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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

WASHINGTON STATE COALITION )  
FOR THE HOMELESS, et al )

Plaintiffs, )

v. )

DEPARTMENT OF SOCIAL AND )  
HEALTH SERVICES, et al )

Defendants. )

NO. 91-2-15889-4

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter came on regularly before the Honorable Anne Schindler of the above-entitled court for trial on May 23, 24, 25, 26 and 31, 1994. Present before the court were counsel for the plaintiffs, Michael Mirra and Carol Vaughn of Evergreen Legal Services and Lori Salzarulo of Garvey, Schubert & Barer, and counsel for the defendants, Michael W. Collins and Charlotte Ennis Clark-Mahoney, Assistant Attorneys General. The court heard testimony for both the plaintiffs and the defendants and examined the exhibits admitted into evidence.

The court, having heard the testimony presented, having reviewed the exhibits admitted into evidence and the files and records in this matter, and being otherwise fully advised, now enters the following:

1 I. FINDINGS OF FACT

2 1. As low cost private housing has disappeared the number  
3 of families who are homeless has increased.

4 2. According to the report of the Governor's Task Force on  
5 Homelessness, 1990, the majority of Washington's homeless are  
6 families with small children. In fiscal year 1990, 171,000  
7 homeless men, women, and children sought emergency shelter.  
8 Approximately 115,000 homeless people including an estimated  
9 37,000 children were turned away from shelter for lack of space.  
10 Approximately half of the people who did gain access to emergency  
11 shelters were families with children. According to the  
12 stipulation of facts, during the period July 1991 to June, 1992,  
13 approximately 23,500 families with 49,800 minor children were  
14 turned away from shelters for lack of space. Of the people who  
15 were able to gain access to emergency shelters, approximately  
16 7,900 were families with 17,200 minor children.

17 Based on the testimony at trial, these figures are  
18 conservative. They do not include shelters that do not receive  
19 public funds.

20 3. Homelessness has a devastating effect on children with  
21 significant adverse effects for growth and development.

22 4. DSHS has a major role in child welfare and through AFDC  
23 the related income that the majority of affected families rely on.  
24 There is a correlation between AFDC and homelessness. A majority  
25 of homeless families are on AFDC. DSHS has made only very limited  
26 use of the options available under federal law for employing the  
27 programs under Title IV-A of the Social Security Act (AFDC  
28

1 Program, Emergency Assistance Program and AFDC Special Needs  
2 Program/Additional Requirements) for targeting and providing  
3 assistance to homeless children and families. Through these  
4 programs DSHS could provide additional money for housing or, if  
5 necessary, DSHS could request authorization from the legislature.

6 5. The State Legislature has recognized the need to address  
7 homelessness. RCW 74.13.031 requires the Department of Social and  
8 Health Services (hereinafter, "DSHS") to develop, administer,  
9 supervise, and monitor a coordinated and comprehensive plan that  
10 establishes, aids, and strengthens services for the protection and  
11 care of homeless, runaway, dependent, or neglected children.

12 6. Based on the expert testimony presented at trial, the  
13 necessary steps to develop an effective plan include a recognition  
14 and acknowledgement by DSHS of its role; coordination within DSHS  
15 itself and most critically coordination by DSHS with other  
16 agencies of state and federal government and other groups such as  
17 shelter providers and social service providers; consultation with  
18 experts and others; data collection and analysis and a process for  
19 on-going evaluation.

20 7. According to the expert testimony of Martha Dilts, Kurt  
21 Creager, Barbara Sard, and Dr. MaryBeth Shinn, an effective plan  
22 to address the needs of homeless children would include prevention  
23 services; adequate emergency programs; and programs to assist  
24 families to obtain affordable housing.

25 8. DSHS identified the following documents as constituting  
26 its plan pursuant to RCW 74.13.031: the "State of Washington Child  
27 Welfare Plan, FY 1994 - 1997"; Exhibit 1, and the "Department of  
28

1 Social and Health Services (DSHS), Comprehensive Plan to  
2 Coordinate Services for Homeless Children and Families July 1993";  
3 Exhibit 5.

4 9. Exhibit 1 describes DSHS programs and was prepared  
5 exclusively for the purpose of complying with the requirements of  
6 Title IV-B of the federal Social Security Act as a prerequisite to  
7 the state receiving federal funding. According to DSHS Assistant  
8 Secretary Sid Sidorowicz the programs described in Exhibit 1 would  
9 only have an incidental effect on children of homeless families.

