

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT
CIVIL NO.

MASSACHUSETTS COALITION FOR THE
HOMELESS, and
Raymond A. Shaffer

Plaintiffs

v.

AMY S. ANTHONY, Secretary of
Executive Office of Communities
and Development,

Defendant

COMPLAINT FOR
INJUNCTIVE RELIEF

I. PRELIMINARY STATEMENT

1. Plaintiffs in this lawsuit seek to remedy the blatant, intentional, and indisputable failure of the Executive Office of Communities and Development (EOCD) to comply with the legislature's mandate to implement, in the current fiscal year, a homelessness prevention program for families at risk of entering emergency assistance (EA) funded hotels, motels, or shelters. As immediate relief, Plaintiffs ask the Court to order the Defendant Secretary of EOCD to submit a plan within ten days for how the Secretary will leverage, prior to the close of the fiscal year on June 30, 1989, the 2000 federal and state housing subsidy certificates mandated by the legislature for EA eligible families who are homeless and at risk of homelessness.

II. JURISDICTION

2. Plaintiffs bring this claim pursuant to G.L. c. 214 §1 and c. 249 §5.

III. PARTIES

A. Plaintiffs

4.a. Plaintiff MASSACHUSETTS COALITION FOR THE HOMELESS is an incorporated association whose principal place of business is 33 Farnsworth Street, Boston, Massachusetts. Its members consist of homeless individuals and families, service providers, advocates and service and advocacy organizations dedicated to improving the plight of the homeless and preventing homelessness. The Coalition was a primary advocate on behalf of the Governor's Homelessness Prevention Plan, proposed in December, 1987, which provided the impetus for the enactment in the FY89 budget of the duty of EOCD to begin a homelessness prevention program. (See Affidavit of Sue Marsh, Executive Director, Massachusetts Coalition for the Homeless, attached hereto as Appendix A.)

b. Plaintiff Raymond A. Shaffer currently resides at 17 Henry St., Malden, with his wife and his four year old daughter. The Shaffers will be evicted any day by a constable as judgment has already entered against them and they are financially uable to pursue their appeal. Mr. Shaffer lost his job as an oil burner technician in October, 1988 due to this second heart attack in two years. His family's only income currently is \$579/month in AFDC. They have sought help from the Malden Housing Authority to obtain a rent subsity certificate so they would not be forced to enter a shelter, but after issuing

them a certificate, the Malden Housing Authority took it away the next day. Plaintiff Shaffer does not know if or when he may get assisted by the Malden Housing Authority, and fears his family may have to enter a shelter this week.

B. Defendant

5. Defendant AMY ANTHONY, is the Executive Secretary of the Executive Office of Communities and Development (EOCD). Pursuant to G.L. c. 6A, §§1, 2, 4, and 8, she is responsible for accomplishing the purposes of EOCD, and directing its component agencies, and pursuant to G.L. c. 23B, §6, and c.121B §§ 29, 34, and 43, she has authority to make and revise regulations for the conduct of the business of the department of community affairs, and such other regulations as may be required by law, including tenant selection regulations. Her office is located at 100 Cambridge Street, Boston, MA. 02202.

IV. FACTS

6. Item 3722-9007 of the FY1989 budget, c. 164 §2 of the Acts of 1988 (attached hereto as Appendix B), mandates that

[T]he executive office of communities and development shall leverage [not less than two thousand] chapter 707 and section 8 rental certificates, so-called, for use by homeless families and families at-risk of homelessness as the use of said certificates currently being utilized by eligible families is discontinued....

7. In addition, the budget item also required EOCD, together with Department of Public Welfare to submit a report to the House and Senate Committees on Ways and Means, on or before January 1, 1989, containing, inter alia,

the number of certificates leveraged from each housing authority for families who are homeless or at risk of becoming homeless, the eligibility

criteria for receipt of said leveraged rental certificates, the methods for identifying families at-risk of homelessness and for making referrals between said departments, and recommendations for improvement of the program...

8. Defendant Anthony, in a document entitled "Permanent Housing for Homeless Families; Moving Towards Homeless Prevention," dated January 30, 1989, (attached hereto as Appendix C), admitted that EOCD had not yet undertaken any homeless prevention program in FY 1989, and had not yet "leveraged" any housing subsidy certificates from any local housing authority for families at risk of homelessness. App. C, p. 9.

9. Defendant Anthony, in her January 30th report, admits that EOCD has not leveraged any turnover federally subsidized §8 certificates from local housing authorities in the cities and towns for use by homeless families or families at risk of homelessness, and has no plans to do so in this fiscal year.

10. On information and belief, EOCD's sole plan for implementing a homeless prevention program is to promulgate regulations at the earliest by mid-May, 1989, which would require local housing authorities in their state-funded rental assistance program, (known as the c.707 program), to give second preference after homeless families to families at risk of homelessness. (Affidavit of Sue Marsh, App.A, #10.)

11. It is unlikely that such regulations, given their date of expected promulgation, will result in "leveraging" any c. 707 certificates in FY 1989 for families at risk of homelessness.

12. EOCD estimates that in FY 1989 approximately 500 of the 1500 c.707 certificates expected to turnover annually will be awarded to homeless families under the tenant selection regulations issued in 1986, 760 C.M.R. 5.00. (App. C, p. 9). Even if local housing authorities do award 500 c.707 certificates to homeless families in 1989, these approximately 500 certificates cannot be considered to have been "leveraged" by EOCD, as local housing authorities had been required to grant priority to homeless families for two years prior to the legislature's enactment of Item 3722-9007. EOCD officials have admitted that because of the broad terms of the tenant selection regulations and the practices of local housing authorities, many of the 500 families anticipated to receive these turnover c.707 certificates are families who, while not in their own homes, have not been in emergency shelters under the emergency assistance program. (See Affidavit of Sue Marsh, App. A, ¶8).

13. The 500 federal section 8 vouchers granted by EOCD to homeless families in the beginning of this fiscal year were new federal resources, not turnover of existing subsidies, and were given directly to EOCD by the federal Department of Housing and Urban Development (HUD).

14. Defendant Anthony, in her January 30th report, admits that EOCD has to date "leveraged" approximately 600, and will "leverage" at most only 1,000 rent subsidy certificates in FY 1989, by having the non-profit regional housing agencies under EOCD's direct control give first preference to homeless families for turnover federally subsidized §8 certificates (App. C, p.9).

