

BY LAUREL BRAUNS

Last week, the Source Weekly published a piece about the county's efforts to decriminalize mental illness. Local crisis experts told stories of working within jails and police departments to identify and assist people coping with chronic mental health disorders.

This week, Deputy Director Janice Garceau of Deschutes County Behavioral Health provides an inside look at the organization's progressive approach to mind/body health, its ability to win competitive national grants and its team of peer support specialists who bring hope to those suffering in the community.



The Bulletin Local & State Coronavirus Sports Business Opinion Lifestyle Obituaries Explore Classifieds e-Edition

Deschutes County wants to build mental health, sober center

Center will relocate current crisis services, extend hours.

By Aina Cassidy
The Bulletin Jan 23, 2018



ASK AMY ABOUT EVs
Who Drives Electric Vehicles? Live Q&A with EV Driver, Amy Mitchell
Tue., June 30, 12-1 p.m.
VIEW ALL OUR PICKS

HOOKER CREEK
DIY?

Crisis training program helping local law enforcement with some of their toughest calls
11/12/2019

Living with a mental illness is challenging. For law enforcement, responding to a call involving someone in crisis is equally tough. Just this year, in a 9-month period, Deschutes County's Crisis Team fielded an average of 155 calls a month from law enforcement.

OSU-Cascades to host conversation about racial unrest in nation

BPRD to open jumper kids' pool July 6th

NEWSLETTER SIGN UP
CASCADES

Practical Tip: Develop Creative Approaches to Funding

- Existing Resources
- Grants
- Coordinated Care Organizations
- Phased in approach
- Sustained funding through county general fund & community partner contributions



Initial Funding for the Deschutes County Stabilization Center

- \$504,606 – Pacific Source Strategic Investment Dollars (Capital)
- \$510,428 – WEBCO Dissolution Payment (Capital)
- \$70,000 – Bend Police Department
- \$570,000/annually – Deschutes County Sherriff's Office
- \$700,000 – Bureau of Justice Assistance Grant
 - Case manager, 20 hours of psychiatric services, contract with OHSU for program evaluation and data collection
- \$350,000 – SAMHSA (CCBHC Extension)
- \$584,000 – Central Oregon Health Council
- 2.4 million - IMPACTS Grant/Oregon Criminal Justice Commission

Practical Tip: Think outside the 9 to 5

- 2 Master's level clinicians/1 Behavioral Health Technician (front desk)
- Day shift M-F 7 am – 3:30 pm
- Swing Shift M-F 3:00 pm – 11:30 pm
- Night Shift M-W, W-F 8:00pm to 8:30 am
- Saturday/Sunday Day 7am to 7pm
- Saturday/Sunday Night 7pm to 7 am
- 30 min change of shift

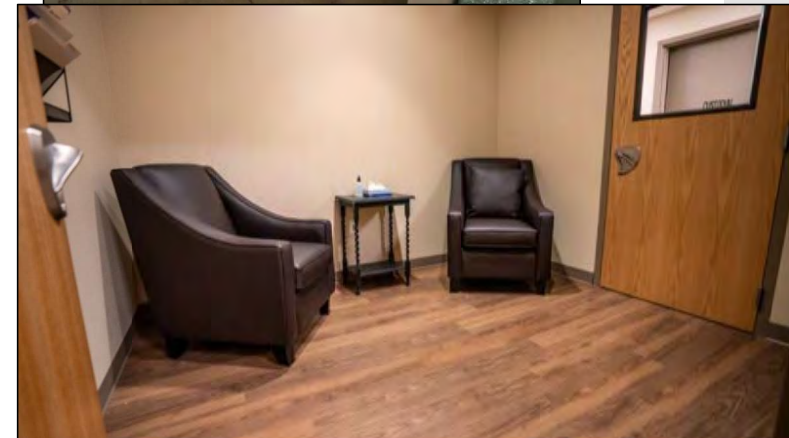


Developing a Schedule

- Look at many alternatives as possible
 - Unique scheduling options
 - 12 hour shifts
 - 10 hour shifts
 - Redundancy in scheduling
 - Backup plans
 - On-call
 - Stipend pay
 - Exempt vs non-exempt
 - Full staffing vs. minimum staffing
- Look at other 24-hour scheduled agencies in your area
 - Jails
 - Law enforcement agencies
 - Hospitals

Practical Tip: Work Towards Continuous Growth and Improvement

- Stay Solution Focused
 - Do not avoid difficult topics
 - Do not take things personally or dogmatically
 - Leave your ego at the door and work collaboratively
- Be Flexible
 - Avoid rigidity
 - Get creative with solutions
- Be Responsive (not reactive)
 - Tackling problems as they arise
 - Not tackling problems too “quickly”
 - Solicit feedback
 - Staff, Consumer, and Community Partners
 - Follow through with changes



The Results are In!

Monthly Totals	# of Walk-Ins	# of LEA drop offs	# of ED Diversions-Client	# of ED Diversions-LEA	# of Respite	# of ED referrals	# of Children	# of adults 18+
June 2020	46	6	3	1	9	6	4	42
July 2020	91	15	10	4	21	5	8	83
August 2020	128	22	19	6	22	4	7	121
September 2020	131	21	23	11	25	8	13	118
October 2020	195	36	28	19	28	22	18	177
November 2020	146	26	30	7	33	18	11	135
December 2020	156	41	19	12	37	7	14	142
January 2021	140	32	16	8	16	14	12	128
February 2021	113	27	11	9	28	3	16	97
March 2021	144	32	10	10	35	11	21	123
April 2021	150	20	20	8	34	2	16	134
May 2021	169	31	16	9	37	9	15	154
June 2021	173	34	27	19	44	7	21	152
July 2021	173	39	18	10	45	12	16	157
Yearly Grand Total	1955	382	250	133	414	128	192	1763

Ongoing Grand Totals 1955
 Unduplicated Grand Totals 1154

Total Visits

3742

Data

YTD Quick Stats June 2020- July 2021


- ❖ Average of 9.5 visits per day
- ❖ 20% brought in by LE (average 4.7 min per drop off)
- ❖ 21% utilize respite
- ❖ 20% diverted from the ED
- ❖ 90% adults and 10% children
- ❖ 3% said they would have ended their life if the Stabilization Center were not here (37 people)
- ❖ 3% were sent to the ED involuntarily

Central Oregon **daily** News


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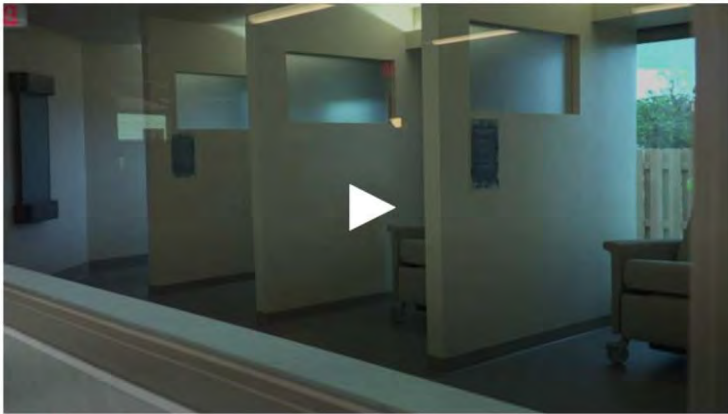
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▶ **Stabilization Center a new tool for mental health professionals**






BY TED TAYLOR | Wednesday, June 17th 2020

It puts a strain on emergency rooms and law enforcement – people in the middle of a mental health crisis. Last year, there were 3,000 calls to the crisis line. That's a 42% jump – including a 67% jump in calls from law enforcement.


Central Oregon Daily Photojournalist Steve Kaufmann shows us a new facility in Deschutes County set up to break the cycle.

If you or someone you know is in crisis, you can walk into the crisis stabilization center at 6311 Jamison St. in Bend, Monday through Friday from 8 a.m. to 4 p.m.

You can also call the Deschutes County Crisis Line at 541-322-7500 ext. 9.


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Berkeley Homeless Commission

MEETING MINUTES

November 15, 2021

1. Roll Call: 7:00 PM

Present: Kealoha-Blake (absent until 7:07), Marasovic, Andrew, Gomez.

Absent: Behm-Steinberg.

Staff: Jacobs, McCormick.

Council: None.

Public: 5.

2. Public Comment: 0

3. Approval of minutes from September 8, 2021 and October 13, 2021.

Action: M/S/C Andrew/Marasovic move to approve the minutes as written.

Vote: Ayes: Marasovic, Andrew, Gomez.

Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg, Kealoha-Blake

Action: M/S/C Marasovic/Gomez move to approve the minutes as written.

Vote: Ayes: Marasovic, Andrew, Gomez.

Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg, Kealoha-Blake

Updates/Action Items:

4. Agenda Approval

Action: M/S/C Marasovic/Gomez move to approve the agenda as written.

Vote: Ayes: Marasovic, Andrew, Gomez, Kealoha-Blake.

Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

5. HOME ARP Application Review.

Action: M/S/C Marasovic/Gomez move to strongly support the staff recommendation for the HOME ARP Application for Home Key.

Vote: Ayes: Marasovic, Andrew, Gomez, Kealoha-Blake.

Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

6. Chair and Vice-Chair Update.

Discussion; no action taken.

7. Staff update explaining stats on crisis queue and housing queue.

Discussion; no action taken.

8. Crisis stabilization program proposed recommendation.

Action: M/S/C Marasovic/Gomez move to request City Council refer to the City Manager to develop a crisis stabilization program based on the Bend, Oregon crisis stabilization model tailored to Berkeley, consistent and that this report be incorporated into the Homeless Commission's recommendation.

Vote: Ayes: Marasovic, Gomez, Kealoha-Blake.

Noes: None. *Abstain:* Andrew. *Absent:* Behm-Steinberg.

9. Staff update on incorporating stakeholders into planning for Point-in-Time Count, per April, 14, 2020 Council Consent Calendar acting on Homeless Commission recommendation, and coordination with the County.

Discussion; no action taken.

10. Discussion and possible action item on South Berkeley Homeless Outreach Coordinator on November 16, 2021 Council Agenda.

Action: M/S/C Marasovic/Gomez move to support the submission of a letter to Council, as written, opposing the establishment of a Homeless Outreach Coordinator limited to South Berkeley and recommends that those \$200,000. in proposed monies be directed towards housing homeless persons.

Vote: Ayes: Marasovic, Andrew, Gomez, Kealoha-Blake.

Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

11. Discussion and possible action on extending date and scope of storm shelter to other emergencies.

Action: M/S/C Marasovic/Kealoha-Blake move to extend the meeting by 10 minutes.

Vote: Ayes: Marasovic, Gomez, Kealoha-Blake.

Noes: Andrew. *Abstain:* None. *Absent:* Behm-Steinberg.

Action: M/S/C Marasovic/Kealoha-Blake move that City Council refer to the City Manager to expand the emergency storm shelter program to emergencies not otherwise covered including outside the dates of the current contract with Dorothy Day House.

Homeless Commission Meeting Draft Minutes
November 15, 2021

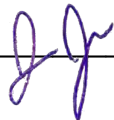
Vote: Ayes: Marasovic, Andrew, Gomez, Kealoha-Blake.
Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

12. Discussion Update from City Manager's office or designee on RV lot and Eighth and Harrison residents.

Discussion; no action taken.

Meeting adjourned at 9:10 PM

Minutes Approved on: 1.12.22

Josh Jacobs, Commission Secretary:  _____



Berkeley Homeless
Services Panel of Experts

MEETING MINUTES

February 2, 2022

1. **Roll Call:** 7:00 PM
Present: Marasovic, Bookstein, Kealoha-Blake, Scheider (absent until 7:04), De la Guardia, Carrasco (absent until 7:04).
Absent: None.
Staff: Jacobs, McCormick.
Council: None.
Public: 7
2. Comments from the Public: 0

Update/Action Items

3. Approval of Minutes from January 5, 2021.

Action: M/S/C Marasovic/Kealoha-Blake move to approve the minutes as amended to change item 8 to include that zero dollars were spent in this fiscal year and to include on item 9 that 600,000k has been spent for 5150 transport.

Vote: Ayes: Marasovic, Bookstein, Kealoha-Blake, De la Guardia,
Noes: None. *Abstain:* None. *Absent:* Scheider, Carrasco.

4. Agenda Approval.

Action: M/S/C Marasovic/Kealoha-Blake move to approve the agenda as written.

Vote: Ayes: Marasovic, Bookstein, Kealoha-Blake, Scheider, De la Guardia,
Carrasco.
Noes: None. *Abstain:* None. *Absent:* None.

5. Chair update.

Discussion; no action taken.

6. Presentation on crisis stabilization program model in Bend, Oregon with Q&A and Commission discussion.

Action: M/S/C Marasovic/Bookstein move to support the Homeless Commission recommendation to the City Manager to consider establishing a 24/7 crisis stabilization program based on the Bend, Oregon model tailored to Berkeley with

A Vibrant and Healthy Berkeley for All

Homeless Services Panel of Experts
February 2, 2022

Measure P funding that partners with medical, police, and community-based organizations.

Vote: Ayes: Marasovic, Bookstein, Kealoha-Blake, Scheider, De la Guardia, Carrasco.
Noes: None. *Abstain:* None. *Absent:* None.

7. Presentation on family homelessness with Q&A and Commission discussion.

Discussion; no action taken.

Action: M/S/C Scheider/Marasovic move to extend the meeting to 9:20 pm and to agenda this for next month's meeting.