10 10. DSHS Assistant Secretary Sid Sidorowicz testified that  
11 Exhibit 5 was prepared to respond to this lawsuit. Exhibit 5  
12 identifies DSHS services and programs which are primarily for  
13 abused and neglected children along with some proposed  
14 enhancements in Section V to address the needs of homeless  
15 families with children.

16 11. The proposed enhancements in Section V of Exhibit 5 are:  
17 service enhancements for AFDC families with children at risk of  
18 abuse and neglect which includes short-term placements and  
19 continuation of AFDC and early issuance of AFDC to expedite return  
20 of children in placement; community resource coordination,  
21 including development of a manual that lists resources for housing  
22 and referral procedures and creation of an informational pamphlet;  
23 creating a liaison with public housing authorities; parental  
24 notification; coordination between DSHS social services divisions;  
25 and training of DSHS staff.

26 12. In Exhibit 5 DSHS recognizes its obligations in the  
27 dependency context and the often related issue of homelessness.  
28

1 According to Exhibit 5, it is the policy of DSHS that children

2 "not be removed from the custody of a parent, or  
3 prevented from returning to the custody of a parent,  
4 solely on the basis of the family's homelessness,  
5 residence in a shelter or in sub-standard housing.  
6 Child placement should not occur unless there is reason  
7 to believe the child is at risk of harm due to abuse,  
8 neglect, abandonment or the parent's inability to  
9 provide adequate care and DSHS has made reasonable  
10 efforts to alleviate the conditions that make out-of-  
11 home placement necessary. Services may include the  
12 provision of housing assistance when the DSHS social  
13 worker has determined assistance will prevent or shorten  
14 foster care placement." Exhibit 5, page 1.

15 Two of the proposed enhancements focus on minimizing the  
16 effect DSHS can have on a family's AFDC and housing. First, when  
17 a child is removed from a family receiving AFDC and the plan is  
18 for the child to return home within 90 days, DSHS will use state  
19 funds for foster care placement and the AFDC grant will not be  
20 reduced. Secondly, DSHS will assist families in obtaining AFDC  
21 prior to the child's return to facilitate re-unification.  
22 According to the testimony at trial funding was included in the  
23 DSHS budget to cover the expenditures necessary for 110 children  
24 a month.

25 13. According to the statement of purpose and philosophy of  
26 Exhibit 5, it is a document that seeks to describe DSHS policies  
27 and services that impact homelessness and the additional steps  
28 DSHS proposes to take to enhance "cross-divisional coordination of  
resources and services to further assist its homeless client  
families and children."

14. Although, DSHS has begun in Exhibit 5 to recognize the  
need to coordinate with other agencies, it has proposed to do so  
in an extremely limited fashion that will have little impact. The

1 only coordination that has been proposed by DSHS is development of  
2 a community resource manual; a proposal to seek interagency  
3 agreements with state and federal agencies and local housing  
4 authorities; and a proposal to "reinforce links" between the  
5 service providers within DSHS. Exhibit 5 is not a coordinated or  
6 comprehensive plan that addresses the needs and care of homeless  
7 children.

8 15. The State agencies have not coordinated their services  
9 or their goals concerning homeless families and their children.  
10 There is no plan that coordinates the services provided at the  
11 state level. At the local level, there is no effort to coordinate  
12 with non-profit providers that serve homeless families. It is a  
13 very fragmented system. This is dramatically illustrated by the  
14 admitted lack of coordination between DSHS and the Department of  
15 Community, Trade and Economic Development (hereinafter, "DCD").  
16 DCD is the state agency that receives funding to provide housing  
17 and housing assistance. Although the state's two major witnesses  
18 at trial, Sid Sidorowicz and Richard Anderson, both testified that  
19 it would be important and necessary to coordinate with DCD, they  
20 both acknowledged that had not been done except informally at the  
21 field level.

## 22 23 II. CONCLUSIONS OF LAW

24 1. The Department of Social and Health Services is mandated  
25 by the legislature to provide child welfare services and to  
26 develop, administer, supervise, and monitor a coordinated and  
27 comprehensive plan that establishes, aids, and strengthens  
28

1 services for the protection and care of homeless, runaway,  
2 dependent, or neglected children; RCW 74.13.031. Addressing the  
3 needs of homeless children is a mandated component of this plan.  
4 DSHS does not have a coordinated or comprehensive plan that  
5 addresses the needs and care of homeless children.

