

September 20, 2022

Dr. Mark Ghaly  
Secretary, California Health and Human Services Agency  
Sacramento, CA 95814

**Re: Recommendations for CARE Court (SB 1338)**

Dear Secretary Ghaly,

Over the last several years and budget cycles, the National Alliance to End Homelessness has continued to applaud the bold leadership California has displayed in addressing homelessness. The visionary Project Homekey has resulted in thousands of new units of supportive housing and interim beds coming online faster than ever before, becoming a national model that other states are following. Four years of steady budget investments in the Homeless Housing, Assistance, and Prevention (HHAP) program have provided pathways for thousands to exit homelessness and find stable housing, while also creating the beginnings of a model process to engage local jurisdictions in setting ambitious goals and promoting cross-jurisdiction collaboration. Large influxes of investment in programs like the CalWORKs Housing Support Program (CalWORKs HSP) are assisting thousands of homeless families statewide to find their footing. The Community Care Expansion (CCE) is in the process of creating thousands of beds for people with the most acute needs. These programs have worked, in part, because they have led with a Housing First philosophy, grounded in client choice.

The CARE Court program, unfortunately, falls short of this vision. In a year of an unprecedented, \$97.5 billion budget surplus, this program will focus attention on the small minority of people experiencing homelessness and people with serious mental illness who are unwilling to voluntarily engage in services and housing. The vast majority of people experiencing homelessness, data show us, are eager to access services and housing and to work collaboratively to leave the street, but encounter persistent gaps in funding and resources. A recent review of data from Los Angeles, for example, revealed approximately 30,000 people experiencing homelessness who had said yes to housing and services, but remained homeless due to a lack of available resources.<sup>1</sup> There are several key steps forward California can make to close these gaps, which are shared at the conclusion of this letter.

Additionally, CARE Court does not align with what research and data show are the most effective ways to engage people experiencing homelessness and people with severe mental illness. For unhoused individuals with mental illnesses, approaches such as assertive community treatment are shown to be effective;<sup>2,3</sup> in general, models that rely on compulsory, coercive approaches are less effective<sup>4</sup> than those models that focus on a client-centered approach aligned with housing first and voluntary participation in services.<sup>5,6</sup>

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<sup>1</sup> 2019 review of Homeless Management Information System (HMIS) Data, according to the Los Angeles Homeless Services Authority.

<sup>2</sup> Young, M., Barrett, B., Engelhardt, M., and Moore, K. (2014). 'Six-month outcomes of an integrated assertive community treatment team serving adults with complex behavioral health and housing needs.' *Journal of Community Mental Health*. 50(4): 474-479.

<sup>3</sup> Morse, G., et al. (2017). 'Improving outcomes for homeless people with alcohol disorders: a multi-program community-based approach.' *Journal of Mental Health*. 6: 684-691.

<sup>4</sup> Ledberg, A. and Reitan, T. (2022). 'Increased risk of death immediately after discharge from compulsory care for substance abuse.' *Drug and Alcohol Dependence*, 236 (2022) 109492.

<sup>5</sup> Culhane, D. and Byrne, T. (2010). Ending Chronic Homelessness: Cost-Effective Opportunities for Interagency Collaboration. University of Pennsylvania ScholarlyCommons

As California moves forward with implementing CARE Court in an initial cohort of seven counties in October 2023 and the remaining 51 counties in December 2024, NAEH would like to offer the following principles to guide implementation to ensure the program is effective as possible at achieving strong outcomes related to housing and services:

**Create a CARE Court Environment That Does Not Reproduce Trauma:** Courtrooms are spaces that produce coercion and trauma, which is disproportionately the case for people of color ensnared by racist policing and justice systems. Many of the people that will end up in CARE Court are likely to have histories of both trauma and entanglement with the justice system: recent homeless count data in one large CoC found that over 60% of people experiencing homelessness had been through the justice system,<sup>7</sup> while another study of a jail diversion program found 96% of women in the program and 89% of men reported experiences of trauma.<sup>8</sup> To the greatest extent possible, the State must take these histories of trauma, including racial trauma, into consideration, and design spaces and processes for CARE Court that avoid experiences that reproduce trauma and emphasize the coerciveness of the proceedings.