Vote: Ayes: Marasovic, Bookstein, Kealoha-Blake, Scheider, De la Guardia, Carrasco.
Noes: None. *Abstain:* None. *Absent:* None.

8. Staff to provide presentation of all streams of City funding allocated for services, across divisions, provided to the homeless population.

Discussion; no action taken.

9. Staff to update on homeless Point-in-Time Count.

Discussion; no action taken.

10. Chair and Vice-Chair election.

Action: M/S/C Marasovic/Kealoha-Blake move to elect Carole Marasovic as Chair and Michael de la Guardia as Vice Chair.

Vote: Ayes: Marasovic, Bookstein, Kealoha-Blake, Scheider, De la Guardia, Carrasco.
Noes: None. *Abstain:* None. *Absent:* None.

Action: M/S/C Marasovic/Bookstein move to elect Michael de la Guardia as Vice Chair.

Vote: Ayes: Marasovic, Bookstein, Kealoha-Blake, Scheider, De la Guardia, Carrasco.
Noes: None. *Abstain:* None. *Absent:* None.

11. Adjourn.

Meeting adjourned at 9:08 PM.

Homeless Services Panel of Experts
February 2, 2022

Minutes Approved on: _____

Josh Jacobs, Commission Secretary: _____



Department of Health, Housing, & Community Services

April 7, 2022

To: Housing Advisory Commission

From: Anna Cash, Partnership for Bay's Future Fellow, Health, Housing, and Community Services

Mike Uberti, Senior Community Development Project Coordinator, Health, Housing, and Community Services

Subject: Housing Preference Policy

RECOMMENDATION

Staff is requesting the Housing Advisory Commission (HAC) consider the implementation information in this report in combination with the policy options presented at the February 3, 2022 meeting to recommend preference options for a Housing Preference Policy.

SUMMARY

A Housing Preference Policy (HPP) will assist people with ties to Berkeley, households with children, and residents experiencing homelessness, to receive priority for new affordable housing units. The HPP is intended to apply to units created by the City's Below Market Rate (BMR) and non-profit affordable Housing Trust Fund (HTF) programs.

As part of a Partnership for the Bay's Future (PBF) Challenge Grant, the City of Berkeley has been working with community partners East Bay Community Law Center (EBCLC) and Healthy Black Families (HBF) to engage in a community-driven process to design the Housing Preference Policy.

This policy would not automatically apply to existing affordable units due to regulatory agreements that regulate specific properties. Preferences will not apply to Shelter Plus Care units assigned under the BMR program as they are case-managed and do not have a lottery system. It is still being determined how the Housing Portal will incorporate Section 8 assigned BMR units; applicability to those units will be dependent on whether they are included on the Housing Portal. Staff are advocating for Section 8 vouchers to be included on the Housing Portal. The policy's applicability to HTF units may vary dependent on the use of state and/or federal funding sources that carry specific residency requirements (e.g., Homeless, Seniors, Transition Aged Youth).

Fair Housing law requires a disparate impact analysis (DIA) for preferences. This analysis assesses how racial groups and protected classes will be impacted by a preference policy and determines what percentage of units can receive preferences

without creating disparate impacts on protected classes under state or federal law. Other funding agencies (county, state, federal) that contribute funding to the City's nonprofit affordable housing need to approve this analysis before permitting use of a preference policy on those units. Staff's intent is for the policy to be applied to the maximum percentage of units permitted by disparate impact analysis. Research from other cities shows this analysis will limit the number of affordable housing units the policy can apply to; it will not be able to be applied to 100% of units. This analysis also has implications for the timeline of applying preferences to HTF units.

A previous report for the February HAC meeting focused on policy options, including the outreach and research conducted to develop these recommendations. The policy options that Staff put forward in that meeting are summarized in Attachment 1, and materials from that meeting can be found on the HAC website:

https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/HAC%20agenda%20PACKET%202022-02-03.pdf.

This memo focuses on implementation considerations, including adoption, disparate impact analysis, timeline, alignment with existing programs/policies, program implementation, and staffing.

DISPARATE IMPACT ANALYSIS

County, state, and federal agencies will require approval for Preferences for any projects they fund (i.e., the City's HTF-supported properties). It is important to note that this approval can take several months and occurs on a project-by-project basis. These approvals will not be relevant for BMR units as no funding applies to these programs. These approvals will typically include DIA. DIA assesses how racial groups and protected classes will be impacted by a preference policy and determines what percentage of units can receive Preferences without creating disparate impacts on a protected class.

DIA dictates what percentage of units the preference policy can be applied to. Staff's intent is for the policy to be applied to the maximum percentage of units permitted by DIA. Research from other cities shows that this analysis will limit the number of affordable housing units the policy can apply to; it will not be able to be applied to 100% of units. Preferences will not be able to be implemented on HTF units until DIA has been approved by the relevant funding agencies.

Disparate Impact Analysis Plan

Any proposed preferences may require DIA, to the extent that racial demographic information is available. Geography-based preferences, such as the proposed redlined areas preference, will require a DIA based on precedent from other cities. In San Francisco, a disparate impact analysis found that setting aside 40% of units in the lottery for people meeting a neighborhood preference would not have a disparate impact.¹ The policy options proposed by staff mimic the success of San Francisco and

¹ The US Department of Housing and Urban Development (HUD) determined in 2016 that it could not support this neighborhood preference on a specific project, the Willie B. Kennedy Apartments. In this

Portland to address historic racial disparities while balancing the demands of Fair Housing law.

Staff have been in contact with California Department of Housing and Community Development (HCD) about the agency's forthcoming guidelines on assessment of preference policies. The timing of the release of these guidelines will impact Staff's ability to move forward DIA efforts. Staff may recommend hiring a consultant to conduct DIA dependent on the scale and need. DIA will be conducted on HAC's policy recommendations in order to inform Council decisions.²

IMPLEMENTATION

Timeline

A Housing Preference Policy would need to have a phased adoption process:

- A. Conduct DIA on recommendations
- B. Adoption of HPP by City Council
- C. Adopt Administrative Guidelines and align policy with other policies/programs
- D. Conduct education and outreach for property managers and prospective tenants
- E. Coordinate preferences with the Housing Portal and apply HPP to BMR units
- F. DIA approvals process for HTF (nonprofit affordable) units as needed
- G. Data collection and assessment with racial equity framework

A phased approach provides an opportunity to pilot the implementation of the preferences on eligible BMR units, which come online in smaller quantities than HTF projects. Staff will collect data and assess how the policy is meeting its goals while DIA is going through the approvals process. It is not clear when HCD will release their guidelines, and how long the approval processes may take. It is possible that approvals will take several months.

Overall Process

The City is currently transitioning its new BMR and HTF leasing process to the Alameda County Housing Portal ("Housing Portal"). The Housing Portal will incorporate the City's Preferences into the uniform application. The Preferences will create a point system that will apply to lotteries for new listings. An applicant may select as many Preferences as they qualify for to receive a priority.

Staff met with representatives from local affordable housing providers to discuss application and verification models. This planning ensured the proposed policy options

case, the surrounding neighborhood had disproportionately more white residents than the overall city. The City proposed and was approved for an alternative preference, based on neighborhoods' displacement risk level.

² See Redwood City's Request for Proposals for a DIA consultant (<https://www.redwoodcity.org/Home/Components/RFP/RFP/1516/4032>), and analysis conducted (<https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/ATTACHMENT%20D%20E2%80%93%20LIVE-WORK%20POLICY%20ANALYSIS%20BY%20SEIFEL%20CONSULTING.pdf?meetingId=2250&documentType=Agenda&itemId=5223&publishId=9209&isSection=false>).

are consistent with the City's current practices for application and verification. Staff will document these processes in administrative guidelines and regulatory agreements to ensure a standardized applicability.

Existing Residency Requirements

Both BMR and HTF units have established residency requirements that would not have Preferences applied:

- A. BMR: BMR projects that have units affordable to very low-income households (up to 50% of area median income) are required to dedicate those units to residents with Section 8 vouchers or Shelter Plus Care certificates. Preferences will not apply to Shelter Plus Care units as they are case-managed, and do not have a lottery system. It is still being determined how the Housing Portal will incorporate Section 8 units; applicability to those units will be dependent on whether they are included on the Housing Portal. Staff are advocating for Section 8 vouchers to be included on the Housing Portal.
- B. HTF: HTF projects are typically funded by a variety of sources, including the State of California's Department of Housing and Community Development (HCD) and the federal Department of Housing and Urban Development (HUD). These agencies will need to approve any Preferences that apply to a project with their funding. Typical projects also carry specific residency requirements that may or may not support preferences, such as senior housing. Preferences will not apply to units that are case-managed with targeted funding, such as Coordinated Entry for homeless households, as they do not use a lottery.

Preferences would be applied to units that are filled via Housing Portal applications, applying to the maximum number of HTF units permitted by a disparate impact analysis. Different funding sources will be reviewed for the overlap in their residency requirements with the Preferences. Regulatory agreements will indicate how to apply Preferences consistent with funding requirements (if possible). In instances where specific residency requirements apply, preferences could be used to re-sort lottery rankings for applicants that meet funding-tied residency requirements, before lottery results are finalized. Staff will need to work with property managers and developers to determine an efficient implementation strategy for lotteries.

Policy Goals & Legal Considerations

There was also discussion at the February Housing Advisory Commission meeting of a race-specific preference for Black/African American applicants. This was a priority recommendation of the Community Leaders Group and a priority in the Healthy Black Families' "Right to Return, Right to Stay" survey. The goal of such a preference would be to address Berkeley's history of housing and racial injustices, particularly to the African American community.

Staff recognizes this history of racial discrimination in Berkeley and its ongoing impacts. For example, 83% of today's gentrifying areas in the East Bay were rated as

"hazardous" (red) or "definitely declining" (yellow) by HOLC during redlining.³ The existing segregation of communities caused by government redlining, as well as by local exclusionary zoning policies, enabled the racialized component of the foreclosure crisis, as redlining created large areas of concentrated communities of color into which subprime loans were channeled. And Black people have been disproportionately displaced from Berkeley. Between 1990 to 2018, Berkeley lost 49% of its Black population. Between 2000 to 2018, while Berkeley's African-American household population decreased, Berkeley's white, Latinx and Asian household populations all grew slightly. Black people are disproportionately represented in Berkeley's homeless population; since 2006, 65% of homeless service users in Berkeley are African-American, when African-American people comprise less than 8% of the overall population.

Staff appreciates the work of the Community Leaders Group to craft comprehensive recommendations and, together with partners on the Challenge Grant, made extensive efforts to put forward policy options for the Housing Advisory Commission's consideration that are responsive to and inclusive of the Community Leaders Group's work and knowledge. This included historical research on racial discrimination in housing in Berkeley. In addition, EBCLC conducted legal research on potential legal pathways for a race-specific preference. Staff, the City Attorney's Office, and EBCLC explored potential avenues to accommodate this recommendation in depth. However, given current legal frameworks described below, a legal strategy was not identified that would be defensible in court.

Race-specific preferences are not permissible under California's Proposition 209, which amended the California constitution to prohibit governmental institutions from considering race, sex, or ethnicity, in the areas of public employment, public contracting, and public education. Publicly funded affordable housing is a form of public contracting. Race-specific preferences are generally impermissible under the Equal Protection clause of the 14th amendment of the United States Constitution, which guarantees that no person or class of people can be denied the same protections under the law that are enjoyed by others. A legal brief that details the legal limitations of preferences – including Fair Housing law and constitutional challenges – is included as Attachment 2.

The City of Berkeley is currently making historic investments in affordable housing. Ensuring that new affordable housing units can be made available to those with ties to Berkeley, and particularly to those that have faced discrimination, is identified as a top priority by Council and the community. Staff recognizes the community's demand to account for historic injustice to Berkeley's communities of color. The proposed policy options are intended to provide a pathway to legally implement a policy that will achieve these outcomes in the near-term.

The proposed policy options aim to address racial equity through preferences, including:

³ See <https://www.urbandisplacement.org/about/what-are-gentrification-and-displacement/>.

- First priority for those who lost their homes due to eminent domain during the construction of Ashby and North Berkeley BART stations, which impacted African American families;⁴
- Preference for applicants with residential ties to Berkeley's redlined areas, where African American households were predominantly concentrated due to exclusionary policies;
- Preference for those displaced by foreclosure, which disproportionately impacted African American households, and;
- Preference for homeless applicants and those at-risk of homelessness; Black people are disproportionately represented in Berkeley's homeless population.

This proposal aims to account for legal limitations and achieve racial equity outcomes that will begin to mitigate displacement and help community members who have been displaced return to the community. These policy options were shared with the Community Leader's Group prior to coming to the commission (Attachment 1).

These policy options are intended to recognize historic racial injustice caused and/or facilitated by government action and the ongoing displacement of Berkeley's African American community. The City will implement a racial equity framework to monitor and report on the outcomes of the adopted policy.

Attachments:

Attachment 1: Policy Options Summary

Attachment 2: Columbia Law Review: Perpetuating segregation or turning discrimination on its head? Affordable housing residency preferences as anti-displacement measures.

Weblink: <https://columbialawreview.org/content/perpetuating-segregation-or-turning-discrimination-on-its-head-affordable-housing-residency-preferences-as-anti-displacement-measures/>

Attachment 3: Staffing

⁴ LA Times coverage of the pilot program in Santa Monica to give preference to those displaced by eminent domain and their descendants highlights that Black people who lost their homes to eminent domain had more constrained options than their white counterparts. This was due to lower assessed home values for Black families, and segregation in the broader housing market. See <https://www.latimes.com/podcasts/story/2022-01-31/the-times-podcast-santa-monica-evictions-10-freeway-construction>.