15. The critical need for homelessness prevention efforts in light of the burgeoning crisis of family homelessness is openly admitted by defendant Aanthony in her January 30th report. Plaintiff Shaffer and countless other similar families whose interests the Massachusetts Coalition for the Homeless represents, will suffer the irreparable harm of loss of their homes and resultant homelessness if they cannot quickly obtain a means to subsidize their rent, such as the housing subsidy certificates which defendant is obligated by item 3722-9007 to make available to families at imminent risk of homelessness.

V. CAUSES OF ACTION

16. EOCD's Failure to Implement a Homelessness Prevention Program

A. Under item 3722-9007 of c.164 §2 of the Acts of 1988, EOCD had the duty, within the first months of FY 1989, to develop a homelessness prevention program for families at risk of entering hotels, motels, or shelters under the emergency assistance program, and to begin leveraging turnover federal and state rental subsidy certificates for use by such at-risk families. By failing to develop and begin implementation of such a homelessness prevention program, Defendant Anthony has violated the mandate of item 3722-9007.

B. Defendant Anthony's January 30th Report clearly evidences her intent that EOCD will not begin to operate any homelessness prevention program with rental subsidy certificates during FY 1989. By failing to take the steps necessary to

implement a homelessness prevention program during FY 1989
Defendant Anthony is violating the mandate of item 3722-9007.

17. EOCD's Failure to Leverage 2000 Rental Subsidy

Certificates

Item 3722-9007 of c. 164 §2 of the Acts of 1988 requires EOCD to leverage at least 2000 turnover c.707 and section 8 rental subsidy certificates during FY 1989 for use by homeless families in hotels, motels, or shelters under the emergency assistance program and for families at risk of such homelessness. To date, EOCD admits that it has at most leveraged 600 such certificates, and intends to leverage only a total of 1000 such certificates, all for use only by already homeless families. See ¶ 14, supra. By failing to leverage or develop any plan to leverage 2000 turnover c.707 and section 8 rental subsidy certificates from local housing authorities in FY 89, for use by homeless families in EA-funded shelter and families at risk of homelessness and placement in emergency assistance-funded hotels, motels, or shelters in FY89, Defendant Anthony has violated the mandate of item 3722-9007.

VI. PRAYERS FOR RELIEF

Wherefore, plaintiffs request that this court:

1. Issue a short order of notice for a speedy hearing on plaintiff's motion for preliminary injunction;

2. Issue a preliminary injunction under Rule 65, Mass R. Cir. P., enjoining Defendant Anthony from failing to:

a. take all steps necessary to leverage a turnover rental subsidy certificate on behalf of plaintiff Shaffer, whose

family is at imminent risk of homelessness;

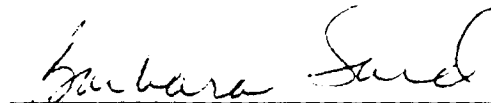
b. within ten days submit a plan to plaintiffs and the court for how EOCD will leverage at least an additional 1000 turnover c.707 and section 8 rental subsidy certificates from local housing authorities during FY89, at least some of which must be used for families at risk of homelessness and entry into emergency assistance funded hotels, motels, or shelters.

3. If Defendant fails to submit such a plan or if the Court is not persuaded that the proposed actions will result in compliance with the mandate of item 3722-9007, plaintiffs request this court to enjoin Defendant Anthony from failing to promulgate forthwith emergency regulations requiring local housing authorities to give preference to homeless families in emergency assistance-funded hotels, motels, or shelters, and families at risk of homelessness and entry into such shelters, in allocating both their c.707 and section 8 rental subsidy certificates.

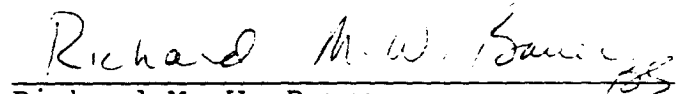
4. Permanently enjoin Defendant Anthony to comply with an effective plan to leverage at least an additional 1000 turnover c.707 and section 8 rental subsidy certificates from local housing authorities during FY89, at least some of which must be used for families at risk of homelessness and entry into emergency assistance funded hotels, motels, or shelters.

5. Order such other and further relief as may be just,
equitable, or necessary to resolve the claims of the parties.

By their attorneys,



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COMMONWEALTH OF MASSACHUSETTS

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AMY S. ANTHONY, Secretary of
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Defendant

AFFIDAVIT OF
SUE MARSH,
EXECUTIVE DIRECTOR
MASSACHUSETTS
COALITION FOR THE
HOMELESS

I, Sue Marsh do solemnly swear and affirm:

1. My name is Sue Marsh. I am the Executive Director of the Massachusetts Coalition for the Homeless. I have held this position since 1987.

2. Since 1983, the Massachusetts Coalition for the Homeless has spearheaded advocacy for governmental financial assistance to prevent and remedy homelessness, including advocacy on behalf of the expansion of the emergency assistance program and targeted rental subsidy programs. One of our major initiatives was a lawsuit against the Secretary of Human Services and the Commissioner of the Department of Public Welfare, challenging the failure of AFDC benefits to meet the mandate of G.L. c.118§2,

that aid be sufficient to enable families to bring up their children in their own homes. The Supreme Judicial Court issued its decision in this case in August, 1987. (Massachusetts Coalition for the Homeless et al. v. Secretary of Human Services, et al., 400 Mass. 806 (1987).) One of the goals of this litigation was to enable families to have sufficient financial resources to prevent homelessness.

3. When Governor Dukakis announced his Homelessness Prevention Plan in December, 1987, which was then incorporated in House 1, I personally demonstrated the Coalition's support for it by appearing with the Governor at the press conference.

4. Members of the Massachusetts Coalition for the Homeless and I worked very hard during the FY 89 budget process, from January through June, 1988, to advocate for the Governor's Homelessness Prevention Program with the legislature. The Coalition particularly supported the additional funding for targeted rent subsidies for families at risk of homelessness, in addition to targeted subsidies for families already homeless.

