2017 UPDATE
DIRTY DIVIDE: “OUT OF SERVICE”

A CASE STUDY OF PUBLIC HEALTH INEQUITY
SKID ROW, LOS ANGELES

November 2017

A report of the Los Angeles Community Action Network
1. INTRODUCTION

From complaints made in 1987 to 2017, the City of Los Angeles still has not sufficiently addressed the issue of public health inequality in Skid Row. Disadvantaged communities still face water insecurity, infrastructure deficiencies, and financial barriers to sustainable solutions. Los Angeles’s absolute failure to provide adequate housing and public health infrastructure in Skid Row has persisted for decades. Mayors Tom Bradley, Richard Riordan, James Hahn, and Antonio Villaraigosa all largely ignored the health and housing needs of their poorest residents, who were disproportionately Black, and refused to develop policies needed to avert the long-standing humanitarian crisis.

So, instead of parks, water, and hand washing stations, poor communities received paddy wagons; instead of porta-potties and supplies we received additional police and patrol cars; and, instead of being treated with dignity and respect the community was punished for existing in spaces in which we were not welcome. Thirty years later the pattern continues and compliance with any form of public health standards is non-existent.

The City’s recent commitment to “hygiene centers” is a step in the right direction but is grotesquely inadequate. Community efforts to address housing needs, public health inequity, and large scale criminalization of houseless people living in Skid Row as human rights violations have long been disregarded by the City as it continues to breach domestic, national, and international legal requirements. The City has not recognized, or is simply ignoring, the human impact of its violations to underserved communities. Angelenos must feel confident that our City is taking steps toward implementing sustained and comprehensive solutions for Los Angeles’s houseless crisis and the inhumane conditions in which houseless communities are forced to live.

The recent outbreak of Hepatitis A in Los Angeles was forewarned in the Department of Public Health’s (DPH) corrective actions in 2012. DPH warned the City of the potential risks to such outbreaks and provided guidance and instruction on compliance and prevention. The City of Los Angeles has yet to implement the corrective actions and mitigate the impacts of an otherwise avoidable crisis. The necessary actions to contain the virus are clear: an increase in public restrooms, shower facilities, hand-washing stations, vaccinations, and a public awareness campaign to warn against the known risk factors.

This report provides a context to guide efforts to achieve public health equity. It identifies key aspects of legislation that City agencies should consider when making decisions that impact our most vulnerable and marginalized members, and how they should advance basic human rights.

The City should employ the recommendations outlined in this document to develop and issue policy guidelines to all agencies with responsibilities that impact public health equity. Officials must ensure conduct and decision-making remains ethical; that their actions do not produce harm and respect is shown to social values. Meaningful community participation can enhance the legitimacy and effectiveness of planning, empower marginalized communities, promote sustainable solutions, and improve accountability. The Los Angeles Community Action Network and underserved communities throughout Los Angeles stand ready to work with local, state, and national agencies to realize the human right to housing, water and sanitation but we also stand poised to fight should those agencies waver in their obligations.
“As poverty deepens and housing prices rise, government support for affordable housing has evaporated, leaving in its wake a combination of homeless shelters and aggressive broken-windows-oriented policing… As mental health facilities close, police become the first responders to calls for assistance with mental health crises. As youth are left without adequate schools, jobs, or recreational facilities, they form gangs for mutual protection or participate in the black markets of stolen goods, drugs, and sex to survive and are ruthlessly criminalized. Modern policing is largely a war on the poor that does little to make people safer or communities stronger, and even when it does, this is accomplished through the most coercive forms of state power that destroy the lives of millions.”

Alex S. Vitale

2. BACKGROUND

Downtown Los Angeles is a tale of two cities – composed of very rich and very poor people living in close proximity to one another. A frenzied dash for land and air space has ignited a boom in the development of skyscrapers, trendy loft apartments, and social inequality. Spanning 50 blocks, Skid Row is an area in Downtown Los Angeles. It hosts the largest concentration of homelessness in the country. While Los Angeles has engaged in planning efforts to combat homelessness, there continues to be a lack of commitment and political courage to implement the necessary and more difficult solutions. At the same time, there has been full support, political and otherwise, of a new and shining DTLA at the expense of those most in need of care.

“Almost all studies of homelessness cite the impact of deindustrialization on the working class and working poor in America. From the early 1970’s to our current recession, tens of millions of manufacturing jobs have vanished from America, some to technology, some to overseas relocation, and some cheaper work processes…The second most cited reason for the growth in homelessness beginning in the late 1970’s and 80’s is “gentrification” – the popular term for the dramatic escalating rise and the price of housing in the cities and the conversion of single room occupancy apartments (SROs) and boarding houses into high cost condominiums and luxury apartments. Finally, indisputably the nations “war on drugs” and massive increase in the incarceration of Black’s since 1980 (along with the parole, probation and other criminal authority over especially black men) have added to the number of homeless people”.

‘Skid Rows’ are created by policy decisions and organized abandonment at the hands of duty bearers and elected officials. Such communities are manifestations of de-industrialization, failed housing policies, the war on drugs and mass incarceration, and intractable structural racism that locks away opportunity for some and simply discards others.

Conditions in the environments in which people are born, live, learn, work, play and worship, determine a wide range of health, functioning, and quality-of-life outcomes. Skid Row, when

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1 ‘Our Ever-Deadlier Police State’, Chris Hedges, Truthdig, 22 October, 2017
3 2016 Homeless Count Results Los Angeles County and LA Continuum of Care Los Angeles Homeless Services Authority, May 10, 2016
viewed through this lens, screams maligned neglect. There is no affordable housing, no access to education, no public safety, no availability of healthy foods, no health care system, no economic stability and no public investment in neighborhood and physical environment in the context of community and social activities. Dignity and human rights are denied on a daily basis sanctioned by elected leaders.