Attachment 1. Policy Options

The policy options below were presented at the February 3, 2022 Housing Advisory Commission meeting. These policy options are the product of community outreach and research described in the report for the February 3 HAC meeting, which is available at this link: https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/HAC%20agenda%20PACKET%202022-02-03.pdf.

Preference	Proposed Preference Details
Displacement due to eminent domain for BART	First priority, separate lottery: Descendant of someone whose home was seized via eminent domain to develop Ashby/North Berkeley BART.
Displaced due to foreclosure	1 point: Displaced due to foreclosure in Berkeley since 2005.
Families with children	1 point: household with at least one child aged 18 or under.
Homeless or at risk of homelessness	1 point: At-Risk of Homelessness in Berkeley/with former address in Berkeley <u>OR</u> 1 point: Literally Homeless in North Alameda County
Ties to redlined areas	1 point: Residential ties to Berkeley's redlined areas – current or former address of applicant.
Ties to redlined areas – historical	1 point: Residential ties to Berkeley's redlined areas – current or former address of parent/guardian or grandparent of applicant.

• NOTE •

PERPETUATING SEGREGATION OR TURNING DISCRIMINATION ON ITS HEAD? AFFORDABLE HOUSING RESIDENCY PREFERENCES AS ANTI- DISPLACEMENT MEASURES

Zachary C. Freund*



Affordable housing residency preferences give residents of a specific geographic “preference area” prioritized access to affordable housing units within that geographic area. Historically, majority-white municipalities have sometimes used affordable housing residency preferences to systematically exclude racial minorities who reside in surrounding communities. Courts have invalidated such residency preferences, usually on the grounds that they perpetuate residential segregation in violation of the Fair Housing Act.

More recently, as gentrification spurs rising housing costs in many formerly majority-minority urban neighborhoods, cities including New York and San Francisco have implemented intramunicipal residency preferences as a mechanism for mitigating gentrification-induced displacement. These cities’ policies offer residents preferred access to affordable housing units in their own neighborhoods, relative to both nonresidents and to city residents living in other neighborhoods. Proponents of these policies contend that their use on an intracity level preserves rather than excludes minority communities, thereby inverting the traditional discriminatory application of such preferences. Opponents of the policies argue that any residency preference implemented in a racially segregated area necessarily perpetuates segregation and violates the law.

This Note examines how neighborhood-level, anti-displacement residency preferences should be understood under the relevant law. It observes that the neighborhood-level residency preference is a potent anti-displacement tool that suffers from an emerging mismatch between fair housing goals and fair housing law. Neighborhood-level anti-displacement residency preferences likely suffer from the same legal defects

as intercity preferences used to exclude minority applicants, and may even be at heightened risk because they are more likely to be expressly race-conscious. Despite the fact that these preferences aim to promote accessible affordable housing for low-income and minority residents, they do so in response to displacement pressures that the Fair Housing Act does not contemplate and in a manner that arguably clashes with its anti-segregationist objective. If neighborhood-level residency preference policies are to be effectively and legally utilized to address issues of urban displacement, either courts' approaches to such policies or the policies themselves must evolve.

* J.D. Candidate 2018, Columbia Law School.

INTRODUCTION

In an era of gentrification-induced displacement, it is uncertain whether efforts to preserve existing neighborhood demographics should be understood as extending or subverting fair housing practices. Municipalities use residency preference policies to restrict access to affordable housing units on the basis of applicants' place of residence. Historically, residency preference policies have been challenged and invalidated when they exclude minority applicants from affordable housing in majority-white suburbs.¹ As gentrification elevates housing prices, many low-income and minority residents are displaced from their neighborhoods or even from their cities entirely.² Cities, including San Francisco and New York, have offered residents preferred access to affordable housing in their own neighborhoods in an effort to mitigate population displacement.³

Proponents of these policies contend that their use on an intracity level preserves rather than excludes minority communities. San Francisco's City Attorney, for example, maintained that the city's residency preference plan takes a formerly exclusionary tool and "flips it on its head."⁴ New York City officials have similarly warned that invalidating their policy would "turn the [Fair Housing Act] on its head."⁵ Not everyone agrees, however, that neighborhood-level residency preferences amount to an inclusionary headstand. New York's community preference policy is the subject of a federal lawsuit,⁶ and San Francisco's effort to use residency preferences as a lifeline for the city's dwindling African American population was blocked by the Department of Housing and Urban Development (HUD).⁷ In both cases, opponents claim that the policies violate the Fair Housing Act by perpetuating segregated housing patterns.⁸

Conventional legal analysis suggests that residency preferences are invalid in residentially segregated locales, regardless of whether the preference favors primarily white or primarily nonwhite residents.⁹ Moreover, affirmative-action-minded preferences may be at heightened legal risk because they are more likely to be expressly race conscious.¹⁰ Put simply, the

neighborhood-level residency preference is a potent anti-displacement tool that suffers from an emerging mismatch between fair housing goals and fair housing law.

This Note examines how neighborhood-level, anti-displacement residency preferences should be understood under the relevant law. Part I describes the legal history of exclusionary, intercity residency preferences and details New York's and San Francisco's efforts to implement and defend intracity preferences. Part II analyzes both the potential value and legal vulnerabilities of anti-displacement, intracity residency preferences and concludes that they are unlikely to withstand legal challenge. Part III proposes several solutions to this dilemma, suggesting alternative approaches to the residency preference model and urging a more expansive understanding of fair housing goals in light of gentrification pressures.

I. OVERVIEW OF AFFORDABLE HOUSING RESIDENCY PREFERENCES

The Fair Housing Act (FHA)¹¹ and the federal regulations through which HUD enforces it endow local governments with the authority to govern applicant eligibility for affordable housing units.¹² Public Housing Authorities (PHAs) may, within certain limits, restrict eligibility or create a priority system for eligibility on the basis of any legally permissible criteria.¹³ Many local governments elect to restrict eligibility on the basis of applicants' geographical residence in order to protect their own residents from losing affordable housing opportunities to nonresidents.¹⁴

No court has held that residency preference policies are per se illegal, and HUD has tacitly endorsed the proper use of such policies.¹⁵ The case law regarding residency preferences, however, suggests that residency preferences are often on tenuous legal ground. Courts have repeatedly found that residency preferences, when applied in racially segregated areas, facilitate or perpetuate segregation by limiting the opportunities for proximate nonresidents of color to procure affordable housing in predominantly white municipalities.¹⁶ Against this legal backdrop, cities have encountered resistance to the implementation of intracity residency preferences, even when they are enacted with the purported intention of supporting communities of racial minorities.¹⁷

This Part examines the trajectory of the legal controversies surrounding affordable housing residency preferences. Section I.A introduces residency preferences and residency requirements generally, as well as the relevant legal boundaries on affordable housing residency preferences. Section I.B charts the existing case law on residency preferences in affordable housing. Sections I.C and I.D address recent controversies surrounding the preference policies of New York and San

Francisco, respectively.

A. BACKGROUND ON RESIDENCY PREFERENCES

1. *Residency Requirements and Preferences.* — The landscape of residency requirements and preferences is extensive and varied.¹⁸ Litigation over such policies often invokes the Article IV Privileges and Immunities Clause,¹⁹ which is understood to prohibit governmental discrimination on the basis of state and municipal residency,²⁰ and the Dormant Commerce Clause doctrine, under which states are generally proscribed from implementing economic protectionism.²¹ Nonetheless, these doctrines have notable exceptions,²² and states frequently enact laws and regulations that endow state residents with preferential access to jobs, social services, and other opportunities—or that foreclose nonresidents from accessing those opportunities entirely.²³ Residency requirements and preferences are also enacted at the municipal level for similar reasons as their state-level counterparts: the earmarking of local opportunities for residents, the stimulation of the local economy, and parochialism.²⁴

Common residency requirements impose restrictions on who may vote,²⁵ hold public office,²⁶ receive construction contracts for public works,²⁷ and earn welfare benefits,²⁸ among other activities.²⁹ Durational requirements discriminate between longstanding and recent residents, often by establishing waiting periods before new residents are eligible for public benefits such as welfare, voter eligibility, or in-state tuition.³⁰

Residency *preferences*, while less restrictive than residency requirements, nonetheless raise related legal and policy questions by conferring upon residents prioritized access to jobs, goods, or services. Residency preferences are utilized in affordable housing to provide residents of a “preference area” with prioritized access to local public (or publicly funded) housing. Local governments around the country have frequently proposed and implemented these preference policies,³¹ which are the focus of this Note. Subsequent references to “residency preferences” in this Note refer specifically to residency preferences in the affordable housing context rather than to residency preferences generally.

2. *Relevant Legal Boundaries.* — Affordable housing residency preferences, particularly those enacted in racially segregated areas, are most commonly challenged as violations of the FHA. Enacted as Title VIII of the Civil Rights Act of 1968, the Fair Housing Act³² embraced a clear integrationist purpose from the outset. The goals of the FHA, according to its cosponsor Senator Walter Mondale, were to cultivate “truly integrated and balanced living patterns,”³³ address the problem of Americans “liv[ing] separately in white ghettos and Negro ghettos,” and promote “the principle of living together.”³⁴ Two major catalysts for the FHA’s passage were the assassination of Dr. Martin Luther King, Jr. and the release of the Kerner Report, commissioned by President Lyndon B. Johnson, which described the increasing segregation of U.S. society.³⁵

While the text of the FHA does not explicitly announce its integrationist aims, courts and scholars have understood its provisions to embrace that purpose in light of its legislative history.³⁶ The FHA’s “affirmatively further” language, which instructs HUD to administer its programs “in a manner affirmatively to further the purposes” of the Act,³⁷ is commonly understood as a “mandate to promote racial integration.”³⁸ Regulations promulgated by HUD reassert the FHA’s integrationist mandate and indicate that disparate impact liability³⁹ may constitute a violation.⁴⁰ In its 2015 decision in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*,⁴¹ the Supreme Court affirmed that the FHA⁴² prohibits both intentional discrimination and discriminatory consequences under a disparate impact standard.⁴³

In addition to claims brought pursuant to the Fair Housing Act, residency preference policies may also be subject to constitutional challenges alleging racial discrimination in violation of the Fourteenth Amendment’s Equal Protection Clause or unconstitutional restriction of the fundamental right to travel and migration.⁴⁴

B. JUDICIAL REVIEW OF RESIDENCY PREFERENCES

Until recently,⁴⁵ legal challenges to residency preference policies have followed a predictable pattern: A suburban municipality with predominantly white residents implements a residency preference for its affordable housing, and neighboring nonresidents claim that the policy discriminates against racial minorities.⁴⁶ This section explores the existing case law and examines the situations in which courts have affirmed, invalidated, or called into question the legality of residency preference policies.

1. *FHA Disparate Impact Claims.* — Residency preferences are perhaps most susceptible to FHA disparate impact challenges that allege the policies have a segregative effect. Such challenges emphasize the demographic disparities between the “preference area” population and the nearby populations that are excluded or disadvantaged by the residency preference. In *United States v. Housing Authority of Chickasaw*, a virtually all-white city⁴⁷ in Mobile County, Alabama, administered its low-rent housing program subject to a “citizenship requirement.”⁴⁸ The court found that, because of the racial disparities between Chickasaw and the remainder of Mobile County,⁴⁹ the residency requirement effectively “exclude[d] non-Caucasians from ever establishing residency” in Chickasaw and therefore established a disparate impact.⁵⁰ The court held that Chickasaw authorities had violated the FHA on that basis.⁵¹

Similarly, in *Langlois v. Abington Housing Authority*, the District Court of Massachusetts—evaluating cross-motions for summary judgment—found a prima facie case of disparate impact based on the comparative demographics of the suburbs with residency preferences⁵² and the surrounding urban areas.⁵³ When a “community has a smaller proportion of minority residents than does the larger geographical area from which it draws applicants,” the court indicated, a residency preference

policy “cannot but work a disparate impact on minorities.”⁵⁴

2. *Intentional Discrimination Claims.* — In some cases, courts have also regarded a disparity in the racial demographics of the preference area and surrounding area as evidence of intentional discrimination or equal protection violations. In *Comer v. Cisneros*, the Second Circuit vacated the district court’s grant of summary judgment to defendants, including the dismissal of plaintiffs’ equal protection racial discrimination claims.⁵⁵ The court affirmed those claims’ potential validity based on the stark demographic distinction between the included and excluded populations.⁵⁶ It suggested that the preference policy operated as a “proxy for race” that obstructed minorities’ efforts to “integrate into suburban life.”⁵⁷

More recently, in *United States v. Town of Oyster Bay*, the Eastern District of New York determined that intentional discrimination could be plausibly inferred from strong evidence of disparate impact.⁵⁸ The decision identified stark racial disparities as an “important starting point”⁵⁹ for intentional discrimination and found that Oyster Bay’s stated goal of prioritizing its own residents could be plausibly interpreted “to suggest a discriminatory motive” in light of those demographic disparities.⁶⁰ The court denied petitioner’s motion to stay the proceedings pending the Supreme Court’s decision in *Inclusive Communities* regarding disparate impact liability under the FHA,⁶¹ because Oyster Bay’s preference policy rendered intentional discrimination a separate, cognizable cause of action.⁶²

