

A Place at the Table:

Prohibitions on Sharing Food with People Experiencing Homelessness

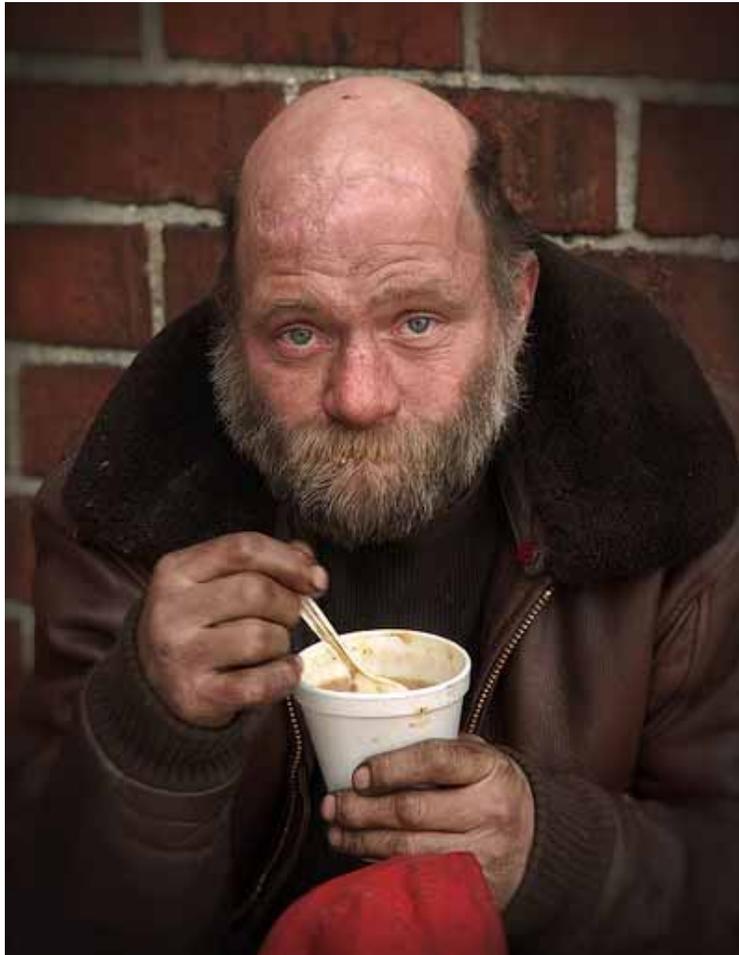


Photo by Leroy Skalstad, formerly homeless Vietnam veteran

**A Report by
The National Coalition for the Homeless
And
The National Law Center on Homelessness & Poverty
July 2010**



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The National Coalition for the Homeless, founded in 1982, works to bring about social change necessary to prevent and end homelessness and to protect the rights of people experiencing homelessness. NCH achieves this by engaging our membership in policy advocacy, capacity building, and sharing solutions to homelessness with the greater community. NCH is a national network of people who are currently or formerly homeless, activists and advocates, service providers, and others committed to ending homelessness. We are committed to creating the systemic and attitudinal changes necessary to prevent and end homelessness and working to meet the immediate needs of people who are currently experiencing homelessness.

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The National Law Center on Homelessness & Poverty (the Law Center) is the only national legal advocacy organization dedicated to ending and preventing homelessness. Our attorneys go into courtrooms and the halls of our legislatures to protect the needs of society's most vulnerable members. Through impact litigation, policy advocacy and public education, we address the root causes of homelessness at the local, state and national levels. Established by attorney Maria Foscarinis in 1989 and based in Washington, DC, the Law Center works with a wide variety of groups around the nation.

You are invited to join the network of attorneys, students, advocates and activists who make up NLCHP's membership. By becoming a member you can help make a difference in the lives of millions of homeless Americans. For more information about membership, please visit our website at www.nlchp.org/join_us.cfm.