Race also remains a critical determinant in who actually exits and who remains homeless in Los Angeles. In the 2015 homeless count, Professor Gary Blasi, revealed an approximate 30% decrease in White homelessness and a 35% increase in Black homelessness. He also revealed that 1 in 22 Black men in Los Angeles were homeless and 1 in 47 Black women were homeless. This compared to 1 in 272 of other races and gender. The 2017 annual homeless count reported a 23% increase in homelessness across LA County and a 20% increase in the City of Los Angeles. Even more disproportionately, Black people make up 62% of the homeless community in Skid Row. The undeniable health disparities plaguing this community demonstrate a direct correlation between the location of environmental burdens and the racial/ethnic background of the most impacted residents.

Racial discrimination is a significant aspect of life for Skid Row residents, who deal with institutional racism and violent police surveillance on a daily basis. In fact, decades of public policy failure resulted in the Los Angeles Police Department (LAPD) becoming the city agency responsible for managing the day-to-day lives of Skid Row residents. A mass of citations, ever increasing arrests, and countless claims of civil rights abuses reflect just how fixated the LAPD is on our most vulnerable members of society.

In April 2013 members of the Los Angeles Community Action Network (LACAN), including Skid Row residents, conducted a participatory action research project entitled, ‘The Dirty Divide’, to accurately depict the vast disparities in public health infrastructure and general treatment that exists between the ‘New Downtown’ and Skid Row – exemplifying the “dividing line” of Main Street – where those west of the line are prioritized and served by the City and those east are further disenfranchised. The findings were alarming.

In summary, the research revealed:

- Skid Row residents are at risk of criminalization for low-level offenses such as littering, public urination, jaywalking, walking in the roadway and camping;
- People with less means do not have equitable levels of service;
- An inadequate number of trash receptacles are available in the Skid Row area;
- Trash in Skid Row is not frequently collected;
- There is a lack of public restrooms, increasing the risk of communicable diseases;
- The few restrooms that exist are poorly maintained, do not have toilet paper, soap or running water and are often out of service;
- The City of Los Angeles failed to take corrective measures issued in the County Department of Public Health’s ‘Notice of Violations’.

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2016 Homeless Count Results Los Angeles County and LA Continuum of Care Los Angeles Homeless Services Authority, May 10, 2016
https://documents.lahsa.org/Planning/homelesscount/2016/factsheet/2016-HC-Results.pdf
Ibid #2
5 “The Dirty Divide in Downtown Los Angeles A Call for Public Health Equity”, Los Angeles Community Action Network, March 2013
3. DEPARTMENT OF PUBLIC HEALTH RECOMMENDATIONS: A Failure to Act

On May 21, 2012 the Los Angeles County Department of Public Health conducted a report on public health risks in Skid Row, which highlighted extreme overcrowding and the lack of access to water and sanitation. It exposed the increased risk of communicable diseases from this public health failure, namely: “Meningitis, respiratory infections, enteric pathogens such as Hepatitis A and Salmonella, Staphylococcus Aureus (Staph) skin infections, Tinea infections (fungal), Pediculosis infections (lice), diarrheal disease, Tuberculosis, HIV, Hepatitis B and C, and Typhus.”

It issued the City of Los Angeles numerous “Notice of Violations” and “Recommendations” for their consistent refusal to take the public health issues related to trash, lack of trash cans, inadequate restroom facilities, lack of soap and water, poor or non-existent sanitation and vermin in Skid Row seriously.

On June 5, 2013, the DPH released further findings from its follow up report:

“What is most critical in the May 2, 2013 survey findings is the continuing lack of access to fully operable and sanitary public restrooms for homeless residents in the Skid Row area. The 2012 survey noted that two of three Automatic Public Toilets (APTs) were either dirty/unsanitary or without hand wash soap. The 2013 survey revealed this condition to have deteriorated to a finding that three out of four (75%) APTs were inoperable. Re inspections conducted on May 15, 2013 again revealed the same number, though not all the same units, to be inoperable.

A comparison of urine/fecal matter locations to the four APT locations revealed that 16% of the total deposits occur within a 300 foot radius of APTs (Attachment IV). The number of deposits increases to 59% at a radius of 600 feet (Attachment IVa).

The figures suggest and we strongly recommend the installation of additional fully supplied and maintained restroom facilities strategically located with a maximum service radius of 300 feet between units. As referenced in our earlier report, access to restrooms and associated hand wash facilities serves to reduce the potential for disease transmission.

In response to the May 2012 survey findings, the City of Los Angeles abated most violations and/or reduced insanitary conditions to acceptable levels by August 2012. The City of Los Angeles subsequently implemented a two-tiered street cleaning program that includes limited (spot) street cleaning eight times a year and comprehensive cleaning on a quarterly basis. However, the 2013 Survey findings suggest that the schedule is insufficient in sustaining the compliance levels observed August 2012 as solid waste violations increased by 880/0; vermin violations increased by 100%, safety hazards increased by 62% and the presence of urine/feces on public streets increased by 82%

We recommend that the street cleaning schedule be reevaluated to incorporate aggressive mitigation strategies that are outcome based and measurable. Similarly, we recommend development of a proactive integrated pest management program that includes routine rodent breeding and harborage monitoring and abatement activities.

* DPH Report of Findings-Request From the City of Los Angeles Public Health Issues In The Skid Row Area of Los Angeles, May 21, 2013
Lastly, as illustrated in Attachment V, 26 of 38 (68%) trash receptacles provided serve two blocks (Le. San Julian and San Pedro Streets) and 12 receptacles (320/0) serve eight blocks (Le. Gladys, Stanford and Towne Aves., and Crocker Street) within the Skid Row Target area. We therefore recommend that trash receptacles, in addition to those already in place, be provided.”