5. From my personal experience advocating both within the Executive Branch and with the House and Senate Ways & Means Committees concerning the Homelessness Prevention Program during the FY 1989 budget process, I can testify to the transformations which the Governor's initial proposal underwent. While the Governor initially proposed a \$22.4 million initiative for FY 1989, the amount intended for prevention and homeless rental subsidies, as opposed to homelessness and prevention-related

services, was not specified in House 1. When House Ways & Means requested a further budget breakdown, it is my understanding that Executive branch staff notified the Committee, as per the attached memorandum from Nancy K. Kaufman, Asst. Secretary of EOHS, that \$14.456 million of the \$22.4 million was intended for rental subsidies for homeless and at risk families. This amount was approximately double the resources targeted just to homeless families for rental subsidies in FY 1988, in order to enable a meaningful prevention program to be implemented. When the House recommended only \$8.4 million for rental subsidy certificates, only 1000 of which were intended for families already homeless, the Coalition took the position that the entire recommended appropriation for rental subsidies and services of \$12.6 million, and more, was needed for rental subsidies, in order to have sufficient resources for families already homeless as well as for families at risk. The Senate Ways & Means Committee agreed with the Coalition's position that a larger set-aside was required for already homeless families, so they would not languish in shelter, and recommended \$6.6 million for such subsidies. While the Senate Committee agreed with the goal of homelessness prevention, and were willing to allocate an additional \$6.4 million for this purpose, which included funds for rental subsidies, they recommended holding the \$6.4 million in reserve until further detail was provided on the intended programs to the Ways & Means Committees. Unfortunately, by the time the budget conference committee met in June and early July, 1988, the fiscal picture

had changed dramatically. Only \$7.25 million in additional funding for rental subsidies was finally appropriated, all but \$625,000 of which was specifically allocated for c.707 certificates for homeless families in EA-funded shelter. While the legislature directed EOCD to develop a homelessness prevention program, in language similar to that used by the Senate, no new funding was specifically allocated for rental subsidies for families at risk of homelessness. Instead, the Legislature relied on EOCD's proposal to leverage existing rental subsidy resources to meet the prevention goal, as well as providing a small reserve (the \$625,000) which could also be used for homelessness prevention.

6. After the FY 1989 budget was enacted, beginning in the summer of 1988 through December, 1988, I was an active participant in meetings convened by the Executive Office of Communities and Development (EOCD) to develop the guidelines for a homeless prevention program. As part of that process, I offered EOCD numerous ideas on how they could comply with their duty to leverage rent subsidy certificates from local housing authorities to use for homeless families and families at risk of homelessness.

7. In December, 1988, at a meeting convened to discuss the EOCD budget with housing advocates, Secretary Anthony announced that EOCD would not initiate any prevention program this fiscal year.

8. On January 11, 1989, I attended a meeting at Executive

Office of Communities and Development with Deputy Secretary Alex Bledsoe and other Executive Office of Communities and Development officials to discuss the Massachusetts Coalition for the Homeless' position that the Executive Office of Communities and Development was violating its legal duties under item 3722-9007 by failing to implement any homelessness prevention program in FY 89 or to leverage 2000 turnover rent subsidy certificates on behalf of families already homeless and in emergency assistance funded temporary shelter and at risk of such homelessness. At that meeting, Executive Office of Communities and Development officials admitted that of the 500 c.707 turnover certificates that they estimated would be granted by local housing authorities to homeless families in FY 89, most of the certificates would go to families who were not residing in emergency assistance funded shelter, but rather to families who may not even be financially eligible for emergency assistance funded shelter, who were doubled up with friends or family.

9. Attached to this affidavit is a letter sent by Robert Wakefield, Assistant Commissioner for the Department of Public Welfare, to Leslie Lawrence on my staff, including data gathered by DPW on exits of families from EA-funded hotels, motels and shelters. These data show that only between 22-81 homeless EA families, for the first five months of this fiscal year, received turnover c.707 certificates issued by local housing authorities. (The data in part lump together state and federal local turnover subsidies, yielding this range.)

10. On January 31, 1989, I attended a joint EOCD/EOHS Homelessness Planning meeting. At that meeting, EOCD Deputy Secretary Bledsoe was questioned about when the change in EOCD regulations governing tenant selection for c.707 certificates, to give some priority to at risk families, might go into effect. Deputy Secretary Bledsoe answered that EOCD planned to follow the regular rule-making process, and not issue emergency regulations, and to have time in advance of publication for public comment to discuss the proposed changes with local housing authorities and others. As a result, Mr. Bledsoe stated that he did not expect the changes in EOCD'S regulations to be published in their final form until approximately mid-May, 1989 at the earliest.

Sworn to under the pains and penalties of perjury this 13
day of February, 1989.

Sue Marsh
Sue Marsh



The Commonwealth of Massachusetts

Executive Office of Human Services

One Ashburton Place, Room 1109

Boston, Massachusetts 02108

MICHAEL S. DUKAKIS
GOVERNOR

PHILIP W. JOHNSTON
SECRETARY

M E M O R A N D U M

TO: Ad HOC Homeless Advisory Group
FROM: Nancy K. Kaufman, ~~Assistant~~ Secretary
DATE: April 13, 1988
RE: Enclosed

Enclosed is a copy of the A&F preliminary plan to House Ways & Means which will be discussed at the next Ad HOC Advisory Committee meeting on April 20th.

NKK/mac

cc: Interagency Group

HOMELESSNESS PREVENTION PLAN BUDGET
(\$M)

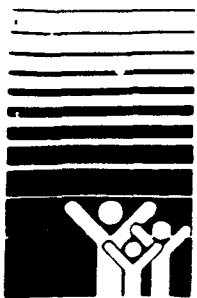
	<u>FY89</u>	<u>FY90</u>
1. Welfare Housing Specialists 60 workers (9 months)	1.350	1.800
2. Housing Search Expansion Welfare performance-based contracts with nonprofit providers (12 months)	1.000	1.000
3. Housing Services Program		
a) 6 new programs to expand statewide (10 months)	0.755	0.906
b) 10 additional tenant counselors in critical geographical areas (9 months)	0.263	0.350
4. DSS Homeless Prevention Social Workers 40 workers (9 months)	0.900	1.200
5. Contracted Social Services		
a) Intensive Family Intervention/Family Continuity (8 months)	0.500	0.750
b) Parent-Aide, Mediation, Counseling, Tracking (8 months)	0.500	0.750
c) Individual service money for homeless families (12 months)	0.126	0.126
6. 15 Shelters (6 months)	1.925	3.850
7. 10 Transitional Living Programs (6 months)*	<u>0.625</u>	<u>1.250</u>
SUBTOTAL	7.944	11.982
8. Prevention Subsidies		
a) 4500-5000 subsidies issued in FY89	14.456	28.912
b) 4500-5000 subsidies issued in FY90	--	14.500
TOTAL	22.400	55.394**

* House 1 includes this amount directly in 4800-0200

** Assumes reallocation of funds currently used for homeless services

HMLSNS3/E

4/4/88



**Your Department of
Public Welfare**

180 Tremont Street
Boston, Massachusetts 02111

Charles M. Atkins, Commissioner

December 20, 1988

Ms. Leslie Lawrence
Massachusetts Coalition for the Homeless
33 Farnsworth Street
Boston, Ma. 02210

Dear Ms. Lawrence,

In response to your request for information regarding homeless families served since December, 1987 we have put together the attached information.