3. *Validity of Governmental Interests.* — A major theme that runs throughout residency preference case law is the interrogation of governmental justifications for administering preference policies. In *Chickasaw*, authorities justified the “citizenship requirement” on two grounds: It allowed the city to better provide for the needs of its own low-income residents, and it prevented Chickasaw’s affordable housing from becoming a “dumping ground for social undesirables.”⁶³ The court deemed both justifications to be “legitimate” concerns that precluded any inference of discriminatory intent, thereby defeating the federal government’s intentional discrimination claim.⁶⁴ Similarly, in *Fayerweather v. Town of Narragansett Housing Authority*, the District Court of Rhode Island found a residency preference to be rationally related to the town’s valid interest in prioritizing its own residents’ housing needs.⁶⁵

More recent case law, however, casts doubt on the rationales approved by the *Chickasaw* and *Fayerweather* courts, which suggest that residency preferences can be justified by a desire to prioritize local residents’ interests. The *Langlois* court denounced this kind of circular justification, which treats the desire to prioritize local residents as a legitimate basis for prioritizing local residents, as invalid.⁶⁶ It held that the defendants’ proffered rationales were extensions of that logic.⁶⁷ Defendant PHAs could only rebut the plaintiffs’ prima facie case of disparate impact, the court determined, by offering a “record of local conditions and needs” that justified the residency preferences and by showing that no less discriminatory alternative was available to address those

needs.⁶⁸ The *Oyster Bay* court demonstrated a similar skepticism of circular justifications by treating the defendant's stated desire to prioritize and benefit its own residents as evidence of discriminatory purpose, given the demographic discrepancies between the preference area and surrounding vicinity.⁶⁹

4. *Case Law Patterns and Trends.* — Even when courts have invalidated the specific residency preference at issue, they have taken care to affirm the general validity of such preferences. The *Chickasaw* court noted the “valid purpose” of prioritizing the housing needs of “established community members vis-a-vis newcomers.”⁷⁰ The eventual settlement for the *Comer* parties did not provide for the wholesale abolishment of residency preferences in the Buffalo area but rather for an expansion of the preference area to the entire county, which effectively extended the preference to minority residents of Buffalo whom it had previously excluded.⁷¹ A 2011 New York state court decision granting a preliminary injunction against proposed rezoning suggested that the operation of New York City's residency preference system perpetuated segregation, but the court posited that an extension of the preference to residents of the neighboring community district “might act to correct the imbalance in the applicant pool.”⁷² These cases suggest that courts' objections to residency preferences are usually confined to the preferences' specific applications and that courts may cure identified problems through modification rather than abolishment.

On the whole, the trajectory of the case law on residency preferences exhibits two particularly notable trends. First, the decisions indicate an increasing judicial willingness to view disparate impact not only as a harm itself but also as evidence of intent or unconstitutionality. While the influence of the *Oyster Bay* decision should not be overstated, it does indicate a possible shift in the jurisprudence toward treating disparate impact as a “starting point” and probing facially neutral residency preferences for discriminatory intent. This is a far cry from the *Chickasaw* court's unwillingness, thirty-four years prior, to infer discriminatory intent even from the stated purpose of keeping “undesirables” out of an all-white suburb.⁷³

Second, the case law evinces increasing skepticism of circular justifications and a reluctance to treat residency preferences as presumptively valid. Decisions such as *Comer*, *Langlois*, and *Oyster Bay* suggest that when significant demographic disparities exist, the prioritization of local residents' access to affordable housing may not be legitimate simply for reasons of parochialism.

C. NEW YORK'S COMMUNITY PREFERENCE POLICY AND THE WINFIELD LAWSUIT

1. *The Community Preference Policy.* — New York City's residency preference system, which the city calls the “community preference policy,” gives applicants from each community district⁷⁴ a preference in securing new affordable housing units within that same district, relative to applicants who reside in other districts.⁷⁵ The policy was established in the late 1980s with the original stated purpose of enabling residents of low-income neighborhoods to take advantage of the city's

redevelopment efforts.⁷⁶

New York City facilitates the development of new affordable housing units through incentives for developers, including direct subsidies, site acquisition, and tax credits and exemptions.⁷⁷ Developers are required to select residents for affordable units by soliciting applicants and conducting a lottery⁷⁸ and must consider certain mandated “set-asides” or preferences when assigning units.⁷⁹ New York City expanded the application of the community preference from thirty percent to fifty percent of units in 2002, and it has remained at that level since.⁸⁰ An intermunicipal residency preference policy also applies: All applicants residing in New York City must be processed and assigned before any nonresidents.⁸¹

2. *The Winfield Lawsuit.* — In July 2015, three plaintiffs represented by the Anti-Discrimination Center filed a lawsuit against New York City alleging that the community preference policy perpetuates segregation and violates the FHA and New York City’s Human Rights Code.⁸² The plaintiffs are African American women, residents of New York City, and income eligible for New York City’s affordable housing. Each entered lotteries for new affordable housing developments located in Manhattan community districts in which she did not reside and was not selected.⁸³ The complaint argues that the city’s “outsider-restriction policy” impairs low-income residents’ mobility, making it more difficult for them to obtain housing in “neighborhoods of opportunity.”⁸⁴

The complaint illustrates New York City’s residential segregation at the community district level.⁸⁵ Given these patterns, the lawsuit alleges, the city’s preference policy renders it liable for violating the FHA under both a disparate impact theory and an intentional discrimination theory.⁸⁶ It claims that New York City’s segregated and discriminatory history, its rejection of alternative policies that would promote integration, and its continued implementation of the “outsider-restriction policy” despite awareness of (or deliberate indifference to) its segregative impact “demonstrate that the . . . policy constitute[s] intentional discrimination.”⁸⁷

New York maintains that longstanding residents of gentrifying neighborhoods have earned preferential opportunities to remain and enjoy the benefits of revitalization, because they endured disinvestment and “persevered through years of unfavorable living conditions.”⁸⁸ New York’s reliance on longstanding residency as a justification for community preferences is undermined, potentially, by the nondurational nature of the policy. The *Winfield* plaintiffs criticize the policy on these grounds, noting that it assigns preferences “regardless of length of residency in the community district” and “even if [the applicant] established residency in the community district on the final day of the application period.”⁸⁹ Durational residency preferences, however, are disfavored by HUD⁹⁰ and may violate the constitutional right to travel and migration.⁹¹ As a result, the city may be unable to legally tailor community preferences to the “longstanding resident” argument through which it attempts to justify them.

New York City's additional justification for its policy is a pragmatic one: It serves as an effective means of "overcoming local resistance" to development and construction and therefore facilitates the creation of affordable housing.⁹² Community preferences are often popular with local residents and community organizations, who might otherwise oppose affordable housing development in their own neighborhoods.⁹³ As the city pursues a significant initiative to increase affordable housing,⁹⁴ it may rely particularly heavily on the neighborhood-level goodwill that community preferences generate⁹⁵ —a factor that the *Winfield* complaint dismisses as mere political expedience.⁹⁶

In October 2016, the *Winfield* court denied New York City's motion to dismiss.⁹⁷ The court held that the plaintiffs pleaded sufficient facts to allege both their disparate impact and intentional discrimination theories.⁹⁸ The decision ascribed to the community preference policy the "very purpose" of preserving "the existing racial and ethnic makeup of local communities."⁹⁹ As of March 2018, the litigation is ongoing with the parties engaged in discovery.¹⁰⁰

D. SAN FRANCISCO'S NEIGHBORHOOD RESIDENT HOUSING PREFERENCE

1. *Ordinance Enacted.* — Unlike New York's community preference policy, which New York City predominantly justifies in race-neutral terms, San Francisco enacted its "resident housing preference" ordinance in November 2015 with the express purpose of addressing race-specific gentrification and displacement issues.¹⁰¹ Under the ordinance, the lotteries for forty percent of new affordable housing units prioritize applicants who reside either within the project's supervisorial district or within a one-half-mile "buffer zone."¹⁰²

Local politicians and civil rights advocates lauded the ordinance as a possible antidote to the "alarming rate of displacement" among San Francisco's African American population, which declined from 13.4% in 1970 to 5.5% in 2014.¹⁰³ Even those city officials who opposed the ordinance seemed to be more concerned with its particulars than its principle.¹⁰⁴

2. *San Francisco and HUD Clash.* — In August 2016, HUD, then under the leadership of Obama appointee Julián Castro, denied San Francisco's proposal to implement the supervisorial district preference plan for the Willie B. Kennedy Apartments,¹⁰⁵ a new affordable housing development for senior citizens located in the historically African American neighborhood Western Addition.¹⁰⁶ HUD indicated that the proposed policy "could limit equal access to housing and perpetuate segregation," and that it "may also violate the Fair Housing Act."¹⁰⁷

The outcry against HUD's rejection of the resident preference plan was widespread and vehement. Civil rights advocates decried the decision, and the president of the local NAACP chapter called on the city to fight back in court.¹⁰⁸ Both local and national politicians lambasted HUD's decision and lobbied HUD on the policy's behalf.¹⁰⁹ Implicit in the reaction was a suggestion that the FHA's

traditional integrationist aims might be inapt in the face of rapid gentrification and that concerns about segregation *within* San Francisco should be superseded by the concern that minority populations were being displaced from the city entirely. As San Francisco’s City Attorney articulated in a letter to HUD, “San Francisco’s Plan addresses gentrification forces that were unknown when the Fair Housing Act was passed in 1968, and is not what Congress intended the Fair Housing Act to address.”¹¹⁰

3. *Displacement Preference*. — On September 21, 2016, HUD reaffirmed its disapproval of the neighborhood-based preference but approved an alternative plan that the city had proposed: Forty percent of units in the Willie B. Kennedy Apartments would be subject to a preference for San Francisco residents at an “elevated risk of displacement.”¹¹¹ This preference was extended to all income-eligible lottery applicants who resided in “neighborhoods undergoing extreme displacement pressure,” as determined by census tract.¹¹² Residents from at least five neighborhoods, including Western Addition, were eligible.¹¹³

City officials celebrated the decision as a “monumental victory” and downplayed the distinction between the policy they had initially proposed and the one that HUD approved.¹¹⁴ National politicians and journalists joined in hailing the new preference plan as a triumph and a model for other cities.¹¹⁵ The celebration over HUD’s acquiescence to an anti-displacement policy threatens to obscure the significant distinction between the policy that HUD rejected and the one that it approved.¹¹⁶ HUD’s response to the initial proposal demonstrates a seeming indifference toward the specific population that a residency preference is designed to exclude or to benefit. The anti-displacement strategy may indeed be a model for future affordable housing preferences; if so, it is likely because the law does not recognize a distinction between a policy like San Francisco’s and those enacted by white suburban enclaves.

II. RESIDENCY PREFERENCES AS ANTI-DISPLACEMENT EFFORTS: INVERTING OR EXTENDING A DISCRIMINATORY PRACTICE?

In the face of rapid urban gentrification and rising housing costs, affordable housing is in high demand and low-income communities face increasing displacement pressures.¹¹⁷ Against this backdrop, local governments may turn to residency preferences as an anti-displacement tool. In one sense, these residency preferences share an inherent parochialism with their exclusionary counterparts. To treat displacement as a problem is to presume that those who are currently in a place possess a superior claim to it. Yet there is also something distinct about residency preferences

deployed to preserve the very communities that such preferences have often been exercised to exclude: low-income, urban-dwelling racial minorities. Residency preferences in New York City and San Francisco purport to reorient a discriminatory tool toward an inclusionary end.

Although preferences designed to preserve minority communities arguably serve a different objective than those that are designed to exclude such communities, the distinction may not be legally meaningful. The “anti-displacement” policies, like their exclusionary counterparts discussed in section I.B, strive to keep existing residents in place.¹¹⁸ In doing so, they reinforce existing housing patterns and demographics. Therein lies the problem: Intracity residency preferences may be a valuable tool for local governments to combat displacement pressures on low-income minority residents, but they are likely not a valid one. If courts treat affirmative-action-minded preferences in a manner consistent with existing doctrine, such policies may be subject to equal or even greater legal vulnerability than their more classically exclusionary counterparts.

This Part examines both the value and vulnerabilities of neighborhood-level residency preferences enacted to preserve minority communities. Section II.A describes the underlying displacement pressures that motivate and inform these policies and discusses residency preferences’ potential to mitigate those effects. Section II.B examines the potential legal validity of such policies under each of the prominent applicable federal doctrines: FHA disparate impact liability, FHA intentional discrimination liability, equal protection law, and the right to travel.