The inspections, notice of violations and recommendations did not happen simply because the City or County of Los Angeles wanted to protect its poorest residents and correct the human rights violations. To the contrary, it was the result of long-standing community organizing and legal campaigns driven by LA CAN in an effort to end the “dirty divide” that its members were facing on a daily basis; to stop the illegal displacement of people from residential hotels and apartments in the area – adding to the surge of encampments in Skid Row; to ensure a concrete investment into the health needs of a community long abandoned.

4. LEGAL OBLIGATION

When the moral imperative to protect and house poor people fails, legal obligations should ensure those protections are realized. The courts have reminded the City of Los Angeles of this duty time and again but it still struggles to comply with even the most basic standards of health and safety and the protection of rights and guarantees for its most marginalized residents. Instead of waiting to be compelled and spending enormous amounts of resources on the cost of litigation and settlements, the City of Los Angeles must take serious its obligations to its constituents.

4.1 Federal And State Law As It Relates To Discrimination, Criminalization, The Right To Water & Sanitation And Health & Safety

The principle of non-discrimination is a fundamental constitutional right in itself and is protected by the 14th Amendment; the California Constitution, Section 7 (which has an explicit requirement that the State Government may not deprive individuals of "life, liberty, or property without due process of law," or deny equal protection of the laws); and, Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in State and local government services and requires reasonable accommodation, in many instances, to those with disabilities).

Freedom from unreasonable searches and seizures is a right protected by the Fourth Amendment. Courts have found that confiscating and destroying homeless persons’ personal property in ‘sweeps’ or ‘cleanups’ may be a violation of their Fourth Amendment rights.

The right to free speech and expression is protected by the First Amendment. The courts have found begging to be protected speech; therefore, laws prohibiting panhandling, solicitation, or begging may be unconstitutional.

The Eighth Amendment prohibits cruel and unusual treatment and includes the criminalization of otherwise innocent conduct such as: sleeping, eating, and urinating, which becomes unlawful when performed in public. 9

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7 LA County Health Department Report ’FOLLOW-UP REPORT REGARDING THE CURRENT CONDITIONS ON SKID ROW’, June 5, 2013
8 Reed v. Town of Gilbert, 135 S.Ct. 2218 (2015)
The City also has a responsibility to ensure its property, including public streets, do not create a dangerous condition. Government Code, § 830(a) defines a “dangerous condition” as such conditions of public property that create a substantial risk of injury to members of the general public, which includes houseless individuals. “A public entity is liable for injury caused by a dangerous condition of its property if it is established that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and either: (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.”

Los Angeles County Code, Title 11 Health & Safety, Section 11.38.560 instructs that public restrooms must be kept:

“in good repair and free from dirt, filth and corrosion… be adequately supplied with running water…well ventilated and lighted…kept supplied with soap and individual towels with a receptacle for their disposal… All toilet facilities shall be kept supplied with toilet paper…there shall be maintained hand-washing facilities for the public…”

In 1928, the state constitution was amended to affirm that water should be conserved for the “interest of the people and public welfare.” Two decades later, California water regulations codified the use of water for domestic purposes as the highest priority for the use of water.

The California Public Utilities Code, 1993 Section 739.8. (a) states: “Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.”

In 2013, California enacted the Human Right to Water Act, AB 685, which statutorily recognizes that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”

Under AB 685, state agencies should identify populations facing water challenges, prioritize securing access to clean water, and address the underlying causes to ensure fulfilment of the human right to water. A crucial component of the right to water and sanitation in California law is that everybody is ensured access to water and sanitation, including the most vulnerable or marginalized groups, without discrimination.
4.2 International Standards

The right to water is enshrined in the International Bill of Human Rights. This right should also be seen in conjunction with other rights as fundamental and indispensable for survival, health and leading a life in human dignity.

- The Universal Declaration of Human Rights, Art. 25, recognizes “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family…”

- At the international level, the United Nations General Assembly recognized in the 1977 Mar Del Plata Action Plan that – regardless of the level of economic development – all peoples “have the right to have access to drinking water in quantities and of a quality equal to their basic needs.”

- In the Programme of Action of the International Conference on Population and Development, 1994, the 178 participating States explicitly recognized that all individuals have “the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation”.

- The right to water has also been explicitly recognized in a number of legally binding international treaties, such as the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW), the Convention on the Rights of the Child, 1989 (CRC) and the African Charter on the Rights and Welfare of the Child, 1990. The United Nations Committee on Economic, Social and Cultural Rights (CESCR), a body of independent experts mandated by ECOSOC to interpret and monitor the implementation of the International Covenant on Economic Social and Cultural Rights, 1966 (ICESCR), which is currently ratified by 157 States.

- In November 2002, the Committee on Economic, Social and Cultural Rights adopted General Comment No. 15 on the right to water. Article I.1 states that "The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights". Comment No. 15 also defined the right to water as the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses.

- The United Nations took further steps in promoting the right to water. On July 28, 2010, the U.N. General Assembly, in Resolution 64/292, recognized “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.” The United Nations also called upon Member States to provide the resources, in particular to developing countries, necessary to secure

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19 The full text and list of ratifications is available at www.ohchr.org (Click on ‘Your Human Rights’ > ‘What Are Human Rights’ > ‘International Human Rights Law’).
22 In November 2002, the Committee on Economic, Social and Cultural Rights adopted General Comment No. 15 on the right to water. Article I.1 states that "The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights". Comment No. 15 also defined the right to water as the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses”, http://www.un.org/waterforlifedecade/human_right_to_water.shtml
this right for all. In September 2010, Resolution 64/292 was affirmed by the Human Rights Council Resolution 15/9. In 2011, a U.N. report was issued containing initiatives for recognizing a right to water and sanitation.  