- Monthly information regarding the number of entrances and exits by month, including the reasons for homelessness and where the family exited. For the period ending 6/30/88 these reports are broken out by type of shelter, EA or 07. For the information beginning July 1, the shelter data is combined into one set of statistics. It should be noted that families leaving hotels or EA shelters and entering 07 shelters will appear as both an exit and entrance.

- The number of families in hotels and shelters at the end of each month and the number of these families who are over 90 days.

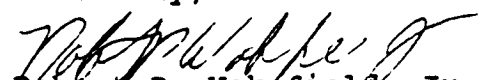
- The number of different types of subsidy benefits used in FY88 and FY89. The FY89 information is through the first week in December.

- A report on EA usage during FY88.

- A report on average AFDC caseloads.

In regard to your request for information regarding the "other" categories for entrances and exits please be advised that the only place this information is available is in the individual case records maintained by the local offices. Information regarding the costs of private housing is also not available.

Sincerely,


Robert D. Wakefield, Jr.
Assistant Commissioner

1988

Hotel/Motel Entrances
(by month and cause)

MONTH	Fire	Abuse	Incomp.	Condem violat	Overcr	Evic >50%	Nonpay rent	Condo convers	Bldg sold	Evic prim	Instit	Other	TOTAL
July	17	11	22	9	50	29	5	0	2	51	1	3	200
August	15	15	39	12	82	30	11	0	2	72	0	0	278
September	15	17	22	7	65	46	6	0	3	80	4	3	268
October	13	18	24	13	60	33	10	1	0	60	3	2	237
November	30	11	16	17	59	31	14	0	4	63	3	3	251

Hotel/Motel Exits
(by month and cause)

MONTH	Private hsg	Public hsg	Shelter	Sec 8 voucher	State Hsg voucher	Local 707	Special 707	Family friends	Another State	Asked to Instit	Leave	Other	Unknown	TOTAL
July	22	3	26	13	50	6	0	11	9	3	3	8	13	168
August	34	2	24	4	61	8	1	17	15	3	8	6	17	204
September	32	0	36	12	43	8	1	36	21	2	2	16	16	231
October	34	5	23	16	38	3	13	29	23	1	4	10	12	214
November	23	3	31	10	33	4	7	48	21	4	2	11	19	220

1988

Shelter Entrances
(by month and cause)

MONTH	Fire	Abuse	Incomp.	Condem violat	Overcr	Evic >50%	Nonpay rent	Condo convers	Bldg sold	Evic prim	Instit	Other	TOTAL
July	8	17	19	6	64	22	5	0	8	34	2	19	204
August	1	25	17	3	48	11	22	1	2	34	3	22	189
September	6	16	20	8	53	12	21	0	4	21	1	28	190
October	6	13	11	6	56	25	8	1	7	22	2	20	177
November	6	15	10	9	58	25	4	0	6	33	0	11	177

Shelter Exits
(by month and cause)

MONTH	Private hsg	Public hsg	Subsidies	Shelter	Hotel	Family/ Friends	Another state	DSS	Instit	Other/ Unknown	TOTAL
July	31	3	101	8	21	20	4	1	5	34	228
August	24	3	99	11	6	16	4	0	1	27	191
September	16	3	105	9	2	21	2	0	0	32	190
October	19	9	99	6	3	18	3	1	0	15	173
November	17	4	101	11	6	18	2	1	1	21	182

Month End Caseloads and Number
of Families over 90 Days

1988	H/M Csld	# H/M >90Days	Shelter Csld	Shelter >90Days
Jan	549	153	384	108
Feb	521	140	380	150
Mar	541	145	363	89
Apr	554	143	382	67
May	520	162	434	94
June	494	146	478	102
Jul	541	171	469	91
Aug	641	191	479	110
Sept	685	202	481	106
Oct	712	132	508	151
Nov	727	227	511	143

Subsidy Usage

FY88

Section 8 Vouchers and State Housing Vouchers	1,873
Welfare 707	471
Local Section 8 and 707	<u>193</u>
Total	2,537

FY89 (Through 12/9)

Housing Vouchers	694
Section 8	32
707	415
Local Section 8 and 707	<u>81</u>
Total	1,222

3722-9007 For a program of emergency rental assistance to be administered under an interagency agreement between the executive office of communities and development and the department of public welfare to provide not less than two thousand chapter 707 rental certificates, so-called, to families currently residing in hotels, motels and shelters who are receiving emergency assistance; provided further, that the executive office of communities and development shall leverage an equal number of chapter 707 and section 8 rental certificates, so-called, for use by homeless families and families at-risk of homelessness as the use of said certificates currently being utilized by eligible families is discontinued; provided further, that not less than six hundred and twenty-five thousand dollars of the amount appropriated herein be held in reserve for additional 707 certificates pending approval of a schedule of proposed expenditures submitted by the executive office of communities and development and the department of public welfare to the house and senate committees on ways and means on or before January first, nineteen hundred and eighty-nine; provided further, that said schedule shall include a report of the number of homeless families in hotels, motels and shelters and the average length of stay, the number of certificates leveraged from each housing authority for families who are homeless or at risk of becoming homeless, the eligibility criteria for receipt of said leveraged rental certificates, the methods for identifying families at-risk of homelessness and for making referrals between said departments, and recommendations for improvement of the program\$7,250,000

**PERMANENT HOUSING
FOR HOMELESS FAMILIES;
MOVING TOWARDS HOMELESS PREVENTION**

**A Report on the Commonwealth's Rental Assistance Programs
for Homeless and At-Risk Families
FY86-FY90**

January 30, 1989

**Prepared by the Executive Office of Communities and Development
Amy S. Anthony, Secretary**

INTRODUCTION

Facing a growing problem of family homelessness, the Commonwealth has developed and financed an extensive network of emergency shelters and hotels to provide temporary housing. As thousands of families have entered this emergency shelter system, the Governor and Legislature have dramatically increased funding for rental subsidies and other services to enable these families to find and afford permanent housing. The cornerstone of the rehousing effort has been a special set-aside of rental assistance subsidies, chiefly Chapter 707 certificates, administered by the Executive Office of Communities and Development (EOCD). Beginning in FY 86 with 250 Chapter 707 certificates targeted to homeless families, the Legislature has authorized approximately 2000 new homeless subsidies in each successive year. (See appendix for full summary of program resources.) The cumulative annual cost of these homeless set-asides has doubled in FY 87 and FY 88, and will now exceed \$43 million in FY 89.