A. RESIDENCY PREFERENCE POLICIES AS AN ANTI-DISPLACEMENT MEASURE

1. *Urban Gentrification and Displacement.* — The relationship between gentrification and displacement is at once intuitive and elusive. An influx of higher-income residents into a community and the ensuing elevation of the local cost of living can compel preexisting, lower-income residents to relocate.¹¹⁹ Even so, the displacement narrative of gentrification exists alongside an opposing (though perhaps not incompatible) narrative of “social mixing,” which suggests that middle-income residents’ migration into lower-income neighborhoods yields increased integration and enhances community resources to the benefit of the preexisting residents who remain.¹²⁰

Although concerns and research about gentrification date back to the 1960s, by most accounts gentrification in the United States (and the attention paid to it) became increasingly pervasive in the late 1990s and ensuing years.¹²¹ The effects of gentrification are varied, context dependent, and difficult to quantify—in part because studies of displacement pursue the difficult task of measuring absence and because displaced individuals are difficult to identify, locate, and survey.¹²² Additionally, the distinction between forced relocation and voluntary relocation is not always clear-cut. The decision to relocate in response to rising costs may fall along a continuum of voluntariness¹²³ and may be attributable to a range of interrelated and indirect factors.¹²⁴ Though displacement can often be directly attributed to a surging housing market, it may also result

from gentrification-induced actions such as housing demolition, evictions, and redevelopment.¹²⁵

The prevailing understanding is that gentrification causes displacement,¹²⁶ with the burden often falling disproportionately on the lowest-income residents of gentrifying neighborhoods.¹²⁷ Displacement is most often studied at the neighborhood level: Certain neighborhoods become sites of displacement, others become destinations for displaced populations, and still others fill both roles.¹²⁸ However, displacement also occurs at the municipal and regional levels.¹²⁹ Low-income minority populations are more likely than low-income white populations to live in concentrated poverty,¹³⁰ and urban displacement disproportionately affects African Americans.¹³¹

Gentrifying neighborhoods often undergo stark demographic transitions in both socioeconomic and racial composition. A 2016 report on the effects of gentrification in New York City between 1990 and 2010 identified fifteen of fifty-five city neighborhoods as “gentrifying,” meaning that they were low-income areas in 1990 that experienced rent growth above the city median over the ensuing two decades.¹³² Between 1990 and 2010–2014, mean household rents in gentrifying neighborhoods increased by 34.3%—over twelve percent more than the citywide increase of 22.1%.¹³³ Average household income among New York City residents, adjusted for inflation, remained relatively steady over the same period¹³⁴ but rose by nearly fourteen percent in gentrifying neighborhoods.¹³⁵ Moreover, during the same period, the white population in gentrifying areas increased, despite the fact that it declined significantly within the city as a whole.¹³⁶ Meanwhile, the black population declined very slightly citywide while declining steeply in gentrifying areas.¹³⁷ Similarly, in Western Addition, the San Francisco neighborhood of the Willie B. Kennedy Apartments, the African American percentage of the population declined from roughly eighty percent in 1970, to thirty percent in 2000,¹³⁸ to fifteen percent in 2010.¹³⁹

2. *Potential Value of Residency Preferences.* — Research indicates that public interventions such as rent regulation and subsidized housing are the most effective way to counterbalance displacement pressures.¹⁴⁰ With affordable housing in high demand as gentrification pressures mount, the application of residency preferences is a topic of paramount concern—both for residents who wish to take advantage of the preferences to avoid displacement and for those seeking to relocate to neighborhoods in which the preferences limit their ability to obtain affordable housing.

Residency preferences operate to the benefit of existing low-income residents in the neighborhoods in which such preferences are implemented. Because racial minorities in the United States experience disproportionately high levels of poverty,¹⁴¹ and because the racial wealth gap is particularly severe in urban areas,¹⁴² some interested parties frame the operation of intracity preferences as a civil rights issue. In San Francisco, local politicians expressed particular frustration with HUD’s treatment of the preference policy as a discriminatory device rather than an inclusionary tool.¹⁴³ The policy, they insisted, would work to the advantage of minority communities.¹⁴⁴ The national media seized on this theme with articles that painted the policy as a lifeline for

minority communities and cast its potential contravention of the FHA as an unfortunate paradox.

¹⁴⁵

In New York, where the preference applies to all community districts regardless of demographics, the city and its allies also emphasize the policy's particular value to minority communities.¹⁴⁶ One housing developer, for example, advertised that the preference would “help the area retain its traditional Latino identity,”¹⁴⁷ and the city contends that abolishing the preference policy “would turn the FHA on its head.”¹⁴⁸ Certain commentators endorse a targeted application of the policy but balk at its extension to more affluent and majority-white neighborhoods.¹⁴⁹ However, both sides of the *Winfield* litigation reject the notion that the preference should be applied only to neighborhoods with high concentrations of low-income minority residents. The policy's proponents suggest that it serves low-income minorities even in whiter and more affluent neighborhoods,¹⁵⁰ while its detractors insist that its segregative effect harms racial minorities in any setting.¹⁵¹

Clearly, residency preference policies can operate to preserve minority communities in the face of gentrification pressures—whether one understands that to be a desirable result is another matter. For cities with this goal, these policies may prove to be an appealing tool for mitigating displacement and preserving racial and socioeconomic diversity. The effectiveness of such policies, however, will depend upon their legal validity.

B. LEGAL VULNERABILITIES FACED BY INTRACITY, ANTI-DISPLACEMENT RESIDENCY PREFERENCES

This section extrapolates from existing case law to assess how neighborhood-level preferences will fare under each of the major grounds for legal challenge. Because the existing law deals almost exclusively with challenges to residency preferences in predominantly white communities,¹⁵² it is uncertain whether courts will interpret intracity, anti-displacement preferences as subject to the same legal standards. The most likely scenario, however, is that courts will take a traditionally antagonistic approach to such policies' furtherance of existing racial demographics in segregated neighborhoods. As a result, neighborhood-level residency preferences enacted to mitigate gentrification-induced displacement will likely bear the same risk of disparate-impact-based invalidation as their exclusionary precursors and possibly an elevated risk of intentional-discrimination-based invalidation.

This section examines how neighborhood-level residency preferences can be understood in the context of each of their four major federal legal obstacles: FHA disparate impact liability, FHA intentional discrimination liability, equal protection racial discrimination claims,¹⁵³ and the constitutional right to travel.

1. *FHA Disparate Impact Claims.* — The most common basis for legal challenges to residency

preference policies is an assertion that such policies contravene the Fair Housing Act.¹⁵⁴ HUD regulations lay out the standard for disparate impact liability under the FHA, indicating that “[a] practice has a discriminatory effect where it actually or predictably results in a disparate impact” or “creates, increases, reinforces, or perpetuates segregated housing patterns.”¹⁵⁵ Such a practice may nonetheless be lawful, however, if supported by a “legally sufficient justification”—one necessary to achieve a legitimate interest that could not be served by an alternative practice with a less discriminatory impact.¹⁵⁶ In 2015, the Supreme Court’s decision in *Inclusive Communities* affirmed disparate impact liability under the FHA.¹⁵⁷ The decision clarified that such claims require both a showing of a harmful impact on a protected class *and* either of two requirements: (1) proof that the defendant lacked a legitimate interest in implementing its practice or (2) proof that the defendant could have achieved its interest with a less discriminatory alternative.¹⁵⁸ In the wake of *Inclusive Communities*, scholars have suggested that residency preferences might be particularly ripe for challenge under the disparate impact theory.¹⁵⁹

a. *Harmful Impact.* — The first and most crucial question in evaluating a disparate impact challenge levied against an anti-displacement residency preference is whether the preservation of existing neighborhood populations yields a discriminatory impact. Under the prevailing view, neighborhood-level residency preferences have a clearly discriminatory effect because they seek to perpetuate existing housing patterns in segregated cities. The *Winfield* court appeared to subscribe to this perspective; in denying New York City’s motion to dismiss, it attributed to New York City the goal of preserving existing residential demographics.¹⁶⁰ HUD, in rejecting San Francisco’s proposed residency preference, articulated a similar position by suggesting that the policy might perpetuate segregation.¹⁶¹ From this perspective, any housing policy that reinforces segregated patterns necessarily effectuates a disparate impact.

b. *Legitimate Interest.* — If a discriminatory impact is found, the success of challenges brought against neighborhood preferences will hinge on how receptive courts are to cities’ justifications for the preference. An anti-displacement rationale for neighborhood preferences could be articulated in at least three different ways: as an interest in protecting current residents against displacement, as an interest in sustaining low-income and minority communities, and as an interest in promoting neighborhood stability.

The first of these interests, if framed as the retention of current residents, arguably suffers from the very circularity that the *Langlois* court rejected.¹⁶² Given the increasing skepticism courts have shown toward such rationales,¹⁶³ a court might refuse to regard this as a legitimate justification. If the implicated interest is framed, however, as protecting individuals against a looming threat of displacement rather than as retaining the neighborhood’s specific residents, it may be more viable. Local governments might argue that they are prioritizing existing residents not because they are residents but because they are the population most vulnerable to the consequences of gentrification in their own neighborhood.¹⁶⁴

The second category of interest focuses on sustaining minority communities within the city, as San Francisco advertised that its residency preference plan was designed to do.¹⁶⁵ While this interest is not plagued with the circularity problem, it faces another obstacle: The preservation of racially and culturally specific communities is arguably contrary to the clear integrationist mandate of the FHA.¹⁶⁶ Race-conscious affirmative action measures have been deemed permissible under Title VII of the Civil Rights Act,¹⁶⁷ and an extension of that case law to Title VIII would pave the way for affirmative action housing measures.

Case law indicates that the FHA's integrationist mandate may be set aside when it conflicts with the Act's antidiscrimination mandate. In *United States v. Starrett City Associates*, the Second Circuit struck down racial "ceiling quotas" that were integrative in that they promoted a racially heterogeneous population within a housing development but discriminatory in that they disproportionately deprived minority applicants of access to the development.¹⁶⁸

That decision might provide precedential support for upholding an inverse policy: one that is segregative but antidiscriminatory. While this presents a plausible pathway for cities to defend a neighborhood preference's disparate impact through an affirmative action rationale, it requires that courts willingly conflate anti-displacement objectives with antidiscrimination objectives. It is not clear that courts would embrace a governmental interest in preserving a neighborhood's racial and ethnic composition under a statute enacted to disrupt those very patterns.¹⁶⁹

The third possible category of governmental interest—one directed at neighborhood stability—certainly sounds legitimate, but this justification might crumble upon interrogation of the specific instability at issue. If the instability is the displacement of current residents and the influx of new residents, this argument merely reframes the circular rationale. If the instability is the shifting of neighborhood demographics and the erosion of "culture," then the justification is a different spin on the "preserve minority communities" justification.

Other forms of instability might indeed be valid concerns, but residency preferences are unlikely to be the least discriminatory means of achieving them.¹⁷⁰ For example, while mitigating elevated housing costs and a lack of socioeconomic diversity is presumably a legitimate governmental interest, it can be addressed simply through the development of affordable housing units in the neighborhood; assigning those units according to a residency preference policy is not a necessary measure.

Similarly, while New York may have struck upon a valid interest in claiming that its community preference policy helps to mitigate NIMBY-like opposition to new development,¹⁷¹ it is hard to imagine that a disparate impact-inducing residency preference plan would be deemed the best possible means to achieve that interest. While neighborhood-level preferences might be a useful tool to combat community opposition, they are far from the only strategy.¹⁷² A city defendant

would be hard-pressed to prove that no alternative exists that would create a less severe disparate impact.

Finally, city defendants will not be able to justify neighborhood-level residency preferences aimed at mitigating the displacement effects of gentrification through the well-established rationale of municipal protectionism. In cases involving intercity residency preferences, courts have often recognized a government's desire to ensure that its services are available to its own residents as a legitimate interest.¹⁷³ In the wake of *Langlois*, it is less clear whether this admittedly circular justification is valid;¹⁷⁴ what is clear, however, is that it is unavailable to cities with neighborhood-level—rather than intermunicipal—preferences. The desire to ensure that city services are available for city residents does not explain a policy that prioritizes certain city residents over others.

Considering the available justifications and their likelihoods of success, anti-displacement residency preferences enacted at the neighborhood level may be particularly vulnerable to FHA disparate impact liability. Absent a judicial embrace of affirmative-action-oriented rationales that justify neighborhood-level preferences through their potential to preserve communities of racial minorities, such preferences lack a reliably “legitimate” justification. These policies may be no more likely than their exclusionary, intercity counterparts to survive disparate impact challenges, and they may be even more vulnerable without the ability to lean on the once-reliable protectionist justification.

2. *FHA Intentional Discrimination Claims.* — It is possible that anti-displacement neighborhood preferences might also suffer an elevated susceptibility to FHA intentional discrimination claims due to the race-conscious nature of neighborhood preferences. If the *Oyster Bay* decision and *Winfield* memorandum are any indication, courts may be increasingly willing to entertain claims of intentional discrimination.¹⁷⁵ And given the FHA's strictly integrationist ambitions,¹⁷⁶ courts may condemn the deliberate perpetuation of segregated housing patterns regardless of whether its purported purpose is to preserve or exclude minority communities.

To be sure, courts are unlikely to reach for intentional discrimination liability under the FHA when disparate impact liability is cognizable, barring an egregious display of animus or deliberate discrimination—and preferences aimed at protecting low-income communities against displacement are particularly unlikely to be deemed egregious. The ostensibly inclusionary aim of such policies, however, means that the policies are more likely to be overtly race conscious, which may, in turn, make segregative intent easier to prove. San Francisco city officials, for example, were much more candid about their intention that the residency preference policy operate to preserve existing racial demographics¹⁷⁷ than the defendant in *Chickasaw*—a case in which the court deemed credible the defendant's claims that it did not intend the policy's segregative effects.¹⁷⁸

Because the alleged disparate impacts created by anti-displacement, neighborhood-level residency

preferences may be more plainly deliberate (or even the preferences' very purpose), such policies are more likely to invite FHA intentional discrimination claims. If courts decline to endorse affirmative action efforts to preserve minority communities under the FHA, administrators of anti-displacement preferences might be uniquely vulnerable to intentional discrimination liability.