6 2. The steps necessary to develop a coordinated and  
7 comprehensive plan have not been taken. DSHS is responsible for  
8 coordinating efforts within its own agency and with other state  
9 agencies especially DCD and with other service providers to  
10 prepare a coordinated and comprehensive plan that establishes,  
11 aids and strengthens services for homeless families and their  
12 children.

13 3. The court incorporates its oral decision as set forth in  
14 Attachment 1.

15  
16 III. ORDER

17 IT IS HEREBY ORDERED that DSHS shall submit to the court and  
18 to the plaintiffs a coordinated and comprehensive plan that  
19 establishes, aids and strengthens services for homeless families  
20 and their children within 5 months of the entry of this order;

21 IT IS FURTHER ORDERED that the court will hold further  
22 hearings or require the submission of additional material as it  
23 finds to be necessary for its determination and monitoring of the  
24 plan's adequacy;

25 IT IS FURTHER ORDERED that the court shall retain  
26 jurisdiction of this case;

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IT IS FURTHER ORDERED that judgment is granted consistent with the above rulings that the court has made on the motion for judgment on the pleading, the motions for summary judgment and the trial.

DATED this 6 date of <sup>March</sup>~~January~~, 1995.

  
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Judge Ann Schindler



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IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

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WASHINGTON STATE COALITION )  
 FOR THE HOMELESS; et al., )  
 Plaintiffs, )  
 vs. ) Cause #91-2-15889-4  
 DEPARTMENT OF SOCIAL AND )  
 HEALTH SERVICES, et al., )  
 Defendants. )

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TRANSCRIPT OF THE RULING OF  
THE HONORABLE JUDGE ANN SCHINDLER

July 28, 1994

4:00 p.m.

RECEIVED

AUG - 4 1994

Office of Attorney General  
DSHS Seattle

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For the Plaintiff:

MICHAEL MIRRA  
Attorney at Law  
401 Second Ave., Suite 401  
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For the Defendant:

CHARLOTTE CLARK-MAHONEY  
and  
MICHAEL COLLINS  
Assistant Attorneys General  
900 Fourth Ave., Suite 2000  
Seattle, WA 98164

1 SEATTLE, WASHINGTON, THURSDAY, JULY 28, 1994

2 4:00 p.m.

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4  
5 THE COURT: According to the report of  
6 the Governor's Task Force on Homelessness, 1990, the  
7 majority of Washington's homeless are families with  
8 small children. In fiscal year 1990, according to that  
9 report, 171,000 homeless men, women, and children  
10 sought emergency shelter; 115,456 homeless people were  
11 turned away, including an estimated 37,000 children; 50  
12 percent of those people who gained access to emergency  
13 shelters are members of families with children.

14 There is a need to address homelessness, and  
15 that need has certainly been recognized by the State  
16 Legislature. It is apparent that homelessness has a  
17 devastating effect on children, with significant  
18 adverse effects for growth and development.

19 The Washington State Legislature requires  
20 DSHS to provide child welfare services and develop,  
21 administer, supervise, and monitor a coordinated and  
22 comprehensive plan that establishes, aids, and  
23 strengthens services for the protection and care of  
24 homeless, runaway, dependent or neglected children.  
25 Addressing the needs of homeless children is a mandated

1 component of this plan. Homeless children include  
2 children who are members of homeless families.

3 The issue that was tried before the Court was  
4 whether the defendant, the Department of Social and  
5 Health Services, DSHS, have a plan as required by  
6 RCW 74.13.031; more specifically, does DSHS have a plan  
7 that it has developed, that it administers, supervises,  
8 and monitors that is a coordinated and comprehensive  
9 plan to establish, aid, and strengthen services for the  
10 protection and care of homeless, dependent, or  
11 neglected children.

12 DSHS took the position, and has taken the  
13 position, that Exhibit 1 and Exhibit 5 constitute a  
14 plan that complies with the mandates of State law.  
15 Exhibit 1 is the State of Washington's Child Welfare  
16 Plan for 1994 to 1997. Its purposes are to meet the  
17 compliance requirements contained in the federal Social  
18 Security Act in order to receive federal funding.  
19 According to Assistant Secretary Sidorowicz, it is also  
20 a description of the programs provided by DSHS.

21 Exhibit 5 is a catalog or description of  
22 services provided by DSHS that were developed for  
23 abused and neglected children, along with some proposed  
24 enhancements in Section 5 that address homeless  
25 children.