Because the number of eligible families entering the emergency shelter system each year has far surpassed the 2000 available Chapter 707 certificates, EOCD has also supplemented these set-aside resources by targeting additional federal and state subsidies to homeless households. This fiscal year, EOCD has allocated the new federal vouchers it received from HUD exclusively to homeless families, and has required that all Section 8 and Chapter 707 certificates under EOCD regulatory authority must be first offered to eligible homeless households upon turnover.¹ As a result of these measures, EOCD will provide another 2000 certificates in addition to those already authorized by the Legislature, increasing the total rental subsidies available in FY 89 to 4000. At the midpoint of the program year, however, more than half of these homeless subsidies have been issued, and we expect that all 4000 subsidies will be needed to meet the anticipated demand from families in emergency shelters and hotels this fiscal year. EOCD's

1. Each year, approximately 10% of the rental subsidies in use are returned to housing agencies by families that are no longer eligible for the program and are then reissued to another eligible family according to tenant selection regulations.

rental assistance programs, supported by the Welfare Department's aggressive housing search efforts, will then have placed over 9500 homeless households in subsidized permanent housing since the homeless programs began in 1986.

Despite this dramatic increase in rental subsidies for the homeless, the number of people entering the emergency shelter system continues to grow. Although the rental subsidies have been effective in enabling families in crisis to find permanent housing, the Commonwealth's subsidy programs must be redirected to homeless **prevention** if we hope to reduce our chronic reliance on this overburdened emergency shelter system. Governor Dukakis had proposed in his FY 89 budget request a homeless prevention program which would have targeted rental subsidies to families immediately at risk of homelessness, thereby eliminating the social costs and state expense of a family residing in an emergency shelter. Although the funding the Governor requested for this program was not provided, EOCD has worked closely with the Executive Office of Human Services (EOHS), the Welfare Department, homeless advocates, and local housing providers to develop a pilot prevention program this year.

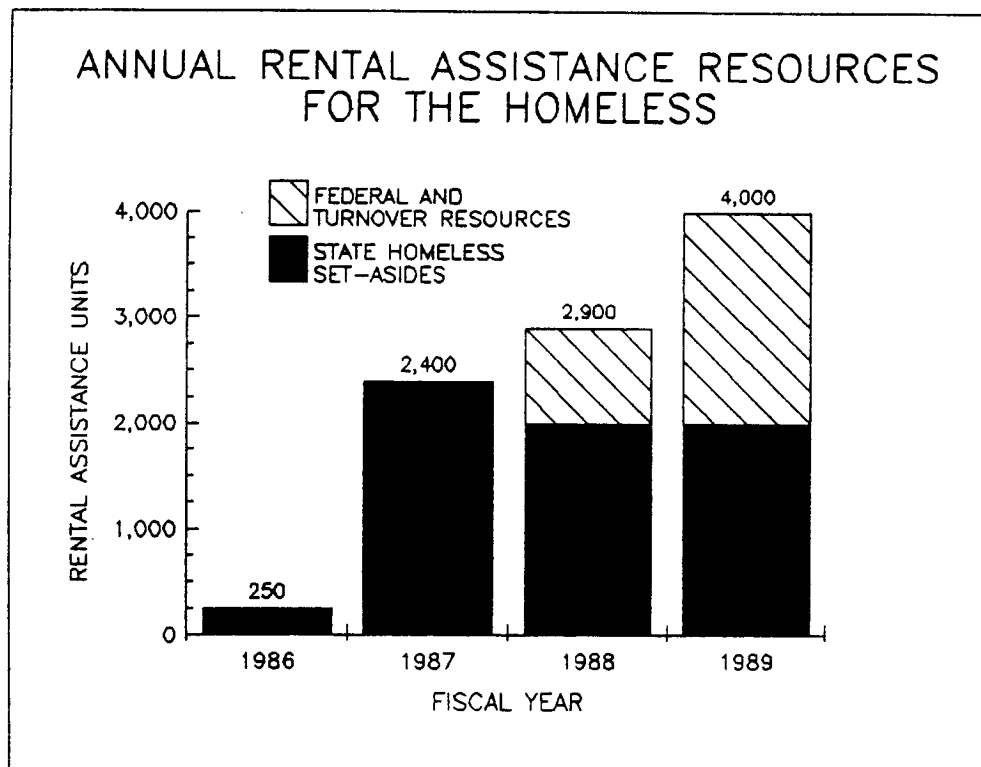
We had intended to seek legislative authorization to reallocate some of the 2000 new certificates set-aside for families already in emergency shelters to those households at risk of becoming homeless, particularly since EOCD has made available the 2000 additional subsidies described above. However, due to the increased number of families entering emergency shelters and hotels and the corresponding jump in issuance of Chapter 707 certificates, all of the certificates funded in the FY 89 homeless account will be needed to provide rental assistance for homeless families, thus leaving no new funding available for a prevention program. This marked increase in families living in emergency shelters simply underscores the critical need for a homeless prevention program, and EOCD remains strongly committed to developing a prevention initiative in FY 89.

This report examines the growth in the homeless set-aside programs since they began in 1986, and recommends three key modifications to improve the current system:

- * Rental subsidies for homeless families should not be administered as a separate set-aside system but instead reintegrated into the existing housing programs operated by local housing authorities and regional non-profit agencies.
- * A comprehensive homeless prevention program which will reduce the reliance on emergency shelters and hotels can be implemented by adopting an "at-risk" tenant selection preference for state subsidies and a homeless preference for federal subsidies.
- * By changing tenant selection rules in this manner, significant resources for homeless and at-risk families can be made available from the "turnover" and reissuance of current subsidies which can then be supplemented by new rental subsidies authorized by the Legislature and the Governor in the FY 90 budget.