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Executive Summary

Three years after the 2007 publication of *Feeding Intolerance: Prohibitions on Sharing Food with People Experiencing Homelessness*, cities still choose to implement measures that criminalize homelessness and, at times, penalize those who serve homeless persons. These measures, such as anti-camping laws, often target activities homeless people are forced to do in public spaces because of their lack of a home or shelter.

This report specifically focuses on ordinances, policies, and tactics that discourage or prohibit individuals and groups from sharing food with homeless persons. Uncomfortable with visible homelessness in their communities and influenced by myths about homeless people's food access, cities use food sharing restrictions to move homeless people out of sight, an action that often exacerbates the challenges people experiencing homelessness face each day just to survive.

The report also highlights constructive alternatives to food sharing restrictions, in the form of innovative programs that both adults and youth are implementing to share food with people experiencing homelessness in their communities.

Increasing Homelessness and Hunger Across the U.S.

Many people are confronting homelessness and hunger in the current economic recession, some for the first time. The 2009 Hunger and Homelessness Survey conducted by the U.S. Conference of Mayors¹ found:

- 82% (22 of 27) of cities surveyed, in 2009, reported having to make adjustments to accommodate an increase in the demand for shelter over the past year.
- 25% of requests for emergency food assistance went unmet in 2009.
- 26% was the average increase in demand for assistance reported by cities in 2009, which represents the largest average increase since 1991.

Growing Restrictions by Cities on Food Sharing

More cities have chosen to target homeless individuals by restricting groups or individuals who share food with homeless people in private and public spaces, since 2007. Examples of these measures include:

¹ U.S. Conference of Mayors, *Hunger and Homelessness Survey: A Status Report on Hunger and Homelessness in America's Cities—a 27-City Survey* 7 (2009).

- Gainesville, Florida began enforcing a rule limiting the number of meals that soup kitchens may serve to 130 people in one day.²
- Phoenix, Arizona used zoning laws to stop a local church from serving breakfast to community members, including many homeless people, outside a local church.³
- Myrtle Beach, South Carolina adopted an ordinance that restricts food sharing with homeless people in public parks.⁴ Although permits are free, groups may only obtain a permit four times a year.⁵

Legal Challenges and Human Rights Implications

Such restrictions raise legal issues, and some have been challenged in court. For example:

- In Orlando, Florida the American Civil Liberties Union (ACLU) filed a lawsuit against the City of Orlando on behalf of local organizations, challenging a 2006 law requiring a groups sharing food with 25 or more people to obtain a permit that was only available twice a year per park. A federal district court found the law to be unconstitutional and in violation of Free Exercise of Religion and Freedom of Speech in October of 2008.⁶ The city has appealed the decision and the appeal is pending.
- In San Diego, California the zoning department attempted to prohibit a local church from serving a weekly meal to community members, many of them homeless.⁷ In 2008, attorney Scott Dreher successfully defended the church's First Amendment right to practice its religion. The weekly meal continues to take place on church property and serves 150 to 200 people each week.⁸

Such restrictions also raise human rights concerns. The right to food is a recognized human right, explicitly addressed in over 120 instruments of international law since 1920 and included in the domestic constitutions of 22 nations.⁹ The International Convention on Economic, Social and Cultural Rights (ICESCR) explains that states have an obligation to respect, protect and fulfill certain rights. For the right to food this means a state, or nation, must not take action resulting in preventing access to food, must ensure that enterprises or individuals do not deprive someone of their access to food, and must take proactive action to increase access to food.¹⁰

² Gainesville, Fla., Code A6 § 30-11.

³ Jenna Davis, *Meals for Needy Ark Church's Neighbors*, The Arizona Republic, July 31, 2009.

⁴ Myrtle Beach, S.C., Code § 8.2009-20 (2009).

⁵ MB Ordinance to Limit Mass Feeding for Homeless, WMBF News.com, June 9, 2009.