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Although the Court believes that Exhibits 1 and 5 constitute a plan, it is not one that meets or fulfills the requirements of RCW 74.13.031. According to DSHS's own witnesses, Exhibit 1 was not written to comply with that statute, and adequate provision or provision for homeless children is not part of the federal government criteria.

Exhibit 5 is not a coordinated or comprehensive plan that is meant to address the needs and care of homeless children. Almost every witness who testified, testified to that effect.

Obviously, the Department of Community Development, which does have the funding and is able to provide direct housing, is an important entity that has to be coordinated with and needs to work with DSHS. And although there are provisions in Exhibit 5 for coordination, in fact, based on the evidence that was presented to the Court, there has been no coordination between DSHS and DCD, except at the field level. Both Sidorowicz and Creager testified to that effect, along with others.

The steps to devise a plan to address homeless children have not been undertaken. There has, first of all, been no real recognition of the role of DSHS in addressing the agency's responsibilities as set

1 out in the statute.

2 In the Department's trial brief, there is an  
3 introduction which describes the Department's duties as  
4 being those that have to be placed in the context of  
5 other responsibilities and the responsibilities of  
6 other agencies. In that brief, it is stated that, "The  
7 Division of Children and Family Services is a small  
8 part of DSHS and numerous other divisions have program  
9 responsibilities which would impact child welfare."

10 The Court agrees that that's true, but it is  
11 also clear from the testimony that DSHS has an  
12 important and integral role to play in solving the  
13 problem and addressing the issues related to homeless  
14 children. And DSHS has the statutory mandate, which  
15 has not been recognized.

16 There needs to be a recognition of the role  
17 of DSHS in addressing its responsibilities,  
18 coordination, consultation with experts, involvement  
19 with critical groups, data collection and analysis, and  
20 a basis for assessment. DSHS has a responsibility to  
21 coordinate and provide a comprehensive plan that does  
22 that. Again, I don't expect that DSHS is going to  
23 provide what DCD does, but there is certainly an  
24 expectation and a need to have better coordination and  
25 more effective coordination than what has taken place.

1 I know that the plaintiffs asked the Court to  
2 outline what should be in the plan, and I think I have.  
3 I am not going to outline beyond that what should be in  
4 the plan. This is a judicial branch of government; I  
5 am not going to undertake to write the plan for DSHS.

6 Also, the plaintiffs have asked for the Court  
7 to grant an injunction requiring DSHS to prepare a plan  
8 that meets the statutory requirements. I certainly  
9 cannot do that in a vacuum and would need, and will  
10 allow, the attorneys for the State the opportunity to  
11 consult with their clients to ascertain how much time  
12 they believe would be necessary to do that.

13 I do have a jury that's waiting and a verdict  
14 to take. Are there any questions?

15 MR. MIRRA: Would you like to --

16 THE COURT: There needs to be findings  
17 and conclusions prepared. They should be presented  
18 within the next, at least, two to three weeks;  
19 certainly before August 19.

20 MR. MIRRA: Yes, Your Honor. Would the  
21 Court also like to indicate to the State's attorney by  
22 when --

23 THE COURT: I would think at the time of  
24 presentation that that would be known to the attorneys,  
25 and the attorneys could so advise the Court and the

1 Court could then take that into consideration in the  
2 final findings and conclusions.

3 MR. MIRRA: Thank you.

4 THE COURT: Any other questions?

5 Thank you very much.



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C E R T I F I C A T E

STATE OF WASHINGTON )  
COUNTY OF KING ) ss.

I, Katherine M. Stice, a Notary Public in and for the State of Washington, do hereby certify:

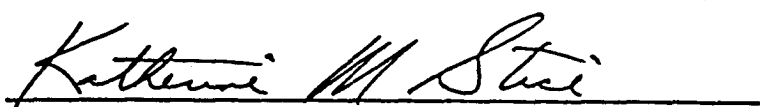
That the foregoing is a transcript from a videotaped hearing which was had at the time and place set forth herein;

That the proceedings were recorded stenographically from the videotape by me and thereafter transcribed under my direction;

That the foregoing transcript is a true record of the proceedings on the videotape, to the best of my ability.

I further certify that I am in no way related to any party to this matter nor to any of counsel, nor do I have any interest in the matter.

Witness my hand and seal this 2nd day of August, 1994.



Katherine M. Stice, Notary Public in and for the State of Washington at Seattle.

My commission expires May 26, 1996.