3. *Equal Protection Racial Discrimination Claims.* — Equal protection racial discrimination claims are rarely brought to challenge residency preferences, in part because the existence of disparate impact liability under the FHA makes a statutory violation much easier to establish than a constitutional violation,¹⁷⁹ and in part because even policies that effectuate a stark disparate impact are likely to be facially race neutral.¹⁸⁰ Nonetheless, the Second Circuit in *Comer v. Cisneros* looked favorably upon the plaintiffs' claim that they had suffered a constitutional harm under the Equal Protection Clause, at least so far as to hold that plaintiffs could survive summary judgment.¹⁸¹

As discussed above, race-conscious policymaking is more likely to be provable in the affirmative action context.¹⁸² Policies that target African American and Latino communities for preservation and protection against displacement may more transparently consider race, thereby rendering equal protection liability somewhat more plausible. While exclusionary intercity residency preferences have largely been insulated from equal protection liability,¹⁸³ ostensibly inclusionary intracity preferences raise obvious equal protection concerns. By treating neighborhood residency as, in the words of the *Comer* court, a "proxy for race,"¹⁸⁴ these policies would merit strict scrutiny. The paradox here is a familiar one from the affirmative action context: Practices that prioritize racial minorities are more constitutionally vulnerable than facially race-neutral policies that impose an adverse disparate impact upon minorities.¹⁸⁵ The more carefully residency preferences are targeted at protecting nonwhite communities against displacement, the more constitutionally problematic they become.

4. *Right-to-Travel Claims.* — Residency requirements are most often deemed to be in violation of the constitutional right to travel¹⁸⁶ when they discriminate not merely on the basis of state residency¹⁸⁷ but on the basis of *duration* of state residency.¹⁸⁸ As a result, residency preferences for affordable housing are consistently devoid of durational components. There is no indication that cities enacting neighborhood-level residency preferences are likely to break with this precedent, particularly in light of administrative regulations that prohibit durational preferences for PHA-administered waiting lists.¹⁸⁹

Nonetheless, anti-displacement rationales for residency preferences are particularly intertwined with a duration-based logic. New York City's defense of its preference policy leans heavily on the idea that longstanding residents have built equity in their neighborhoods, and the *Winfield* complaint criticizes New York's policy for failing to distinguish between longstanding residents and recent arrivals.¹⁹⁰ Cities could turn to durational preferences to more closely target the goal of retaining longtime residents. In that case, as with equal protection liability, an odd irony arises: The

more a city tailors a residency preference to protecting the desired population—in this case, longstanding residents of a neighborhood—the more likely its policy is to violate the Constitution.

It is also possible that the intracity–intercity distinction may matter in the case of right-to-travel liability. The Supreme Court has made it clear that only *state-level* durational residency requirements, which contravene the fundamental right to interstate travel, are unconstitutional.¹⁹¹ Appellate courts have generally extended that same constitutional protection to intrastate travel between municipalities.¹⁹² It is conceivable that the law might not recognize such a right on the hyperlocal, intramunicipal level; at some point, perhaps, the alleged right is too geographically limited to be understood as “travel” or “migration.” If so, cities might be able to implement durational neighborhood-level residency preferences without running afoul of the constitutional right to travel.

Overall, the efficacy of neighborhood-level residency preferences is severely undermined by their legal vulnerabilities. Residency preferences implemented at the neighborhood level to combat gentrification-induced displacement may, as their proponents contend, turn exclusionary residency preferences on their head.¹⁹³ And yet, the legality of these policies appears to be at best uncertain and—if courts adhere to a traditional reading of the FHA that strictly condemns all segregated neighborhoods—perhaps even unlikely. An inherent mismatch exists between the existing law and emerging policies. These preferences aim to effectuate the FHA’s goal of promoting fair housing for low-income and minority residents, but they do so in response to displacement pressures that the FHA does not contemplate¹⁹⁴ and in a manner that clashes with the FHA’s anti-segregationist objective.

III. “LEGALIZING” ANTI-DISPLACEMENT RESIDENCY PREFERENCES: POTENTIAL SOLUTIONS TO THE POLICY-LAW MISMATCH

If neighborhood-level residency preferences are to be effectively and legally utilized to address issues of urban displacement, either courts’ approaches to such policies or the policies themselves must evolve. This Part advocates for a combination of these strategies, with primary reliance on an alternative understanding of how neighborhood-level housing patterns relate to integrationist goals. Section III.A argues that courts should interpret such policies as consistent with the FHA’s integrationist aims when the impending displacement would result in a less integrated and diverse municipality. Section III.B identifies five possible adjustments that would render neighborhood-level residency preferences more legally viable.

A. REFRAMING THE CONVERSATION: RESIDENCY PREFERENCES AS INTEGRATION-PRESERVATION MEASURES

While San Francisco's attempt to utilize residency preferences to preserve the African American population in Western Addition was blocked by HUD because it ostensibly perpetuated segregation,¹⁹⁵ it might well be reinterpreted as an effort to preserve integration. After all, San Francisco's dwindling African American population, which declined from 13.4% in 1970 to 5.5% in 2014,¹⁹⁶ suggests that many residents displaced from neighborhoods with concentrated African American populations leave the city entirely. In the face of encroaching homogenization, policies that perpetuate segregated neighborhoods may nonetheless serve a larger-scale integrationist purpose.

The crucial factor here is the breadth of the applicable geographical and conceptual scope. Gentrification scholars have called for a broader inquiry that examines gentrification as a municipal and regional phenomenon rather than a strictly neighborhood-level occurrence.¹⁹⁷ Critics of this "[g]eographic myopia"¹⁹⁸ argue that it overlooks critical factors in the gentrification analysis and cite both academic and practical benefits to widening the geographic lens.¹⁹⁹ By similarly broadening the scope through which one views housing patterns, the perpetuation of certain neighborhood-level segregation might be viewed as a means of promoting comparatively macroscopic integration. Legal scholars have drawn attention to the tractable nature of interpretive lenses, which are expanded or constricted to facilitate a particular perspective and, often, outcome.²⁰⁰ Narrower lenses—sometimes applied unconsciously—may simplify the narrative at the expense of context or nuance.²⁰¹

In the case of housing, an inquiry into integration and segregation as strictly neighborhood-level patterns may miss the forest for the trees. If minority residents are displaced from their city at an elevated rate, the preservation of certain segregated neighborhoods may in fact be a corrective to segregation at the municipal or regional level. This argument should not be misunderstood as advocating the abandonment of efforts to achieve neighborhood integration or as conflating integration and diversity; rather, it promotes the pragmatic recognition that integration *requires* diversity. When residency preference policies seek to preserve the diversity of a population against the alternative of homogenizing displacement, they may act in support of integrationist goals—even if their localized effect is to perpetuate segregated patterns.

Furthermore, residency preference policies in gentrifying neighborhoods may be reinterpreted as necessary to effectuate the integrationist or "social mixing" potential of gentrification.²⁰² Arguably, a preference policy that seeks to preserve a neighborhood's preexisting demographics perpetuates segregation only if the neighborhood demographics are static and homogenous; in gentrifying neighborhoods, such a policy can help to realize and stabilize integrated housing patterns. Without residency preferences, a gentrifying neighborhood may move from low income

and predominantly minority to higher income and predominantly white, with only a fleeting transitional window of integrated living.

Racial and socioeconomic demographics in gentrifying neighborhoods are attributable not only to the identities of those who are displaced but also to the identities of new arrivals.²⁰³ As a result, demographics in gentrifying neighborhoods may change swiftly. Data from New York City indicate that the average household income in gentrifying neighborhoods (adjusted for inflation) rose 6.1% between 2005 and 2010–2014.²⁰⁴ During the same period, the citywide average income rose just 0.06%.²⁰⁵ Between 2000 and 2010, the share of white residents in New York City overall decreased by over seven percent,²⁰⁶ but the share of white residents increased by over twenty percent in gentrifying neighborhoods.²⁰⁷ Given the pace of demographic shifts in gentrifying neighborhoods, the idea that residency preferences in such neighborhoods perpetuate preexisting patterns seems misguided. Rather, these preferences are better understood as promoting a more persistent and less transitory kind of integration in the midst of rapidly changing demographics.

This reframed approach calls into question the assumption that neighborhood-level residency preferences perpetuate segregation. When viewed in the context of gentrification's homogenizing potential, residency preference policies that seek to preserve minority communities are a weapon against segregation, not its facilitator. When properly implemented, they should not be understood to create discriminatory or segregative effects subject to disparate impact liability. In this light, residency preferences are a tool of integration preservation consistent with the FHA's provisions and purpose.

B. RETHINKING RESIDENCY PREFERENCES

Neighborhood-level residency preferences are not inherently invalid, and their potential legal vulnerabilities can be mitigated by strategic adjustments. This section addresses five possible strategies for rethinking anti-displacement residency preferences so that they are more likely to both avoid and survive legal challenge.

1. *Extend Fewer Preferences.* — First, neighborhood-level residency preferences may be both less objectionable and more legal when they apply to a smaller proportion of available housing units. Opponents of residency preferences in New York and San Francisco have identified the extent of those preferences²⁰⁸ as one basis for their criticism.²⁰⁹ By applying the preference to a smaller portion of units in a given development, cities and housing authorities might provoke less controversy.

Narrowing the extent of residency preferences could also help such policies survive legal challenge. While a narrower preference may not be more closely tailored to any of the likely governmental justifications, it might render such justifications less necessary by reducing the preference's

disparate impact. A reduced preference might therefore be regarded as less discriminatory than a more expansive one, because it does not so much perpetuate existing housing patterns as prevent them from utter disruption. ²¹⁰

For proponents of neighborhood-level residency preferences, the curtailed approach described here bears an obvious downside. A reduced preference will serve fewer residents and protect a more limited subset of the existing population against displacement. The proposed adjustment, therefore, is not one that would strengthen residency preferences so much as strike a compromise.

2. *Expand the Geographic Scope of Preference Areas.* — A second adjustment to neighborhood-level residency preferences would strategically expand the geographic preference area to encompass more racially diverse populations. Concerns that residency preferences exacerbate segregated housing are most prominent and forceful where the preferences apply to geographical areas whose populations are made up of either predominantly white or predominantly minority residents. ²¹¹ By expanding the geographic scope to more diverse areas or pairing demographically distinct neighborhoods together into a single preference area, residency preferences could help protect against displacement without directly preserving the specific racial composition of individual neighborhoods.

Versions of this approach have been among the most popular solutions to the problem of segregation-perpetuating residency preferences. The *Comer* settlement expanded the challenged residency preference to the entirety of Erie County, so that residents of Buffalo were included in—rather than excluded by—the preference’s scope. ²¹² The *Langlois* decision spoke approvingly of a “tempered approach” to residency preferences, in which urban and suburban PHAs would partner and extend preferences reciprocally to one another’s residents. ²¹³ A New York state court decision suggested that the “imbalance” in the community preference policy’s applicant pool might be mitigated by the merging of two community districts into a single preference area. ²¹⁴

One potential pitfall of this approach is that its most effective iteration would require a race-conscious design of expanded preference areas, which could invite controversy and legal challenges. Additionally, larger preference areas diminish the preference’s ability to protect against displacement at the hyperlocal level and to promote community preservation in individual neighborhoods. Residents of low-income, predominantly minority communities would compete for affordable housing in their neighborhoods on equal footing with residents of certain nearby—and potentially majority-white—neighborhoods, though they would also have equal access to affordable units in those other neighborhoods.

3. *Limit Residency Preferences to Particular Neighborhoods.* — A third approach to neighborhood-level residency preferences is to apply the preference only to neighborhoods that meet certain criteria—ideally criteria tied to the city’s justification for administering the preference. Under this

approach, a city would identify specific eligible neighborhoods and extend residency preferences to all income-eligible residents of those neighborhoods. A preference policy intended to insulate residents from rising housing costs, for example, could be applied only in neighborhoods that display some threshold increase in rental prices; an expressly anti-displacement policy would be administered only in neighborhoods with sufficient patterns of displacement.²¹⁵

FHA case law has blocked racial quotas that impose ceilings on minority populations but has suggested that “‘access’ quotas” designed to increase housing opportunities for racial minorities may be permissible under certain conditions.²¹⁶ Therefore, it is conceivable that a city might be able to selectively implement residency preferences in neighborhoods with threshold levels of diversity²¹⁷—so long as it could convincingly frame its goal as the advancement of an integrated community rather than the preservation of a segregated one.²¹⁸

Preference policies administered with these criteria would arguably operate on steadier legal ground because they would be narrowly tailored to the city’s primary proffered justification. Even if the policies were found to create a disparate impact, the city might be better positioned to argue that no less discriminatory alternative existed. Moreover, the preference policy’s close relationship to a valid governmental interest could help to rebuff any intentional discrimination or equal protection challenges.

A traditional residency preference policy administered under this approach would allow eligible residents in eligible neighborhoods to compete for affordable housing exclusively in their own neighborhoods. (Affordable housing in ineligible neighborhoods would, presumably, be equally available to all applicants regardless of their geographic residence.) Another permutation of this approach, by contrast, might give residents of eligible neighborhoods preferred access to affordable housing citywide regardless of its location.

San Francisco’s anti-displacement preference, which HUD approved after rejecting its neighborhood-level residency preference, targets neighborhoods in this latter manner. It extends the preference to residents of specific census tracts that have experienced acute displacement and is therefore contingent on applicants’ geographic residence but not on the location of the affordable housing development to which they apply.²¹⁹ Commentators and public officials widely hailed this revised approach as effective and comparatively uncontroversial, and HUD’s acquiescence signals that it may also be a more legally viable solution.²²⁰

4. *Duration-Based Preferences.* — A fourth suggested approach also imposes strategic criteria on the operation of neighborhood-level residency preferences but does so by limiting *applicant* eligibility rather than *neighborhood* eligibility. Under this approach, residents of any neighborhood within the implementing city might be preference eligible but only if they have lived in their neighborhood for a sufficient duration. Duration-based residency preferences would function as a sort of earned

benefit, treating longevity of residence as a proxy for virtues such as commitment to the local community.