⁶ ACLU Florida Chapter, *Federal Judge Strikes Down Orlando Homeless Feeding Ban*

⁷ Ronald Powell, *City to allow food-for-needy program*, Union-Tribune, April 22, 2008.

⁸ Email from Pastor April Herron, Pacific Beach United Methodist Church, to NCH. (On file at NCH).

⁹ Food and Agriculture Organization of the United Nations, Fact Sheet, *available at* <http://www.fao.org/WorldFoodSummit/english/fsheets/food.pdf>.

¹⁰ *Substantive Issues Arising in the Implementation of the International Convention on Economic, Social and Cultural Rights: General Comment 12*, Committee on Economic, Social and Cultural Rights/E/C.12/1999/5 12 May 1999

Constructive Alternatives to Food Sharing Restrictions

Despite the prevalence of food sharing restrictions that hinder access to food for individuals experiencing homelessness, there are examples of positive ways hunger is being addressed. These examples include the expansion of existing federal nutrition programs, innovative new programs, and collaboration between cities and local service providers. Some examples include:

- The city of Ft. Myers, Florida abandoned plans to limit food sharing programs that serve homeless individuals in public parks, due to a negative public response to the proposal, in 2007. Subsequently, a city council member and local service providers collaborated to address community concerns surrounding public food sharing. Ultimately, the city council promised to work with local homeless service providers to create a Hunger Task Force, which has strengthened local alliances and resources.¹¹
- In Los Angeles, California Jonathan Lee, while a student at UCLA, recognized that there were hundreds of unused student meal plan meals at the end of the semester and identified those as potential meals and snacks to be donated to people experiencing homelessness and hunger in the community. He recruited help and started Swipes for the Homeless, a quarterly program that collects hundreds of donated meal card swipes from their peers.¹²
- A federal program, the EBT Restaurant Meals Program, allows people experiencing homelessness to use SNAP/Food Stamp benefits at authorized restaurants. Participation is up to each state, and while many states do not take advantage of the program, it has expanded in the several states that do. California's Los Angeles County has 477 restaurants participating in the program, including Subway, Dominos Pizza, El Pollo Loco and Jack in the Box. Michigan and Arizona also have restaurants participating, and Florida is in the process of implementing a pilot program.¹³

Policy Recommendations

- Cities should collaborate with food sharing groups to effectively address the problems of hunger and homelessness. Local authorities should reach out to food sharing groups to coordinate the provision of food and educate providers on how to help homeless persons access emergency and social services.
- Communities should assist homeless persons in accessing federal, state, and local food security benefits, including SNAP, WIC, and child nutrition programs.

¹¹ Email from Janet Bartos, Executive Director, Lee County Homeless Coalition, Ft. Myers, Florida, to National Law Center on Homelessness and Poverty, April 20, 2010 (on file with the National Law Center on Homelessness & Poverty).

¹² Katvitha Subramanian, *Swipes for the Homeless Collects Leftover Meals for Cause*, Daily Bruin, March 11, 2010, available at <http://www.dailybruin.com/articles/2010/3/11/swipes-homeless-collects-leftover-student-meals-ca/>.

¹³ General Accounting Office, "Homelessness: Barriers to Using Mainstream Programs" (2000).

- The U.S. Department of Agriculture and/or the U.S. Interagency Council on Homelessness should provide trainings and technical assistance to communities to aid them in developing constructive alternatives to food sharing restrictions.
- The U.S. Congress and the U.S. Department of Agriculture should improve the homeless population's access to the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps, and homeless service providers' access to the Child and Adult Care Food Program (CACFP), a program that allows shelters to receive reimbursement for meals served to children up to age 18 residing there.

Methodology

Recognizing that food is a basic human need and right, the National Coalition for the Homeless (NCH) and the National Law Center on Homelessness & Poverty (the Law Center) aim to provide an accurate description of some of the local responses to hunger among homeless individuals in their communities. This includes both restrictions that prohibit individuals and organizations from sharing food in public settings and constructive alternatives to restrictions that have been developed to increase access to healthy food for homeless people.