SUMMARY OF RENTAL ASSISTANCE HOMELESS PROGRAMS

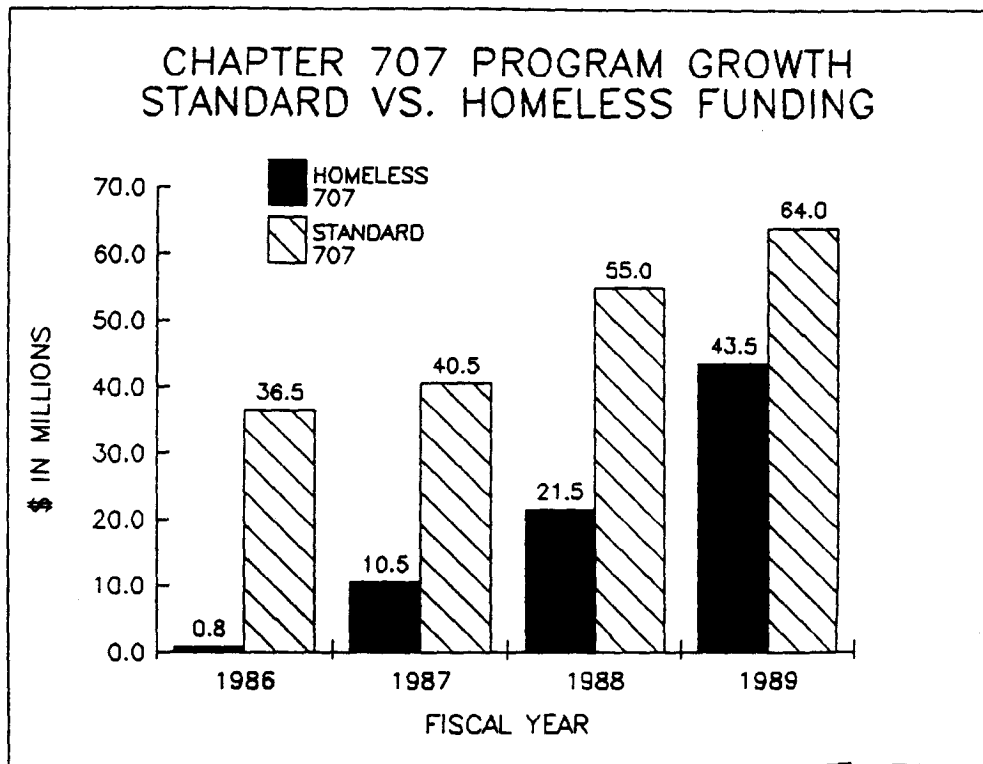
Beginning in FY 86 and continuing through this fiscal year, EOCD, in cooperation with the Executive Office of Human Services (EOHS) and the Department of Public Welfare, has administered four programs of rental assistance which have provided special set-asides to families who enter the hotel/shelter system funded through the emergency assistance program at Welfare. These programs have been primarily funded by the Commonwealth in the form of Chapter 707 certificates and state vouchers. EOCD has also allocated approximately 1900 federally funded Section 8 rental assistance subsidies to this effort. The following graph illustrates the Commonwealth's increasing commitment of rental subsidies to help homeless households:



Most of these resources have been set-asides exclusively for homeless families with virtually all of the intake process and issuance of subsidies performed by EOCD's regional non-profit housing agencies. This centralized intake and issuing activity at the 9 regional non-profit agencies was seen as

the most efficient way to facilitate access to these resources by homeless families and the housing search workers assigned to assist them.

It is important to note that there was relatively little expansion of the Chapter 707 certificate program at local housing authorities during this period of time. In the past four years, only 500 new scattered-site Chapter 707 certificates were provided to LHAs, all in FY 86, in order to serve applicants on their waiting lists. Despite the limited growth in units, the Chapter 707 certificate program has continued its fiscal growth due to a rise in market rents and an improvement in the leasing performance of the administering agencies. The following graph shows the marked expansion of the homeless Chapter 707 program compared to the standard Chapter 707 certificate program over the past four years:



In examining the distribution of new rental assistance appropriations since 1986, it becomes clear that a disproportionate amount of these resources have been directed toward families who are already homeless and virtually none towards at-risk families or those on waiting lists. While

these rental assistance benefits have been successful in moving families out of the shelters and hotels, new families have quickly taken their place. The delivery system has served as a disincentive for families to seek housing assistance through the local housing authorities, who also develop and/or manage virtually all other state and federal low income housing programs. Moreover, this policy has had the unintended consequence of encouraging some desperate families to become homeless and enter an emergency shelter in order to access the scarce housing subsidies. Since most families at risk of becoming homeless are not eligible for an emergency preference or set-aside of rental subsidies, their only opportunity to receive rental assistance is through the homeless set-aside programs at the regional non-profit agencies. Thus, even if an at-risk family can stay in their current housing situation for a longer period, they have no incentive to remain there without an assurance of timely availability of rental assistance.

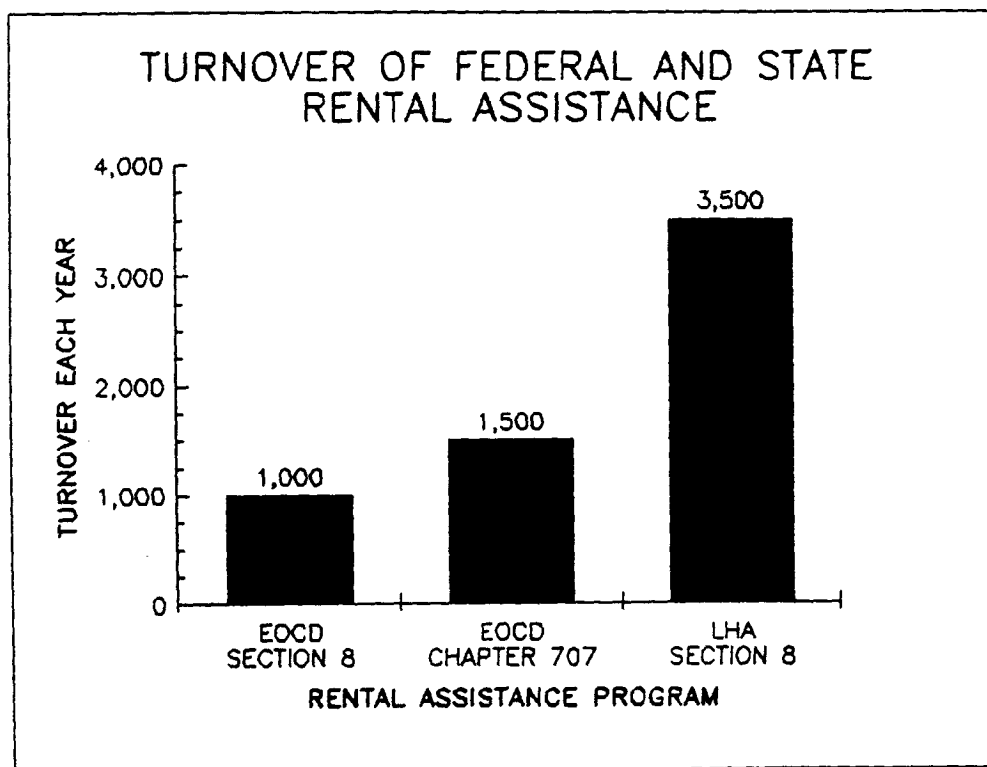
GOVERNOR'S PROPOSED PREVENTION PLAN FOR FY 89