On August 24, 2012, in an official report to the United Nations Human Rights Council, UN Special Rapporteur on the Human Right to Water and Sanitation, Catarina de Albuquerque, said that the United States’ failure to provide homeless persons access to water and sanitary facilities “could … amount to cruel, inhumane, or degrading treatment.” She also stated, “The United States, one of the wealthiest countries in the world, must ensure that everyone [has access] to sanitation which is safe, hygienic, secure and which provides privacy and ensures dignity. An immediate, interim solution is to ensure access to restroom facilities in public places, including during the night. The long-term solution to homelessness must be to ensure adequate housing.”

5. A RISK TO PUBLIC HEALTH

5.1 Hepatitis A Outbreak

Cases of Hepatitis A began appearing among homeless persons in LA County in June 2017. Currently 32 cases have been reported. Given that the transmission of this virus is by the fecal-oral route, the homeless community is particularly vulnerable because of the poor sanitation and sparse hand-washing facilities in Skid Row. The spreading of this particular virus that thrives through poor sanitation was demonstrated in San Diego’s recent outbreak of Hepatitis A., a situation that the city has responded to by quickly erecting more public restrooms.

“The risk of hepatitis A infection is associated with poor sanitation and hygiene and is transmitted through ingestion of contaminated food and drink or through direct contact with an infectious person. The current outbreak has largely impacted people experiencing homelessness and some illicit drug users. The virus can live for months in a contaminated environment, particularly in the absence of good sanitation.”

The LAPD has taken a unique approach with its handling of sanitation efforts in Skid Row by issuing citations to LAVAMAE, an organization that provides mobile showers and restrooms to homeless communities. They do this through converted public transportation buses to “deliver hygiene and rekindle dignity” for the homeless, but were recently ticketed for a parking violation while providing wash stops for Skid Row residents. Ironically, at the same time, Councilmember Mike Bonin has touted the benefits of LAVAMAE to his constituents, mailing a circular in October to all residents in CD 11, showing Bonin with the LAVAMAE mobile services. So, what is accommodated as a solution on the affluent westside of Los Angeles is a crime on Skid Row.

To make matters worse there is a shortage of Hepatitis A vaccinations and a lack of education for those who are most at risk of exposure.

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28 https://www.cdph.ca.gov/Programs/OPA/Pages/NR17-071.aspx
29 https://www.youtube.com/watch?v=%6UQOKa0PGUAs
30 http://lavamae.org/about/
Public health safety concerns in Skid Row are not new. The LA County Department of Public Health survey of Skid Row found the lack of toilets, and the widespread use of the sidewalks and doorways in their place, posed a substantial risk for spreading diseases.

On November 10, 2017 DPH released its report, ‘Hepatitis A-Public Hygiene Facilities’, to the Los Angeles Board of Supervisors in response to a October 10, 2017 Board motion instructing the department to 1) conduct surveys of homeless encampments identified by the Los Angeles Homeless Services Authority to assess where additional toilet, shower, and hand washing facilities are most needed; and 2) create a plan that identifies areas of high need and options for increasing additional toilet and hand washing facilities in those areas.

When reviewing the Skid Row portion of the DPH report LA CAN observed problematic misrepresentations:

• DPH noted the existence of 67 toilets within its Skid Row catchment area. They did not, however, indicate the hours of operation – it is a documented fact that there is no access to toilet facilities between the hours of 9 p.m. – 6 a.m.
• DPH does, however, recommend 87 showers and 87 hand wash sinks to be installed in Skid Row.
• DPH counted 180 tents in its skid row catchment area: Broadway Ave. (West) Santa Fe St. (East) 3rd St. (North) 10 Fwy (North). However, a November 24, 2017 tent count conducted by LA CAN covering a significantly smaller catchment area: Wall St. (West) Ceres St. (East) 4th Street (North) 7th Street (South), totalled 477, which more than doubled the DPH count of a much wider area.
• Based on October 20, 2017 population data provided by the Los Angeles Homeless Services Authority, DPH recorded a homeless population of 1,299 residents. This number is somewhat lower than research published in “No Place to Go”, June 2017, which lists the population at 1,777.

The Economic Roundtable recently released, ‘Who Counts’, to highlight the inconsistencies among counts of houseless populations. Based on their findings, robust work must be carried out to create methods that result in the accurate representation of numbers of homeless people. Such discrepancies continue to do a disservice to homeless individuals in Skid Row placing their health in jeopardy. Miscounting Skid Row residents can have a deleterious impact on their lives. Additionally, resources needed to adequately address the problems faced by residents are not properly apportioned when the problem is somewhat slashed.

“To be uncounted is to be unseen – to be left out of funding, planning and implementing programs to combat homelessness. To be helped, people experiencing homelessness must be seen and understood.”31

5.2 Rats

Skid Row has an obvious infestation of rats. Feces, urine, rat droppings and roaches are thick on the streets of Skid Row. Rodents carry a wide range of disease-causing organisms, including many species of bacteria, viruses, protozoa and helminths (worms).

They also act as vectors or reservoirs for many diseases via their ectoparasites such as fleas, ticks, lice and mites, as well as some diseases carried by mosquitoes. Common diseases caused by rodents include (but are not limited to): salmonella, Typhoid fever, Leptospirosis, Weil’s disease, Rat-Bite fever and the Plague.

The May 2012, DPH Health Report regarding Skid Row advised the City of the need to start a vermin control program for burrows and breeding. Survey teams observed an active rodent infestation in the area, with approximately 88 active burrows.
The report recommended a rodent abatement program and suggested that the City of Los Angeles “contract with DPH to provide a vermin monitoring/rodent abatement program.”