**Create Strong Racial and Disability Equity Approaches for All Steps of the CARE Process:** It is essential that the State make intentional, thoughtful choices at every step of the process to protect against CARE Court reproducing and reinforcing structural racism and ableism. This is all the more important given the high likelihood that CARE Court participants will reflect the make-up of the justice-involved and homeless populations: disproportionately Black/African American and other people of color. This population is also likely to be disproportionately comprised of people with disabilities (and noting that both Black people and American Indian/Alaska Native people are disproportionately represented in the population of people with disabilities).<sup>9</sup> The State must take a number of steps to buttress against the possibility of CARE Court reinforcing structural racism and marginalization of people with disabilities including but not limited to:

- Engaging and empowering these communities to help design inclusive processes throughout, which is shown to improve outcomes<sup>10</sup> for both people with lived experience of disabilities<sup>11</sup> and homelessness.
- Partnering with organizations that are culturally competent and rooted in work with communities of color and the disability community.
- Carefully consider and narrow who can refer into a CARE Court hearing (see below for more detail).
- Continuously evaluate the data on key questions, such as who is being referred into CARE Court, who is successfully exiting CARE Court, who is being referred into conservatorship proceedings, and potential patterns of discrimination within this data. This data should be made available to the Legislature and the public (see below for more detail).

**Require Up-to-Date Training for Court Personnel:** The CARE Court program will be working with California's most vulnerable residents, people with severe mental illness, including people experiencing homelessness. The State must require that all personnel involved in CARE Court, including judges, be subject to rigorous training on the latest best practices in working in partnership with these populations. Similarly, the State must ensure the legal aid provided to CARE Court participants is high quality and well-trained in working with and representing this specific population in legal proceedings.

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<sup>6</sup> Ly, A. and Latimer, E. (2015). Housing First Impact on Costs and Associated Cost Offsets: A Review of the Literature. *The Canadian Journal of Psychiatry* 60(11) 475-487.

<sup>7</sup> The Los Angeles Homeless Services Authority. (2018). '2018 Greater Los Angeles Homeless Count Results.'

<sup>8</sup> Substance Abuse and Mental Health Services Administration. (2019). 'Principles of Community-based Behavioral Health Services for Justice-involved Individuals: A Research-based Guide.'

<sup>9</sup> Centers for Disease Control. (2020). 'Adults with Disabilities: Ethnicity and Race.'

<sup>10</sup> Agency for Healthcare Research and Quality, (2004). *Community-Based Participatory Research: Assessing the Evidence*. Evidence Report/Technology Assessment No. 99. Rockville, MD.

<sup>11</sup> Frawley, P., & Bigby, C. (2011). Inclusion in political and public life: The experiences of people with intellectual disability on government disability advisory bodies in Australia. *Journal of Intellectual & Developmental Disability*, 36(1), 27–38.

**Narrow Referral Pathways Into CARE Court:** The CARE Court process creates potential pathways into compelled treatment and removes one of the checks on entering a restrictive conservatorship. These are serious, weighty choices for public entities to make on behalf of others. As such, only those people with adequate clinical training or specialized knowledge of the needs of the potential participant should be able to refer into CARE Court. Law enforcement officers on their own should not be eligible to refer people into CARE Court, with a body of evidence showing that incorporating people with clinical training can lead to better outcomes<sup>12</sup> and better diagnoses of needed treatment.<sup>13</sup> The CARE referral pathway should similarly be restricted to homeless outreach workers with clinical training—the current definition of a homeless outreach worker is far too broad and encompasses outreach workers with little training and experience, as well as outreach workers that may not be accountable to public entities and are instead funded by private organizations.

**Create Guardrails Against Diverting Funding Away from Voluntarily Engaged Populations:** A number of homelessness programs that are funded by the State are providing needed housing and services to thousands of people statewide, including the Homeless Housing, Assistance, and Prevention (HHAP) program, the Housing and Disability Advocacy Program (HDAP), the Home Safe Adult Protective Services program, and others. These programs are all legally committed to Housing First approaches and are therefore allocating resources to people experiencing homelessness that are voluntarily engaging in housing and services. Housing First is associated with greater success: more placements into housing,<sup>14</sup> higher retention of housing placements and lower returns to homelessness,<sup>15</sup> better substance use treatment outcomes,<sup>16, 17</sup> higher outpatient service utilization,<sup>18</sup> and lower overall costs to the public sector<sup>19, 20</sup> are linked with programs using voluntary, Housing First approaches.