NCH and the Law Center compiled information for *A Place at the Table: Prohibitions on Sharing Food with People Experiencing Homelessness* from various sources. Newspaper articles regarding food sharing restrictions were collected from both local and national news sources since 2007. Web research was then conducted in order to follow up on newspaper articles, and to locate other incidents of and alternatives to food sharing restrictions. Specifically, Municode.com was used to locate relevant existing city ordinances.

In addition to print and online sources, stories and other information from local homeless advocates and homeless people around the country were a main resource for this report. NCH and the Law Center reached out to their networks and allies at the community level who, each day, work to support men and women experiencing homelessness.

Introduction

In 2007, the National Coalition for the Homeless (NCH) and the National Law Center on Homelessness & Poverty (the Law Center) worked collaboratively to publish *Feeding Intolerance: Prohibitions on Sharing Food with People Experiencing Homelessness*. The report drew attention to the disturbing national trend of penalizing the act of sharing food with men, women, and children experiencing homelessness. Three years later, cities are still implementing these measures through ordinances, policies, and tactics that discourage or prohibit individuals and groups from sharing food with homeless persons. Uncomfortable with visible homelessness in their communities and influenced by myths about homeless peoples' food access, cities use food sharing restrictions to move homeless people out of sight, an action that often exacerbates the challenges people experiencing homelessness face each day.

One example of these attitudes, often referred to as NIMBY (Not-in-My-Backyard) attitudes is evident in the new “Welcome to Ocean Beach, Please Don’t Feed Our Bums” bumper stickers, t-shirts, and hats that are causing controversy in one California town. These products, modeled after a sign asking residents not to feed bears, embody the messages that homeless people are not wanted and that by feeding them, people are enabling them to remain living on the local streets. The products sold at a local store, The Black, represent the attitudes that are at the root of many of the laws created or used to restrict food sharing with homeless people throughout the country.¹⁴

This report first provides a brief overview of the problem, including how homelessness and hunger have changed since 2007. The report examines the right to food, and breaks down the various ways that cities across the country have chosen to target homeless individuals by implementing food sharing restrictions. Additionally, the report highlights constructive alternatives to food sharing restrictions, in the form of innovative programs that both adults and youth are implementing to share food with people experiencing homelessness in their communities. The goal of this report is to educate and paint a broader picture of how cities around the country are responding to the growing problem of hunger in their communities.

*Over 2009 and 2010,
the number of
Americans experiencing
homelessness during the
course of a year is
projected to increase by
1.5 million.*

Many people are confronting homelessness and hunger in the current economic recession, some for the first time. The baseline number of people who are homeless over the course of a year is estimated to be approximately 3 million, and is projected to increase by 1.5 million over 2009 and 2010 because of the recession.¹⁵ As cities pursue measures that both discourage and prohibit

¹⁴ John Wilkens, *Please Don’t Feed Our Bums Controversial Bumper Stickers Target New More Aggressive Type of Transient*, San Diego Union-Tribune, June 18, 2010.

¹⁵ National Alliance to End Homelessness, *Homelessness Looms as a Potential Outcome of the Recession*, Jan. 23, 2009.

sharing food with people without homes, most cities cannot meet the growing need for services, food, shelter, or affordable housing.

In 2009, 22 of the cities surveyed by the U.S. Conference of Mayors reported having to make adjustments to accommodate an increase in the demand for shelter over that year. Shelters with an inadequate number of beds to meet increased need have turned to overflow cots, chairs, hallways and other sub par sleeping arrangements. Some cities have come to rely on vouchers to hotels and motels when shelters no longer have beds available.¹⁶



Homeless people not only struggle with lack of shelter and housing, but also with hunger. In November 2009, the U.S. Department of Agriculture (USDA) reported that more than 49.1 million Americans lived in households struggling against hunger in 2008,¹⁷ 13 million more than in 2007.