As a property owner, LA CAN contracts with a private pest management company. This effort, however, is insufficient to control the colony of vermin present in the public streets immediately adjacent to LACAN property. In an October 2017 conversation with DPH about this issue, it was revealed that post their 2012 inspection the City of Los Angeles declined to contract with them (DPH) to provide vermin abatement services. While aware of the situation, Environmental Health advised LA CAN that the city was responsible but that they would communicate our complaint to the appropriate parties and follow-up in the near future. DPH was also unclear whether or not the city indeed had a plan to address this problem. What is clear is that the solution to this problem is not something that will be achieved if shifted to individual business owners on a building by building basis.

6. WATER, RESTROOMS & HAND WASHING STATIONS IN SKID ROW

Water is life and a vital element needed to survive. Los Angeles’ fight to get water has been the subject of acclaimed Hollywood movies, such as “Chinatown”. It begs the question then why some people are denied access to it, or worse, given water unfit for human consumption. The life-threatening impact of adequate water is the subject of crises for low-income communities from Flint, Michigan to Puerto Rico. The lack of availability of water in Skid Row, however, is not the result of an infrastructure failure; rather, it is the result of deliberate indifference to a crisis on City Hall’s doorstep impacting the health of thousands of people living on the streets of Skid Row.

Water security has always been an issue that the state recognizes as a need to be protected; one, however, that has yet to be made available to all. In light of the recent Hepatitis A outbreak, restrooms, showers, hand washing stations, soap and water, and vaccinations are the only way to effectively contain its spread.

Significant barriers to water access exist for Skid Row residents. Public facilities in this area, such as parks, restrooms, and other public buildings, should provide important points of access but sadly do not. Closing or limiting the hours of public restrooms and capping drinking fountains in parks and other public areas obstruct what is often the only source of water for houseless communities and can effectively bar a group from accessing drinking water.

Limited access exacerbates the health problems of a community that already has a high percentage of individuals vulnerable to illness. Limited access may also result in increased criminalization as those in need are forced to secure alternative ways to meet their essential human needs.

Disadvantaged communities—including impoverished unincorporated communities—disproportionately bear the health and financial impacts of precarious or inadequate access to

38 Id.
39 American Declaration Of The Rights And Duties Of Man, 194891 Article XI: Right to the preservation of health and to well-being Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources. http://www1.umn.edu/humanrts/oasinst/oas2dec.htm.
40 Letter from Catrina da Albuquerque, U.N. Special Rapporteur on the human right to safe drinking water and sanitation, to Kevin Johnson, Mayor, Sacramento (Jan. 23, 2012)
41 In applying the principle of non-discrimination, agencies should consider ways to prevent discrimination and address its impact. Relevant agencies should review policies and practices with an eye to identifying multiple and interrelated grounds of discrimination and the impact on California residents. For example, CDPH, DWR, and the State Water Board should identify those disadvantaged communities that do not currently have access or are at risk of losing access to safe water and revise policies and practices to address their needs. Second, agencies should involve vulnerable groups and marginalized communities in their planning and programming. For example, DWR should identify disadvantaged groups struggling to access safe and affordable water and engage these groups in efforts to formulate the California Water Plan Update. See generally, California Water Plan, Department of Water Resources,http://www.waterplan.water.ca.gov/.
42 See Camille Pannu, Drinking Water and Exclusion: A Case Study from California’s Central Valley, 100 Calif. L. Rev. 223, 245 (2012) [hereinafter Pannu].
safe water. Despite a history of proactive water policies, California residents, particularly those in Skid Row, still face formidable water challenges.

If you are in Skid Row and need to relieve yourself, hope that you are not ‘restroom challenged’, i.e. needing to frequent the bathroom (every hour or so); the need to go comes suddenly and urgently – as with the pregnant or elderly, children and those with existing medical conditions. Finding a working restroom is nearly impossible.

Reasons given in the past for closing restrooms during the night were to “prevent criminal activity taking place there”. There is no evidence to suggest that shutting these restrooms prevented or decreased such activity. All it does is deny people the right to basic sanitation. A number of restrooms in Skid Row are located in public parks, which are locked and inaccessible approximately 16.5 hours a day. As noted in Dirty Divide’ 2013, ATP’s located on public sidewalks are also locked at dusk by LAPD.

A recent audit of the public toilet crisis in Skid Row found that 1,777 unsheltered homeless people had to share 9 toilets; “38% of audited toilets were not operating during supposedly open hours” and the few existing toilets are “poorly maintained and inaccessible.”

5th and Maple, Urine stains are visible, October 2017

43 Unincorporated communities are defined as disadvantaged if they lack basic infrastructure, including, but not limited to streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. See Cal Gov. Code §§ 56033.5, 56045 (West 2012).
44 Researchers report that “among postmenopausal women … mean voided volume and maximum functional capacity were inversely related to patient age.” See M.P. Fitzgerald, N. Butler, S. Shott, and L. Brubaker, “Bother arising from urinary frequency in women,” Neurology and Urodynamics, vol. 21, no. 1:36-40, (2002), <http://www.ncbi.nlm.nih.gov/sites/entrez?db=PubMed>. Another expert says “the muscle of the bladder loses elasticity and tone. Hence, the bladder holds almost 50% less urine (causing more frequent urination) and empties less completely. The warning period between the urge and actual urination is shortened or lost as one ages. Muscular disability, spinal cord effects on the bladder muscle, tumors, infection, anatomic damage to the sphincters and/or bladder neck may cause incontinence in advancing age. Other risks for incontinence in old age include chronic disease, cognitive impairment, medications, smoking, pelvic muscle weakness, low fluid intake and environment.” See Linda Breytspraak, “Does bladder capacity decrease with age, which leads to frequent urination?”
45 Couture, “Forced Retention of Bodily Waste.”
47 Protecting public health is not just the responsibility of the city, the authority to address the adverse health effects that result if toilets are not available falls within the mandate of U.S. Department of Health and Human Services (DHHS), the lead agency of the United States Government responsible for protecting the health of all Americans, see U.S. Department of Health and Human Services, “HHS What We Do,” http://www.hhs.gov/about/whatwedo.html;
50 No Place to Go: An Audit of Public Toilets in Skid Row, June 2017, p9.
6.1 Women and Families