The State must ensure that counties do not divert funding away from successful, Housing First approaches and must create guardrails to allow these programs to continue scaling up to house more people. If the State does not create adequate guardrails and moves significant resources away from existing programs, CARE Court could have the unintended effect of leading to *fewer* people moving from homelessness into housing throughout the State. This does not mean that counties should be unable to utilize resources from these programs to house CARE Court participants, but rather that CARE Court participants must utilize these programs and services voluntarily and in alignment with existing eligibility requirements and prioritization criteria. Instead, the State should focus attention on creating strong accountability for HHAP and other funding, incentivizing and encouraging local jurisdictions to use this funding on programs that are evidenced-based and maximize positive outcomes like successful housing placements.

The August 25<sup>th</sup> amendment added to SB 1338 indicating that CARE Court only becomes operative upon ‘developing a CARE Act allocation to provide state financial assistance to counties’ is an important step forward in this regard. This amendment does not, however, preclude the CARE Act allocation from including reallocation of funds from programs like HHAP and does not protect against these resources from being moved away from the populations being voluntarily served. While discretion on using this funding may ultimately lie in the hands of counties, it remains a concern that the State is constructing a system in which there will be financial penalties for counties that fail to adequately serve CARE

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<sup>12</sup>Compton MT, et al. (2014). ‘The police-based crisis intervention team (CIT) model: Effects on officers' knowledge, attitudes, and skills.’ *Psychiatric Services*, 65(4):517-22.

<sup>13</sup>Abramson, A. (2021). ‘Building mental health into emergency responses.’ *APA Monitor on Psychology*. 52(5).

<sup>14</sup>Gulcur, L., et al. (2003). ‘Housing, hospitalization, and cost outcomes for homeless individuals with psychiatric disabilities participating in continuum of care and housing first programmes.’ *Journal of Community & Applied Psychology*. 13(2): 171-186.

<sup>15</sup>Tsemberis, S., Gulcur, L., & Nakae, M. (2004). ‘Housing first, consumer choice, and harm reduction for homeless individuals with a dual diagnosis.’ *American Journal of Public Health*. 94(4): 651-656.

<sup>16</sup>Larimer, M., et al. (2009). ‘Health care and public service use and costs before and after provision of housing for chronically homeless persons with severe alcohol problems.’ *JAMA*. 301(13): 1349-1357.

<sup>17</sup>Davidson, C., et al. (2014). ‘Association of housing first implementation and key outcomes among homeless persons with problematic substance use.’ *Journal of Psychiatric Services*. 65(11): 1318-1324.

<sup>18</sup>Gilmer, T. et al. (2015). ‘Fidelity to the housing first model and variation in health service use within permanent supportive housing.’ *Journal of Psychiatric Services*. 66(12): 1283-1289.

<sup>19</sup>Brennan, K., et al. (2020). ‘The preventive effect of housing first on health care utilization and costs among chronically homeless individuals: New evidence using propensity score analysis.’ Blue Cross Blue Shield of Massachusetts Foundation.

<sup>20</sup>See note 16.

Court participants, while no such penalties exist for failing to adequately serve individuals that are voluntarily engaged in housing and services in alignment with a Housing First approach.

**Evaluation and Monitoring:** While the legislation directs the State to contract with an independent, research entity to conduct ongoing evaluation, and for the department to provide reports to the Legislature, more reporting to public bodies is needed to ensure accountability. More specifically, the department's reporting to the Legislature should be expanded beyond the proscribed reports at the end of years three and five of the program. The Legislature is one of the primary mechanisms for public accountability and making legislative fixes to any major problems in the legislation. Given the gravity of the issues at play, the Administration should report to the Legislature in a public hearing on at least an annual basis.

Taken together, these principles will help direct CARE Court towards an implementation plan that reduces harm on the most vulnerable communities in the state, while also increasing the likelihood of successful treatment outcomes and housing placements. However, fundamental change is still needed to sustainably address homelessness in California. California is home to 161,000 people experiencing homelessness on any given night. The state has one of the largest gaps between the number of extremely low-income people who need affordable housing and the number of available homes; for every 100 extremely low-income households who need an affordable unit, there are only 23 units available.<sup>21</sup> Similar gaps exist in the availability of mental health services for people with serious mental illness: a recent RAND report found that California has a shortage of nearly 4,800 acute and subacute psychiatric beds and nearly 3,000 community residential beds.<sup>22</sup>

The consensus among academics, practitioners, and people with lived expertise of homelessness on how to address homelessness is clear: providing a rich array of housing and services, with the option to voluntarily engage in the supportive services that place people on the path towards addressing their needs, be they in behavioral health, employment, substance use, or mental health. Sufficient funding for housing and services is the path forward.