As discussed above, New York City's defense of its community preference policy relies heavily on the claim that longstanding residents of gentrifying neighborhoods have earned a right to remain by enduring years of poor living conditions.²²¹ This is a potentially compelling justification, and its specific focus on longtime residents of previously impoverished neighborhoods minimizes the circularity problem. It is poorly suited, however, to justifying a policy that extends preferences without regard to duration.²²²

The obvious solution is a duration-based residency preference, but such an approach raises immediate pragmatic difficulties. Is the preference extended only to applicants with a threshold duration of residency (and administered equally to all who meet the threshold), or is it available to all residents and scaled based on duration? How does the preference apply to households with members of varying duration or who inherited their current housing from a family member? Does the preference apply to every neighborhood, or does it vary according to each neighborhood's trajectory of disinvestment and gentrification? (In theory, it could be combined with the preceding approach so that only longstanding residents of *specific* neighborhoods would be eligible.)

Additionally, durational preferences often violate the fundamental right to travel.²²³ It is unclear, however, whether neighborhood-level durational preferences violate that right.²²⁴ While scaled durational preferences—those available to all residents but tiered according to duration of residency—might be less likely to invite right-to-travel liability, case law from outside the housing context indicates that such provisions may violate the Equal Protection Clause.²²⁵ If constitutional challenges can be avoided or defeated, a durational residency preference seems like a well-tailored policy for cities concerned with rewarding longstanding residents' endurance, though determining the contours of eligibility would pose an administrative headache.

5. *Residency as a "Plus Factor."* — Finally, city governments could replicate a strategy from affirmative action doctrine by treating residency as a "plus factor" that enhances an applicant's candidacy rather than as a criterion considered in isolation.²²⁶ This approach would grant neighborhood residents preferred access to local affordable housing while also allowing outsiders an opportunity to compete for the same units.²²⁷ "Residence" would be accorded numeric value within a larger quantitative system.

A "plus factor" policy would mitigate equal protection concerns even if residency were viewed as a proxy for race, given that the Supreme Court has endorsed an analogous tactic in the educational setting.²²⁸ Allowing nonresidents of the neighborhood to compete for every available unit might also alleviate objections to the policy, because residency itself would not be solely determinative.²²⁹ The specifics of the system (in particular, the factors considered as "pluses" and the weight

accorded to them) would determine the policy's effectiveness in mitigating displacement and the extent of any disparate impact it created.

A legally defensible version of this approach would require that the preference system be tailored to a compelling, noncircular justification. If residency is merely one factor for preferred access to affordable housing rather than the determinative factor, the policy's objective cannot be the prioritization of existing residents. A successful preference system in this mold would require an array of "plus factors" directed at the specific effects of gentrification that the city wishes to address. Other "plus factors" could include involvement in community organizations, employment in the neighborhood, or other characteristics that evince a participatory approach toward community preservation.

CONCLUSION

Proponents of neighborhood-level residency preference policies recognize their potential as anti-displacement measures and regard such policies as an inclusionary reappropriation of discriminatory intercity preferences. Under existing law, however, anti-displacement residency preferences might be deemed less an inversion of discriminatory policies and more an extension of them. The demographics of the target communities may be different, but the goal of insulating an existing population is arguably unchanged.

For neighborhood-level residency preferences to operate as a useful and legally viable tool for cities seeking to mitigate gentrification-induced displacement, the demographic consequences of local housing patterns must be considered at a broader geographic level and strategic adjustments must be made to the way in which preferences are administered. Cities can utilize residency preferences to turn an exclusionary tool on its head, but a true inversion will require reframing the legal conversation and revising governmental approaches.

Attachment 3. Staffing

STAFFING

Staffing in Other Cities

The below table outlines the preferences, housing type, staffing levels, key staff responsibilities, and institution responsible for screening for preference (developer or City) in other cities with preference policies.⁵

City	Preferences	Housing Type(s)	Staff Level (FTEs)	Key Responsibilities	Institution Responsible for Screening for Preference
Santa Monica	-Displaced ⁶ -Live/work -Current pilot: displaced by urban renewal/eminent domain	Inclusionary and Nonprofit	1 (add'l when list open)	<ul style="list-style-type: none"> Compliance monitoring for inclusionary and nonprofit units Ongoing waitlist management and tenant referrals for inclusionary units Verify preference qualifications for displacement preference 	Developer (City for displacement preference, urban renewal pilot)
Cambridge	-Current resident -Families with children -Emergency needs ⁷ -Works in Cambridge	Inclusionary	2.5	<ul style="list-style-type: none"> Work with applicants applying to the Rental Applicant Pool Screen applications against the priority point system Fill vacancies across the portfolio Certify applicants' income during the final application stage Re-certify tenant incomes after lease-up 	City

⁵ This information is up-to-date as of this 2019 report:

https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Preference%20Policy%20DCRP%20Report.pdf

More recent information was added on Santa Monica's urban renewal pilot, based on an interview with Santa Monica housing staff in January 2022.

⁶ Santa Monica's displaced category includes no-fault evictions, natural disasters, reduction in housing voucher assistance, or government action

⁷ Cambridge's emergency needs category includes no-fault eviction, homeless, overcrowded housing, 50% or greater rent burden, outstanding code violations.

City	Preferences	Housing Type(s)	Staff Level (FTEs)	Key Responsibilities	Institution Responsible for Screening for Preference
San Francisco	-Displaced - urban renewal -Displaced - no-fault evictions or fires -Neighborhood -Live/work	Inclusionary and Nonprofit	5.25	<ul style="list-style-type: none"> • Lottery administration • Marketing vacant nonprofit and inclusionary units • Annual reporting related to the preference program • Reviewing applicants' documentation related to preference eligibility during the lottery and lease-up processes. 	City
Portland	-Displaced – eminent domain -Address in Interstate Corridor Urban Renewal Area -Parent/ grandparent address in Interstate Corridor Urban Renewal Area	Nonprofit in Interstate Corridor Urban Renewal Area	1.5 (up to 4 when leasing)	<ul style="list-style-type: none"> • Ongoing management of the preference policy waitlists • Conduct outreach and assist applicants • Process applications • Verify preference qualifications • Refer prospective tenants to property managers. 	City
Oakland	-Displaced ⁸ -Neighborhood -Live/work	Nonprofit	0.5	<ul style="list-style-type: none"> • Monitoring annual reporting from rental projects in the City's portfolio - involves reviewing tenant rents and income, but staff may also review the preference qualifications of new tenants. 	Developer

Staffing Needs by Phase

Staff responsibilities, at a minimum, will include aligning a policy with current programs/policies, verifying preference documentation, developing educational materials for both prospective applicants and property managers, training property managers on

⁸ Oakland's displaced category includes government action, code enforcement, and no-fault eviction.

proper document collection and lottery criteria, education for the public, collecting data, and compiling evaluation reports with recommendations for continued success.

Staffing needs will vary by phase, as there will be some needs specific to establishing the program, while others will be ongoing over time for sustainable program implementation. Staff are concurrently working with other jurisdictions in Alameda County to establish a unified Housing Portal for online applications for BMR and HTF units that will effect how preferences are implemented over the long-term.

Staffing Needs – Program Set-Up

Staffing needs during program set-up will include:

- A. Adopting or amending relevant Administrative Guidelines
- B. Aligning with other policies and programs
- C. Education and outreach
- D. Establishing monitoring plans
- E. Seeking policy approval with funding agencies

Staffing Needs – Ongoing

Ongoing staffing needs will include:

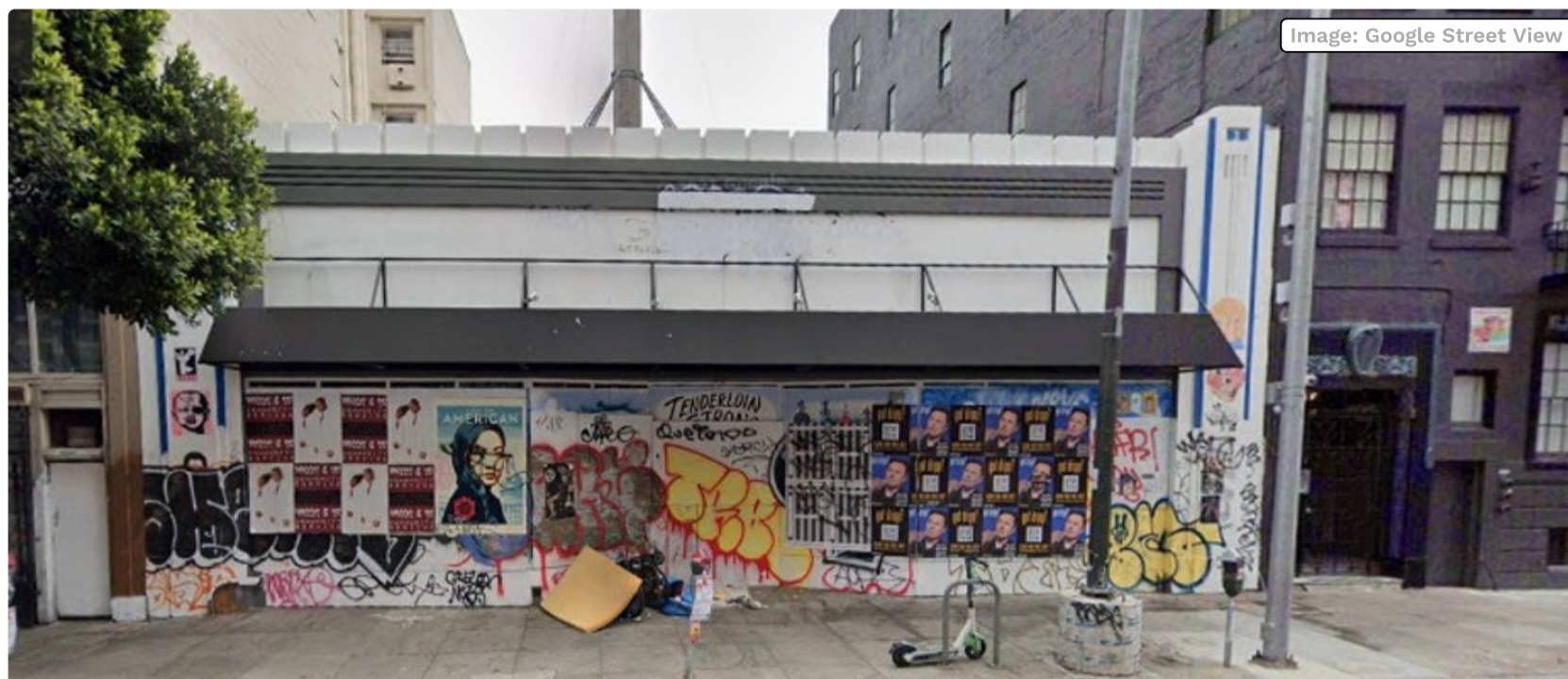
- A. Education and outreach
- B. Implementation – verifying and filing preferences
- C. Ongoing monitoring and evaluation with racial equity framework
- D. Seeking ongoing funding agency approvals as needed for HTF housing

Staffing Needs by Program

Staffing needs will also vary between BMR and HTF units. Currently, City staff verify BMR documentation prior to lease-up, and monitor HTF documentation annually following lease-up. Implementation of the Housing Preference Policy may represent a change in which City HTF monitors play a more active role in documentation verification prior to lease-up. BMR monitor workload would also increase, with the increased documentation needing to be verified for preferences. Existing documentation pertains to income, household size, and program eligibility.

City moves to put safe injection site at former Geary Street Goodwill

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By [Joe Kukura](#) - Published on November 17, 2021.

San Francisco

Tenderloin

San Francisco mayor London Breed has been pushing for a safe injection site [since long before she was mayor](#). But with the overdose crisis [reaching record levels during COVID-19](#), the need for a facility where people can use drugs under the supervision of medical professionals has a new urgency. That's why Mayor Breed introduced legislation to [buy a building and convert it into a safe injection site](#) on Tuesday, the Chronicle reports, in a part of the Tenderloin where a disproportionate number of these overdoses take place.

"We have been wanting to do this for a long time, especially in light of the significant increase in the number of overdose deaths in our city," Breed told the Chronicle. "We have to get this site open."

The building in question is a former Goodwill at 822 Geary Street (at Hyde Street), currently vacant and coated with graffiti. The city has not yet bought the building, but is now considering Breed's legislation to buy the spot for \$6.3 million and converting the site for that purpose.

But the move is fraught with legal risk, which is why there are currently no safe injection sites in the U.S. (Rhode Island is [working on a pilot program](#).) Since the drugs being used on a theoretical site would be illegal, anyone working there could be subject to prosecution, and the city could be fined, or even have the property seized.

New city attorney David Chiu would have to defend the city in such cases. His spokesperson tells the Chronicle merely that he intends to "provide sound, confidential legal advice to the mayor, Board of Supervisors, and city departments."

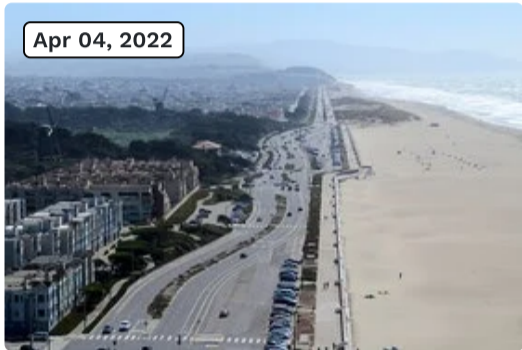
Even if the facility were not a safe injection site, the Department of Public Health could still use it as some form of drug treatment service facility.