The Mayors' Survey also documented a sharp increase for hunger assistance. In 2009, cities reported a 26% increase in demand for assistance, on average, which represents the largest average increase since 1991. All but one of the surveyed cities reported an increase in requests for emergency food assistance compared to 74% of surveyed cities in 2007. The requests for emergency food assistance that went unmet increased from 23% to 25%.¹⁸

Myths about Homelessness and Food Access

There are a number of myths that exist about homeless individuals and their access to food that lead to the attitudes and laws that restrict food sharing in public settings. These myths are tremendously detrimental to the efforts to provide homeless men, women, and children with the basic necessities for survival.

Myth: Hunger is not a problem for homeless individuals because there are plenty of food pantries and soup kitchens.

Food pantries do not effectively meet the needs of people without homes because homeless people lack the facilities to store and prepare food. Many food pantries, also, limit the number of boxes you can receive, some to only twice in six months. Additionally, cities often do not have adequate food available through soup kitchens to serve all those in need three times a day, seven days a week. Sometimes it is falsely assumed that people who are homeless are able to walk or travel. Unfortunately, homeless people may not be able to travel significant distances for food due to work conflicts, illness, disability or lack of adequate public transportation.

¹⁶ U.S. Conference of Mayors, *Hunger and Homelessness: A Status Report on Hunger and Homelessness in America's Cities—a 27-City Survey* 7 (2009).

¹⁷ USDA, Economic Research Report No. (ERR-83) 66 pp, November 2009.

¹⁸ U.S. Conference of Mayors, *Hunger and Homelessness: A Status Report on Hunger and Homelessness in America's Cities—a 27-City Survey* 7 (2009).

Myth: SNAP/Food Stamp benefits are easily accessible to people who are homeless and many homeless people take advantage of this program.

According to the most recent statistics available, over half of the homeless population does not receive food stamps.¹⁹ Lack of transportation, lack of knowledge about the program, mental illness, lack of an address and lack of documentation are some of the common barriers that prevent homeless people from receiving food stamps.

Myth: Sharing food with people in outdoor locations enables them to remain homeless.

Food sharing programs that reach out to people in public spaces may be the only way for some people experiencing homelessness to have access to healthy and safe food. Work conflicts, illness, disability, and lack of public transportation are all reasons a homeless person might not be able to make it to an indoor food sharing program. People do not remain homeless because of outdoor food sharing programs; people remain homeless for reasons that include a lack of affordable housing, shelter space, living wage or significant life events such as divorce, domestic violence or illness.

Food sharing programs that reach out to people in public spaces may be the only way for some people experiencing homelessness to have access to safe and healthy food.

There is not one face of homelessness. Stereotypes misrepresent the diversity of individuals and experiences of life without a home. Communities must work collaboratively to provide food and shelter to those who cannot attain it without help. Ordinances and policies that discourage or prohibit the act of sharing food with people experiencing homelessness is immoral and, in some cases, contrary to domestic and international law.

Types of Food Sharing Restrictions

The goal of food programs that serve homeless people is to provide nutritious, filling and safe food to individuals who do not typically have consistent access to healthy food. In addition, many food sharing programs aim to build community or provide access to supportive services. Some food sharing groups are motivated by religious reasons, and may provide both food and the ability to join their congregation in a religious service. These are ways groups go above and beyond the key component of providing food, which all people have a human right to access.

Cities have taken different measures to restrict food sharing with people experiencing homelessness, denying their basic rights to food. Requiring a permit for public property use, limiting the number of people who can be served, imposing zoning restrictions, and selectively enforcing ordinances are examples of policies and practices that restrict food sharing. This section of the report will discuss specific cities’ use of such tactics.

¹⁹ General Accounting Office, “Homelessness: Barriers to Using Mainstream Programs” (2000).