While there is clear consensus on what works, there are significant gaps in the needed resources to deliver on these proven solutions. These gaps are inherited from prior Administrations and Legislatures and continue to contribute to today's crisis, even as the last several budget cycles have seen important steps forward. Given that the State reported a nearly \$100 billion surplus going into the 2022-2023 budget year, it will be essential that the State use future windfalls, budget cycles, and legislative sessions to focus on the following priorities:

**Create Ongoing Funding for Homeless Services:** While one-time funding sources are helpful, local systems and service providers need the security of ongoing, sustained funding to reach scale and deliver consistent outcomes. California must move past one-time funding sources that change every budget cycle and create a comprehensive, ongoing program that funds evidence-based, housing-focused solutions to homelessness at the local level.

**Continue to Increase Investment in Mental Health and Behavioral Health Services and Infrastructure:** Recent budget cycles, and the transition to CalAIM, have seen significant advances in the State's efforts to scale up both services and physical infrastructure to provide needed supports for people with disabilities, mental health, behavioral health, and substance use disorder needs. The State must continue to build on this momentum to close existing gaps.

**Dive Deep Into Racial Equity:** The State has made laudable progress—but more needs to be done to ensure racial equity is front and center in the response to homelessness in a state where Black/African American and American Indian/Alaska Native populations continue to be disproportionately represented among people experiencing homelessness, and the number of Latinx people experiencing homelessness continues to grow. The State can take a number of steps to address this, including incentivizing local jurisdictions to invest in building the capacity of BIPOC-led organizations and other

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<sup>21</sup> National Low Income Housing Coalition. (April 2022). 'The Gap: A Shortage of Affordable Homes.' Retrieved on 8/29/22 from <https://nlihc.org/gap>.

<sup>22</sup> RAND Corporation. (2021). 'Adult Psychiatric Bed Capacity, Need, and Shortage Estimates for California.' Retrieved on 8/29/22 from [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RRA1800/RRA1824-1-v2/RAND\\_RRA1824-1-v2.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RRA1800/RRA1824-1-v2/RAND_RRA1824-1-v2.pdf)

culturally competent organizations, focusing on housing discrimination against people of color, and a range of other actions.

**Center People with Lived Experience of Homelessness:** The State’s progress on working with people with lived experience of homelessness is encouraging, but progress on this must continue. There are a number of concrete ways to move forward on this work, including requiring local grantees to consult with and empower lived experience advocates early in the creation of their local homelessness plans, and giving them a voice in approving these local plans.

**Invest in Building California’s Homeless Services Workforce:** While investing in housing and services is essential, these interventions will only go so far as there are sufficient skilled workers to deliver these services. The homeless services field is experiencing a workforce crisis, with many frontline staff leaving the field due to long hours, low pay, and traumatizing conditions working with vulnerable populations. The State must invest in approaches to retain, sustain, and attract a robust workforce in all parts of the state.

**Move Away from Ineffective and Harmful Criminalization Approaches:** The State must eschew approaches to policy that criminalize people experiencing homelessness; these approaches are inhumane, ineffective, and significantly hamper efforts to rehouse our neighbors. The State should also take steps to disincentivize local efforts to criminalize homelessness, as the most aggressive and harmful efforts are taking place at the local level and are ultimately hindering California from meeting its homelessness goals.

**Address Inflow Into Homelessness:** No matter how effectively the State rehouses people experiencing homelessness, there will not be significant progress in reducing the number of people experiencing homelessness if California is unable to reduce inflow into homelessness. To achieve this, the State must focus on building and preserving affordable housing, strengthen tenant protections that keep people in their homes, reform the criminal justice system, and ensure greater coordination between other systems of care and the homeless services system.

We are grateful for the leadership in California and the State’s commitment to doing the hard work to address homelessness and transform the systems that contribute to the crisis at hand. The Alliance stands ready to be a partner in this work and looks forward to working together to end homelessness for our most vulnerable neighbors.

In partnership,



Ann Oliva  
Chief Executive Officer  
National Alliance to End Homelessness