Women suffer additional discrimination, often deprived of their dignity and sanitation needs as society has yet to deem gender specific needs important. Women’s need for restrooms is further amplified by the fact that they are oftentimes the main caretakers of dependants. Medical studies show the importance of regular urination, with women generally needing to void more frequently than men.

Adverse health effects that may result from voluntary urinary retention include increased frequency of urinary tract infections (UTIs), which can lead to more serious infections and, in rare situations, renal damage. UTIs during pregnancy have been associated with low birth weight babies, who are at risk of additional health problems compared to normal weight infants. Medical evidence also shows that health problems, including constipation, abdominal pain, diverticulitis, and hemorrhoids, can result if individuals delay defecation.

In a Letter to the UN Special Rapporteur on Adequate Housing on Homelessness and the Right to Adequate Housing, in November 2015, Human Rights Watch wrote; “Homeless women frequently face grave challenges in realizing their rights to water and sanitation, including their ability to manage their menstruation. Women who are homeless often lack access to affordable sanitary supplies, as well as safe and dignified spaces like toilets and showers to handle their periods. This can contribute to vaginal infections and other health problems.”

Public restrooms, when stocked and in service, offer men all the supplies they need to care for themselves (toilet paper, paper towels, soap), while women rarely have the necessities they need. If there is an expectation that toilet paper will be provided at no cost in public restrooms, female sanitary products must also be included. Presently, women are made to pay more for being female and needing medically necessary items.

Ms. B has been a Skid Row resident for four years. She developed an intestinal infection because of prolonged periods of holding in feces and urine resulting from not being able to use a toilet as needed. She was hospitalized in August 2017. Upon her release Ms. B relocated to a busy intersection in Skid Row that had a toilet close by, as her restroom needs became more critical. She could not walk short distances and had to urinate frequently. Even with purposely placing herself close to a restroom, it was rarely accessible as it was either out of service or constantly occupied due to the lack of operating restrooms in Skid Row.

Ms. B’s condition is complicated and aggravated by the fact that she is HIV positive; she is often in pain and weak. She also has Chronic Obstructive Pulmonary Disease (COPD) and nerve damage in her hip, which renders the use of her right leg dysfunctional at times.

Ms. B attributes her mental anguish and panic attacks to the difficulties in finding a restroom in Skid Row, the unsanitary state they are left in when she is able to find one in working order and the lack of sanitary and feminine products available.

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56 The Equal Protection Clause of the Fourteenth Amendment to the Constitution provides, “No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”
Ms. B has been apprehended by LAPD on countless occasions for having what she calls, “accidents”, where she is unable to “hold it” and either ticketed or humiliated by police for bodily functions she is unable to prevent.

6.2 Department of Public Health Recommendations and United Nations Standards

In the DPH’s 2013 recommendations, it noted that, Skid Row’s existing number of public restrooms fell woefully short of what in fact was needed to accommodate the health needs of current homeless residents. In 2017 hardly any progress has been made towards making the recommendations a reality.

The map on page 15 created by the American Institution of Architects (AIA) is based on DPHs 2013 recommendation that toilets be placed within 300ft distance of each other. The map also details the location of APT’s currently in Skid Row.

The United Nations High Commissioner for Refugees recommends 1 toilet for every 20 persons in refugee camps and that no dwelling be more than 50 meters away from a toilet. AIA created a second map (page 16), which illustrates compliance with those standards – in the refugee camp like conditions – created by the “policy of containment” on the streets of Skid Row.

As evidenced by both maps they point to one obvious conclusion, restroom availability and hand-washing stations in Skid Row are woefully inadequate by all standards.

58 UNHCR EMERGENCYHANDBOOK, Camp planning standards, https://emergency.unhcr.org/entry/115940/camp-planning-standards-planned-settlements#2.1511969925909
RECOMMENDED PUBLIC RESTROOM SPACING PER 2012 LOS ANGELES DEPARTMENT OF PUBLIC HEALTH (LADPH)
1 PER 300 LINEAR FEET TO SERVE SKID ROW COMMUNITY

NOTE:
LAYOUT REPRESENTS MINIMUM SPACING PER STANDARD AND DOES NOT ACCOMMODATE EXISTING BUILDINGS AND STREETS.
RECOMMENDED PUBLIC RESTROOM SPACING PER UNITED NATIONS STANDARDS FOR REFUGEE CAMPS
1 PER 50 METERS (164 LINEAR FEET) TO SERVE SKID ROW COMMUNITY

NOTE: SPACING REPRESENTS MINIMUM STANDARD AND DOES NOT ACCOUNT FOR BUILDINGS AND STREETS.
7. TRASH CANS IN SKID ROW

In its 2013 publication, ‘The Dirty Divide’, LA CAN documented the lack of trash cans and trash collection in Skid Row and compared it to the abundance of trash cans and trash collection outside of the area in rapidly gentrifying areas of DTLA. They highlighted the attempts of Skid Row residents to clean the areas themselves, but without help from the City of Los Angeles, the ultimate task of refuse removal would prove impossible.