Recognizing the dynamics which had developed in the homeless system and the need to focus efforts on prevention of homelessness, EOCD sought legislative approval for a prevention component within the homeless program proposed for FY 89. Based on our past efforts, it was clear that continuation of Chapter 707 set-asides designed primarily as an after-the-fact response would do nothing to alter the perverse incentives in the current system, and would continue to be very expensive. By redirecting resources to local housing authorities and to families at risk of becoming homeless, families would be able to remain in their communities, in their current housing, generally at substantially lower rents than those that would be charged in a new rental unit. Furthermore, by helping families before they become homeless, other related costs, such as emergency assistance benefits for temporary shelter, could be avoided.

During FY 89 budget discussions, EOCD proposed a federal "leveraging" concept to generate sufficient resources for a prevention program. Turnover of federal housing subsidies represents an enormous potential resource -- there are 45,000 units of federal Section 8 rental assistance in the Commonwealth. Each year, approximately 10% of these subsidies are returned to housing agencies by households that are no longer eligible for the program. This means that there are 4500 federal subsidies made available to

newly eligible households each year. Previous to July of 1988, these subsidies would be issued to households on waiting lists, on a first-come, first-serve basis. However, since July of 1988, HUD regulations have changed. Housing agencies must now offer federal subsidies on the basis of need, and can choose to rank certain categories of needy households, including the homeless, to receive these subsidies first.

The federal turnover subsidies are a large potential resource for the homeless, if housing authorities choose to rank the homeless first to receive them. Targeting these federal subsidies for the homeless can add dramatically to the Commonwealth's available resources for a prevention effort. There are far more federal rental subsidies than state rental subsidies in the Commonwealth; consequently, the turnover of federal subsidies is much larger than the turnover in state subsidies. The following graph shows the turnover resources available in the state:



EOCB does not regulate the tenant selection process for the largest number of these reissued subsidies -- that is, the Section 8 turnover at local housing

authorities. Because these subsidies are so significant in number, EOCD developed a plan to "leverage" these subsidies for the homeless, within the framework allowed by the new federal tenant selection regulation.

EOCD proposed that the new FY 89 Chapter 707 certificates be primarily for at-risk families, many of whom would already be on housing authority waiting lists. Housing authorities could receive the at-risk certificates only if they adopted an unequivocal homeless preference for their Section 8 program. In this way, EOCD would "leverage" federal subsidies for the homeless with state subsidies provided to at-risk families.

Two key conditions were required in order to implement EOCD's proposed leveraging system. First, the Chapter 707 certificates appropriated for FY 89 needed to be available **both** for homeless and at-risk families in order for the leveraging concept to work. If new Chapter 707 certificates were restricted only for the homeless, housing authorities would have no incentive to adopt the homeless preference because all available resources would be targeted for homeless families leaving none left over for at-risk households on waiting lists. Second, the intake rate within the emergency shelter system had to stay relatively constant or decline. If the rate of intake increased, both new Chapter 707 certificates and available Section 8 turnover subsidies would be exhausted just serving homeless families.

FY 89 CHAPTER 707 HOMELESS PROGRAM

Unfortunately, neither of these conditions were achieved and EOCD was thus not empowered to implement the prevention and leveraging program the Governor requested the Legislature to approve. The FY 89 budget appropriated \$7.25 million dollars to provide 2000 Chapter 707 certificates to be issued **exclusively** to homeless families residing in hotels, motels and shelters. The appropriation language further provided that not less than \$625,000 of these funds be held in reserve for additional Chapter 707 certificates pending approval of a schedule of proposed expenditures submitted by EOCD and the Department of Public Welfare. These additional certificates could potentially be used for a prevention program for at-risk families if the Legislature approved this broader eligibility criteria and if not all of the \$7.25 million appropriation was needed to fund the 2000 certificates for the homeless.

The growing number of families entering the hotel/motel/shelter system during FY 89 has imposed greater than anticipated demand for Chapter 707 certificates from this year's set-aside. Over 70% of the 2000 set-aside certificates have been issued, more than 600 of the 1000 Section 8 "turnover" subsidies have been made available for homeless households, and all of the 500 vouchers were used in the first two months of the year before the Chapter 707 program became operational. EOCD is currently collecting data from local housing authorities and information will be available shortly on the estimated 500 turnover certificates which will be issued to homeless households this year due to the Chapter 707 homeless preference. Thus despite the availability of 2000 additional subsidies for the homeless by the end of FY 89, EOCD projects that all \$7.25 million authorized in the appropriation account will be needed for families in emergency shelters and hotels. Therefore, EOCD cannot request the Legislature to allow the issuance of \$625,000 of certificates to at-risk families since all of these resources will be provided to homeless families.

HOMELESS PREVENTION: BUILDING ON OUR EXPERIENCE

Despite our inability to use the FY 89 Chapter 707 certificates for at-risk families, EOCD is strongly committed to developing a comprehensive program of homeless prevention. We must redirect the Commonwealth's homeless rental assistance system away from expensive "back-end" solutions such as set-asides for families temporarily living in hotels and motels, and towards existing public housing resources at local housing authorities and non-profits which can be provided both to homeless families and families "at-risk" of homelessness.

EOCD will begin homelessness prevention this fiscal year by amending the tenant selection regulations governing the Chapter 707 program to include a preference for "at-risk" families. For 50 years the selection of applicants for public housing benefits has been governed by the "first come, first served" principle where eligible recipients were chosen almost exclusively based on the date of their application. Because of the affordable housing crisis, EOCD changed the selection process for state-aided housing in 1986 by adopting a homeless preference. HUD followed recently with the adoption of preferences for the Section 8 program which include homelessness and a number of other subjective criteria.