San Francisco

Tenderloin



Show Comments



San Francisco Outer Sunset

Outer Sunset's bad air quality readings baffle experts

A small stretch along the Great Highway is generating far worse air quality readings than any other spot in the city, which could be a public health problem, or could be that sea salt and spray are screwing with the monitors.

Joe Kukura



San Francisco Mission Potrero Hill

Mission District tapas bar Asiento closing permanently Saturday, but promises a 'rebrand' is coming

After 11 years of dazzling the Mission with an out-of-this world mural, Asiento is going out with a big bang on Friday and Saturday nights. But stay tuned, because ownership is promising a "remodel and rebrand."

Joe Kukura



San Francisco

Popular stargazing event returns to U.C. Berkeley

U.C. Berkeley's Astro Night series is back, with an April 7 talk on "Life on other planets" followed by a chance to look through the university's telescopes.

Laila Weir



San Francisco Hayes Valley

High-end tech store B8ta closes for good after several crime-troubled years

B8ta's CEO, Vibhu Norby, said his employees were repeatedly subjected to harassment, while the stores themselves were vandalized and broken into, and after some temporary closures, the business is calling it quits in the U.S. entirely.

Marie Edinger



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NEWS

Is the U.S. Ready for Safe Injection Rooms?

A widespread heroin problem could open the door to a once-radical idea.

By BETH SCHWARTZAPFEL

This week, a Boston nonprofit announced plans to open a “safe space” where people can come when they’re high on heroin. Dr. Jessie Gaeta, chief medical officer of the Boston Health Care for the Homeless Program, told radio station WBUR that no one will actually use drugs in the room. Rather, it’s for people who are already high and “need a safe place to be that’s not a street corner,” she said.

It would appear to be one of the only of its kind in the U.S. But public health officials in eight other countries have for many years gone even one step further, allowing people to actually shoot drugs under their watch. At about 100 supervised injection facilities around the world, health care providers are available to intervene in case of overdose, connect users with drug treatment resources and provide clean needles and other supplies. Vancouver operates the only such facility in North America. Ireland this week announced plans to open four safe injection sites next year.

“A lot of people are homeless or unstably housed, and when people are injecting in public it tends to be riskier,” says Daniel Raymond, Policy Director at the New York City–based Harm Reduction Coalition. “They tend to rush because they don’t want to be seen. This increases risk for overdose, for spreading infections. There’s logic to saying, if you’re at risk of overdose, let’s at least be inside where someone can respond.”

Many years of research have shown that supervised injection facilities reduce overdose deaths, prevent the spread of HIV and hep C, increase the likelihood that users will seek drug treatment or other medical care, and decrease street crime and discarded syringes in public areas.

But until recently, the idea was a political nonstarter in the U.S. “It’s beyond ridiculous to ask Americans to pay for drug addicts to inject themselves with heroin and cocaine,” South Carolina Sen. Jim DeMint said in 2007 after the San Francisco health department co-sponsored a day-long symposium to explore whether a supervised injection facility might help to address some of the city’s longstanding problems with public drug use in its Tenderloin neighborhood. DeMint introduced a measure (which failed) that would have banned federal funding for supervised injection facilities. Then–San Francisco Mayor Gavin Newsome said he did not support the idea, and Office of National Drug Control Policy official Bertha Madras called the conversation “disconcerting.”

“This is a form of giving up,” Madras said.

Raymond, one of the event’s organizers, said, “It just kind of crashed and burned. The country wasn’t ready for this conversation.” It wasn’t until 2009 that the federal government ended its decades-long ban on federal funding for needle exchanges. Supervised drug injection was just a step too far.

But with the recent spike in opiate use and overdose deaths, which have hit white, rural and suburban communities especially hard, has come an emerging national recognition of drug addiction as a public health problem.

And with that recognition comes a tentative embrace of a philosophy known as “harm reduction.” Pragmatic rather than punitive, harm reduction operates with the assumption that the next best thing to preventing drug use altogether is minimizing its harm. This approach ushered in needle exchanges in the 1980s, and more recently has driven advocates and health departments to begin distributing Narcan so drug users can reverse overdoses at home. In 2001, there were two official Narcan-distribution programs. Only one state—New Mexico—had legal protections for those who

prescribed or used Narcan. Today, more than 100 Narcan programs are operating 30 states, and 37 states have passed a Narcan law.



An peer counselor at Insite demonstrates how someone would use one of their injection booths.

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Reaction to this week’s announcement in Boston reflects the change in attitude. “I’m up for trying anything when it comes to addiction and active using,” Boston mayor Marty Walsh told WBUR. “If we can help some folks, homeless folks in particular, we should try anything.”

But Boston’s safe space stops short of being a supervised injection facility, and some don’t think the plan goes far enough. “I don’t find that there’s anything controversial about what they’re doing there,” said San Francisco-based epidemiologist Alex Kral, who studies supervised injection facilities. “People who use drugs can be in pretty much any spaces they want to.”

Around the country Kral has heard from social service agencies with what he calls “safer consumption bathrooms.” Knowing that clients will use drugs in the bathroom no matter what they do, these organizations have stocked the rooms with clean needles and Narcan and taken other safety measures. “They’ve got a door that is cut out at the bottom of it so that someone outside can see if someone has fallen to the floor. They have doors that have timers on them that automatically open after five minutes,” Kral says.

One organization has gone even further, Kral says, operating an actual supervised injection facility with mirrors, stainless steel counters, and a staffer trained in overdose prevention and other harm reduction techniques. However, the staffer is a layperson: nurses, EMTs, or doctors would risk their medical licenses by being involved. The facility lacks any certification or oversight—it must operate underground because it’s breaking several laws.

Organizations looking to launch an official supervised injection site could find workarounds in state law—health departments can seek legal exemptions in the case of a public health emergency,

for example—but would still be vulnerable to federal prosecution. Federal “crack house statutes” make it a crime punishable by up to 20 years in prison to “knowingly open, lease, rent, use, or maintain any place... for the purpose of manufacturing, distributing, or using any controlled substance.” ¹¹¹



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Understanding the Possible Safe Injection Site in Philadelphia

Authored by Elliott Redwine, | Medically Reviewed by Dr. Elizabeth Drew, MD

Last Updated: December 9, 2021

Safe injection sites have popped up around the world over the past few years. For those not familiar, a safe injection site is a facility where drug addicts can safely use IV drugs with medical supervision. Ten countries currently allow legal operation of these facilities including Canada, Australia, and multiple countries in Europe.

The first safe injection site in Philadelphia was set to open at the start of this year before the pandemic broke out. A

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U.S. federal judge approved the launch of a facility in the city at the end of February. The approval was a welcome respite from the legal and social battle that Safehouse, a Philadelphia-based nonprofit, has been fighting for the past two years.

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Supervised injection facilities are an incredible source of controversy and debate. Health experts, policymakers, rehab facilities, and town residents alike each have a strong opinion. Supporters believe these sites are a safe way to combat the opioid crisis. Proponents insist they only serve to exacerbate the growing drug problem.

The issue of safe injection sites isn't clear-cut or straightforward. There are both pros and cons to Philadelphia's potential safe injection site. What exactly do these facilities entail and how might they help or harm the community?



What is a Safe Injection Site?

A safe injection site is a legal, medically-supervised facility for the use of intravenous drugs. They provide a hygienic and secure environment where IV drug users can inject safely. These facilities do not sell or provide any illegal drugs; users bring their own drugs and administer them themselves.

There are a few different names for safe injection sites including:

- Overdose prevention centers
- Medically-supervised injection centers
- Supervised consumption services
- Fix rooms

Sites are staffed with medical personnel who provide clean supplies, oversee the injection, and clean up when users

are done. Medical staff is also trained in overdose prevention and armed with naloxone, the overdose-reversing medication. They're prepared to intervene if the need arises.

Safe injection sites don't exist for the sole purpose of supervised drug use, though. The real goal of these facilities is to combat the fatality of drug addiction. Medical personnel is on hand to prevent users from an accidental overdose, the cause of most drug-related deaths. They're truly designed to keep users alive long enough to find the help they need.

Injection sites themselves cannot treat individuals battling with addiction. They can only supervise use until the person is ready to get help. Once they're ready, though, injection sites are prepared to immediately connect users with addiction treatment and other social services.



Pros of Safe Injection Sites

The safe injection site in Philadelphia is not the first overdose prevention facility in the world. Sites like these already exist and operate in Canada, Australia, and various countries throughout Europe. Supporters of safe injection sites explain the many benefits that result from their operation.

Reduce overdose mortality rates

The number of overdose mortality rates over the past few years is alarming. 67,367 people died of a drug overdose in 2018 alone. Safe injection sites supervise IV drug use which protects users from the possibility of a fatal accidental overdose.

Reduce HIV and viral hepatitis risk

Sharing or using dirty hypodermic needles puts users at risk of contracting HIV and viral hepatitis. The sterile supplies offered at safe injection sites in Philadelphia eliminate the possibility of catching these infections.

Increase enrollment in treatment and other social services

Safe injection sites not only eliminate the possibility of death due to overdose but increase the chances that a user gets help. Facilities connect users with addiction treatment programs and other life-saving social services they might not usually consider or have access to.

Nonjudgmental environment

The stigma associated with drug use, IV drug use, in particular, causes immense feelings of shame. Safe injection facilities remove the stigma for a moment which may encourage users to finally seek the help they need.

Improvements to community health and safety

Safe injection sites remove drug use from public spaces like parks and bathrooms. They also reduce the dangerous waste that comes with public drug use, especially the improper disposal of syringes.

Reduce demands on emergency medical services

One of the most important benefits of overdose prevention sites is the reduction of demands on emergency medical services. Emergency medical personnel are often called on when someone accidentally overdoses. Safe injection sites in Philadelphia provide some relief to EMS.



Cons of Safe Injection Sites

Alongside the benefits of safe injection sites come some negatives that must be addressed. Critics of Safehouse's safe injection site in Philadelphia insist that the benefits do not outweigh the disadvantages.

Potentially encourages IV drug use

Intravenous injection is the most dangerous way to use drugs. Offering a safe place to inject drugs could encourage some users to switch to IV use. Users who switch place themselves at greater risk, especially if they aren't able to access the safe injection site at some point.

Possible strain on the government budget

Operating safe injection sites may place additional strain on government budgets. Critics insist these facilities are not worth the financial investment considering the possible negative impact they have on the surrounding community.

May increase drug-related crime nearby

Since users must bring their own drugs, safe injection sites may increase drug-related crime nearby. Dealers will want to position sellers in the area and it could lead to or encourage potential gang rivalries in the area.

Creates difficulty for policymakers

Despite offering a legal injection site, the drugs used are still illegal. Opening a safe injection site creates a difficult grey area that policymakers must navigate. Critics question how law enforcement is supposed to maintain uniform compliance with drug laws.



Are Safe Injection Sites Effective?

All things considered, the most important question you probably have is, are safe injection sites effective?

Regardless of both pros and cons, if they aren't a helpful tool then there is no need for them. Why open a safe injection site in Philadelphia if it's not an effective way to combat drug addiction?

Thankfully, many studies look at the existing operations in Vancouver, Sydney, and other locations. Studies show these facilities reduce the likelihood of fatal overdoses over time. They promote safer injections and also increase access to health care, addiction treatment, and other life-saving services.

Research also shows that safe injection sites are often associated with lower levels of public drug injection and improper syringe disposal. They limit the impact of the public nuisance often left behind by drug addiction.

Philadelphia's Safe Injection Site Could Save Lives

There's no denying the severe impact that drug addiction has in Pennsylvania. The state has some of the highest rates of opioid overdoses in the United States. A safe injection site in Philadelphia could be one step towards combating the devastating effects of addiction.

"Philadelphia, like the nation, is in an overdose crisis," explained Ronda Goldfein, co-founder and Vice President of Safehouse. "We have the highest death rate of any big city in America." Her organization insists that the proposed facility will have a positive impact on the addiction epidemic throughout the city.

Drug overdoses have claimed the lives of more than half a million people in the United States since 2000. Safehouse

realizes that something needs to be done and is sure the site is a positive step forward. Jim Kenney, mayor of Philadelphia, publicly supports Safehouse's plan. He estimates that their facility could save the lives of 25 to 76 people each year.

Safehouse Opening Derailed by COVID-19

Despite their preparedness to open a facility at the start of the year, COVID-19 derailed those plans. It didn't do anything to derail the effects of drug addiction, though. Counties across the country saw rates of abuse and overdose skyrocket as shelter-in-place orders sprung up.

The COVID-19 had a similar effect on Philadelphia, too. Harm reduction advocates insist the pandemic revealed just how great the need for a safe injection site in Philadelphia is. "Every day, we are at risk of an overdose that may occur on the street that would not have occurred inside of a supervised injection facility," explained Philadelphia District Attorney Larry Krasner.

Safe injection sites keep people from accidentally overdosing while alone on the streets. It's difficult to open a site under the current circumstances, though. Although they were approved in February, Safehouse likely will not open for the time being. A safe injection site in Philadelphia will, once again, have to wait.



Finding Help After Safehouse

Safe injection sites in Philadelphia are a harm reduction measure for opioid abuse but not a solution. Addiction treatment facilities are the way to escape the cycle of

addiction that IV drug users are trapped in. Connecting users with drug rehab is a vital part of reducing the impact of addiction throughout Philadelphia.

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