In 2014, after months of engagement with Los Angeles Department of Public Works and other bodies responsible to keep our streets and parks clean, LACAN released a follow-up report card on the progress made - and not being made - on this significant public health issue. The follow-up report again illustrated the vast public health disparities that existed between the service in gentrifying areas and in Skid Row.

As a result of that report card, subsequent advocacy, and organizing, LA CAN was able to secure 32 trash cans in heavily populated streets but even after that victory, trash removal remained nearly non-existent.
As part of this report, a review and follow-up of LA CAN’s 2014 trashcan mapping has been included. Many of the trash cans that were added were subsequently removed, even though residents still live in those areas and the population has dramatically increased. Per LA CAN’s November 2017 count; the City of Los Angeles has added 28 trash cans in 14 locations within Skid Row. Oddly, at the same time, the City removed 8 trash cans, meaning a net gain of 20 trash cans in four years. In that same time period, the Point-in-Time Homeless Count estimates that the houseless population in the city has increased by thousands, with many of those now living in Skid Row.

Four years later the Historic Core and Arts District still enjoy streets that are visibly absent of huge piles of debris and trash cans that are left overflowing. This does not mean that these areas are without trash; it simply means they are provided with the means to dispose of it and that there is more attention paid to removal of trash in these neighborhoods.

After LA CAN pushed the mayor’s office to respond to the fact that Skid Row residents were using their own limited resources (general relief and supplemental security income checks) and relying heavily on LA CAN’s brooms, rakes and cleaning supplies to clean the streets themselves, the mayor’s office provided some cleaning tools. This gesture did not deal with the fundamental problem; it rather served as a band-aid to the deep wounds of public health equity.

August 2017, Supplies given by Office of Mayor Eric Garcetti
8. CRIMINALIZATION OF THE SKID ROW COMMUNITY

Public health inequity and the criminalization of the Skid Row houseless population has given rise to an array of civil rights lawsuits. The city was sued for “undertaking a mass practice and policy of clearing Skid Row and its surrounding areas of homeless people”. Additionally LAPD continues to use arrests for "minor quality of life offenses" and criminalizing conduct that cannot be avoided where restrooms and shelter are not available.

LA CAN’s legal clinic dealt with 156 such citations issued to houseless Skid Row residents who used their service, between 2016-2017. In recent months, the number of persons seeking assistance from the clinic has doubled.

Recently, the United States Department of Justice filed a Statement of Interest in a case pending in the district court in Boise, Idaho. In its Brief addressing the criminalization of homelessness the Department of Justice stated “Sleeping is a life-sustaining activity — i.e., it must occur at some time in some place…If a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless.”

In 2006 the 9th U.S. Circuit Court of Appeals ruled the Los Angeles’ ban on lying or sleeping on public sidewalks amounted to cruel and unusual punishment because there were not enough shelter beds for the city's huge homeless population. In 2012, the Court of Appeals held that Los Angeles could not seize and destroy the property of homeless individuals which was on sidewalks because of the ruling in Jones. However, despite repeated rejections of its policies by the federal courts, the LAPD continues to conduct illegal street sweeps, confiscate personal property and forcefully remove temporary shelters.

According to the UCLA Million Dollar Hoods report centered on houseless arrests by the LAPD between 2011 and 2016, LAPD arrests of houseless persons increased 37%. An alarmingly high number of arrests were for CA PC § 853.7, failure to appear. The relationship between numerous quality-of-life offenses, exacerbated by failure to appear, creates a unique, exclusive and unjust package of punishment with the injurious stigma of a criminal record. In the same report, of LAPD homeless arrests: 41% were Black, compared to 28% Hispanic and 27% white. The criminal justice system is riddled with discriminatory practices.

The August 16, 2016 Chief of Police’s 2nd Quarter Report on Homelessness and Mental Illness found that during the first two quarters of 2017, 1,845 homeless and mentally ill individuals were arrested, “which represents a 49% increase” for the same period last year. This evidence shows that people are being arrested for being sick and, in public places. LAPD are notorious for arresting individuals who are in need of care.

67 Lavan v. City of Los Angeles, 693 F.3d 1022, 1027 (9th Cir. 2012)
In his article, which focuses on dealing with ever increasing arrests of mentally ill and homeless individuals, Los Angeles City Councilman Jose Huizar wrote, “A police officer shouldn’t be the first response”. His district however, happens to top the list of destinations where houseless people are arrested most frequently.

Ethan Couch’s case of ‘affluenza’ reminds us that extreme wealth shields criminal culpability. If you can afford it, you can buy liberty. Needless to say, houseless individuals often have no resources so cannot make bail and are often encouraged to accept plea bargains that do not serve their best interests. For something as simple as jaywalking or drinking a beer in public, the unhoused person may lose benefits, housing eligibility and employment opportunities.

Wealthy residents in downtown Los Angeles enjoy parklets in their neighborhoods, water fountains for their pets, and poop pads and bags for their canines (the bags are provided, free of charge). They may choose to rest for a moment or relax for hours upon end. They can sit at any time night or day. A few blocks over however, in Skid Row paints quite a different picture! The houseless must be on the move and thanks to the Jones Decision, may stay in one place for a maximum of nine (9) hours (between the hours of 9 p.m. and 6 a.m., when they are promptly woken up by law enforcement and told to move on) otherwise - risk citation for violating the laws as an infraction or a misdemeanor.