EOCD proposes to extend the preferences for tenant selection by changing the Chapter 707 regulations and guidelines to facilitate the issuance of turnover certificates for families at risk of homelessness. The prevention preference will help the following types of families receive a subsidy:

- * primary tenants currently paying over 50% of income for rent and under threat of eviction, where other means of preventing homelessness have been exhausted;
- * families suffering from abuse in their current unit, where a subsidy will help them afford the unit without the abuser or where the subsidy is necessary for them to relocate;
- * primary tenants at risk of displacement by a public improvement, or condemnation resulting from enforcement of the state sanitary code, where other means of preventing homelessness have been exhausted;
- * primary tenants at risk of displacement due to condominium conversion or removal of the unit from the rental market, where other means of preventing homelessness have been exhausted;
- * primary tenants at risk of displacement due to substandard housing conditions that pose a threat to the health and safety of the household;
- * families currently living in temporary overcrowded situations who were previously displaced from primary tenancies for the reasons specified above.

Homeless households will continue to receive first preference for available rental subsidies. If no eligible homeless household needs the resource, the subsidy would then be provided to an eligible at-risk household rather than to the first person on the standard waiting list. Since many of the at-risk families may already be on the waiting list, the new prevention preference guarantees that the most needy household on the list receives the next subsidy instead of the person who first submitted their application.

To ensure that the maximum number of certificates are available to these at-risk families, sufficient non-Chapter 707 rental subsidies must be available for homeless households so that they do not need to regularly utilize the current Chapter 707 homeless preference. EOCD will be taking strong steps to leverage enough federal Section 8 subsidies in FY 90 to free up turnover Chapter 707 certificates for at-risk families and others on existing housing authority waiting lists. EOCD will aggressively urge housing authorities to adopt an unequivocal homeless preference so that a significant portion of the approximately 3500 certificates which turnover annually will be issued to homeless households. We will provide not only incentives but also the strong policy direction necessary to encourage and facilitate local housing authority participation. The regional non-profit system will continue to play a vital role by providing approximately 1,000 Section 8 turnover certificates per year to homeless households. If turnover Section 8 subsidies can meet a substantial component of the homeless needs, new and turnover Chapter 707 certificates would be available for at-risk families, and for the homeless, if necessary.

As a result of a new Chapter 707 "at-risk" preference and the adoption of a clear Section 8 homeless priority by housing authorities, EOCD believes the following existing resources will be available to the homeless/prevention system in FY 90:

**Housing Subsidies for Homelessness
and Homeless Prevention**

GOALS FOR FY 90

1000	New Chapter 707 certificates proposed in House 1.
1000	Turnover of Section 8 at nonprofits.
1500	Turnover of Chapter 707 at housing authorities.
+ <u>1000</u>	Turnover of Section 8 at housing authorities.
4500	= Total Resources Available in FY 90

These resources will enable EOCD to continue to serve homeless families and implement an effective prevention program.

A prerequisite to this approach is to have program management at the local housing authorities where most of the Section 8 and Chapter 707 turnover resources will be available. We must resist the pattern of set-asides at the regional non-profit agencies exclusively for families who enter the emergency shelter system. At-risk families should be encouraged to request prevention subsidy benefits from local housing authorities rather than seek the needed subsidy through the temporary shelter network. Of course, there will still be families for whom there is no other option but the shelter system, and these families will be granted first priority at the local housing agency, provided they are homeless through no fault of their own. If a turnover certificate is not available at either the housing authority or the non-profit agency, the local housing authority will be authorized to use any new Chapter 707 certificates for this homeless family. But a successful homeless prevention program will gradually decrease reliance on hotels, motels, and shelters, thus freeing up resources for prevention.

THE LOCAL DELIVERY SYSTEM

The prevention program will require a strong local delivery system which includes the active cooperation of local housing authorities, regional non-profit agencies, housing services providers, and area offices of the Department of Public Welfare. EOCD, EOHS, and Welfare have been working together over the past year to design an integrated system which facilitates the early identification of at-risk families and ensures that the appropriate local resources are then made available to prevent them from becoming homeless. The Department of Public Welfare and EOCD's Housing Services Program have worked effectively together to prevent many families from losing their apartments. In FY 88, for example, Housing Services helped more than 2,350 at-risk families who were in immediate danger of losing their housing to avoid homelessness by offering negotiation, mediation and counseling to both tenants and landlords.

The Housing Services Program will continue to play a crucial role in preventing homelessness. Families with housing problems come to the Housing Services Program through a variety of sources, including referrals from local Welfare Departments and other local agencies, as well as self-referrals. The non-profit agencies who administer the program can identify

those families whose tenancy cannot be preserved by counseling or other current approaches and who therefore need a rental subsidy. Housing authorities may also refer certain categories of at-risk families to the Housing Services Program to ensure that outstanding landlord-tenant issues are resolved. The ability to identify at-risk families before it is too late to save their tenancy is an essential element of the prevention program, and Welfare and Housing Services staff must work hand in hand to ensure that early identification and intervention are done effectively. EOCD and Welfare will help establish local interagency working groups which include staff from housing authorities, regional non-profit agencies, housing services programs, local welfare offices and other interested groups to coordinate the homeless prevention efforts in their communities.

CONCLUSION

With the Commonwealth facing new fiscal constraints, it is an appropriate time to reevaluate the state's system to provide rental subsidies for homeless families. When the homeless set-aside programs were first established in FY 86, they were perceived as short term efforts to help the families then living in shelters and hotels to find and afford permanent housing in the private rental market. Three years later, this temporary solution has become institutionalized, and inequities or perverse incentives which were not anticipated have become clearly evident. Many people involved in differing parts of the emergency homeless system have grown increasingly concerned about these institutional dynamics and have urged the state to make the system more rational and responsive to the families it serves. EOCD has worked closely with homeless advocates and the non-profit agencies which operate the subsidy programs to develop an alternative approach to provide these critical services. We have had extensive discussions with many executive directors of local housing authorities who have indicated a willingness to work with EOCD to make more federal resources available to homeless families and to make their agencies more responsive to the needs of homeless applicants.

Everyone involved in the Commonwealth's homeless programs recognizes the urgent need to develop an effective prevention strategy to minimize the crisis orientation of our current system. The Massachusetts General Court has been extremely supportive and creative in helping design and fund

programs which enable homeless families to find permanent housing. EOCD looks forward to working with the Legislature, EOHS, Welfare, providers, and homeless advocates to improve our current homeless programs and adopt an effective prevention strategy.