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70 Mental Health Crisis Is a Crime, But it Shouldn’t Be, October 23, 2017, By Councilmember Jose Huizar, [http://www.ladowntownnews.com/opinion/mental-health-crisis-is-a-crime-but-it-shouldnt-be/article_2235a6d00b55c111c7-9d12-cb43f3169f56.html](http://www.ladowntownnews.com/opinion/mental-health-crisis-is-a-crime-but-it-shouldnt-be/article_2235a6d00b55c111c7-9d12-cb43f3169f56.html)


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9. RECOMMENDATIONS

Human rights require a focus on the most vulnerable, those who are most often excluded from processes and resources. Often, these people are characterized as the most difficult to reach or serve, but this cannot be a justification for neglecting them. On the contrary - to eliminate human rights violations in practice, special attention must be paid to groups of individuals who suffer historical or persistent prejudice instead of merely comparing the treatment of individuals in similar situations. In order to respond to the human rights violations outlined in this report and begin to ensure public health equity, LA CAN recommends the following actions:

1. **Shift current political and governmental priorities and resources from criminalization to housing.** There is only one way to truly mitigate the lack of infrastructure needed to keep houseless residents healthy: provide safe, accessible and affordable housing for all. The morally bankrupt and unsustainable use of the LAPD as a response to homelessness is both costly and violates human and civil rights. The immediate reprioritization of funding and other resources from enforcement to housing is a crucial step in securing permanent housing for houseless residents. Unfortunately, by LAPD’s own estimates the arrest of homeless and mentally ill people increased by 49% when comparing 2016 and 2017 arrest patterns. We are headed in the wrong direction and this course must be corrected immediately.

2. **Place adequate numbers of trash receptacles in Skid Row.** The map created in 2013 (‘Dirty Divide’) still illustrates an alarming reality in 2017— residents in Downtown with less means still do not have equitable levels of service, particularly Black residents. It also is an example of the apartheid-like “dividing line” of Main Street – where those west of the line are prioritized and served by the City and those east are further disenfranchised. Trash cans are but a symptom of a larger caste-like system that is currently in place. Between 4 and 8 trash cans per block should be added throughout the entire Skid Row community, starting on Crocker, Towne and Stanford Streets, and should be the type that includes ashtrays.

3. **Frequent trash collection in Skid Row.** Residents that live indoors and outdoors accumulate trash. Residents unfortunate enough to live on city streets have few means of properly disposing of their garbage. Residents routinely clean this community and their areas but need adequate collection of this trash. The employment of residents and resident organizations to fulfill some trash disposal activities should also be explored. Additionally, cleaning supplies and environmentally safe disinfectants should be given to area residents.

4. **Immediately increase the number of restroom facilities available to residents.** Highlighted as a Threat to Immediate Public Health by DPH in 2012, the installation of at least (110) toilets should be installed immediately (commensurate with the DPH recommendation (see map above)) – that number must include hand-washing stations fully stocked with soap, water, paper towels and feminine hygiene products. Now is not the time for continued excuses for not increasing restrooms —deteriorating health conditions make none of us safer. Additionally, all existing and new toilets must remain open 24-hours a day and not be locked at sundown as routinely occurs now. Restrooms must also be staffed during all hours of operation preferably by residents living in the Skid Row community.

73 In 2015, the City’s Chief Administrative Officer released a report estimating that the City had spent approximately $100 million dollars in the prior year on responding to the homelessness crisis. The breakdown was $750,000 paid in attorney fees to the plaintiffs’ lawyers in the Jones case, approximately $5,000,000 for services, and the remainder for police implementation of criminalization of the homeless.
74 This report does not address the obvious disability access issues related to the lack of toilets and the type of toilets available in some public spaces. This is, however, a concern that the City needs to address.
A person’s restroom needs do not stop working after sundown, so neither should the restrooms.

5. Frequently clean Skid Row restrooms and ensure toilet paper, feminine products, soap and hot water are available. As our report highlights restrooms are routinely not open, or are functioning at substandard levels. The automated cleaning function on the self-cleaning toilets appears to be in need of repair and better monitoring. If the self-cleaning function is not sound, other steps need to be taken to ensure regular cleaning. Also, toilet paper and soap need to be routinely refreshed or made available. Lastly, the number of hand sinks for local residents need to be increased exponentially. At a minimum, hand wipe dispensaries should be installed throughout Skid Row as a temporary stop gap measure.

6. Provide potable water sources for Skid Row residents. It’s important that fresh water be provided for Skid Row residents. A few temporary emergency water fountains were installed during the heat of summer in 2017 but were removed by the City of Los Angeles shortly thereafter. While the brief respite was a solid step in the right direction in the long term water fountains must be installed in numerous locations. Significant consideration has been given to the water needs of downtown’s canine population living in the lofts — new parks adjacent to these residencies have been outfitted with drinking fountains for pets. It is imperative that the needs of human beings are met as well.

7. Install Hygiene Centers at local parks or other accessible locations. Public hygiene centers that include access to restrooms, showers, potable water and hand-washing stations should be installed at both of Skid Row’s public parks and other accessible locations. Additionally, after years of advocacy and organizing the City has finally noted in its Comprehensive Homeless Strategy the need for such facilities and is currently working on the first as part of its “Emerald Necklace” Initiative. However, one facility is not enough.

8. Develop a community health council to address issues for the long-term. Residents and volunteers have long attempted to find ways to address the lack of public sanitation infrastructure in Skid Row. Their experiences and innovations should be the foundation of any plan to improve public health equity. Representatives should include residents, health care professionals, appropriate public agencies, elected officials’ staff, neighborhood council representatives, and other interested parties. While there have been recent overtures by the Mayor’s “Emerald Necklace” team to include residents in conversation, decision-making authority still elude those most impacted by the issues.

“L.A. said loud and clear we need to build more housing, we need to build more affordable housing and we need to build more housing for the homeless”. 75

Mayor Eric Garcetti

These words must be realized and not just spoken.