Restricting Public Property Use

Many cities have laws regarding the use of public parks, and 12 of those cities have reported that these laws have specifically limited groups from being able to share food with homeless people. One way use is limited is through permit requirements. The permits can be limiting and force food sharing groups out of areas where they have historically been able to reach many homeless people.

Of the 23 cities we surveyed, 12 cities have at some point limited the use of public parks for sharing food with homeless people. Some of these communities put a limit on the number of people that can congregate in a public park ranging from 25 to 75 people. Others restrict using the parks as a place for “social services.” Still other cities restrict the use of parks in certain areas of the city, or limit how often parks can be used to share food.

For example, in 2009, the **Myrtle Beach, South Carolina** City Council passed an ordinance that restricts food sharing with homeless people in public parks.²⁰ The ordinance requires food sharing groups to apply for a permit and comply with the State Health Department’s requirements. Although the permits are free, groups may only obtain a permit four times a year.²¹

While it is important to address community concerns regarding the safety of food being prepared and served in local parks, placing arbitrary limits on the number of times food sharing can occur does more harm than good. It is unreasonable to expect groups that share food to determine which four dates of the year are most important to provide healthy meals for people that live each day without the certainty of whether they will eat.

Local groups frequently serve food in parks because many people without shelter spend time in parks during the day. Advocates believe homeless individuals will continue to be in parks despite the policy. Supporters of the ordinance say that parks are not ideal places to give food to homeless people. Despite the unquestionable advantages of using an established facility to prepare and distribute food, those efforts only provide access to food for those individuals who are well and mobile enough to travel to a location that is potentially far away and not reachable by public transportation.

Ordinances similar to the one in Myrtle Beach can be found in:

- **Cincinnati, Ohio:** The Cincinnati Park Board continues to prohibit the distribution of food or clothing in Washington Park, which is located across the street from the city’s largest homeless shelter.²²
- **Denver, Colorado:** A group of 25 or more people wishing to provide food or eat together in a shared space must obtain a permit through Parks & Recreation.²³ The City of Denver

²⁰ Myrtle Beach, S.C., Code § 8.2009-20 (2009).

²¹ MB Ordinance to Limit Mass Feeding for Homeless, WMBF News.com, June 9, 2009.

²² George Herrell, *Parks Aren’t so Kind to Poor People*, Street Vibes, February 2010.

²³ Naomi Zeveloff, *Denver Cuts Back on Outdoor Homeless Meals*, Denver Voice, September 2008.

created the Public Feeding Coalition, which is a group that encourages indoor feeding in an effort to reduce the number of outdoor meals given to homeless people.²⁴

- **Fort Lauderdale, Florida:** Park regulations prohibit using any city park for “social service purposes” without written authorization from the city.²⁵ The regulations define social services as providing “food, clothing, shelter or medical care to persons in order to meet their physical needs.”²⁶ In 2007, Fort Lauderdale police threatened Food Not Bombs to stop serving their meals in the park but no action was taken.²⁷ The Fort Lauderdale City Commission Task Force was created in 2009 to establish a fixed location for groups to serve food to homeless people. In June 2010, four locations were suggested by the Task Force and the location in Flagler Village was favored by city officials.²⁸ However, neighbors and the Flagler Village Civic Association are opposing the possible location and, at the time of report publication, a final decision had yet been made.²⁹
- **Las Vegas, Nevada:** On July 19, 2006, the City Council voted to approve an amendment to an existing ordinance that bans “the providing of food or meals to the indigent for free or for a nominal fee” in the city parks. A separate Las Vegas ordinance requires a park permit for gatherings of 25 or more in a city park.³⁴ In August 2007, a federal district court found the ordinance banning serving meals to “indigent” unconstitutional, but in the same decision upheld the ordinance containing the park permit requirement.³⁵ In June 2010, the city and advocates reached an agreement when the city modified the law so gatherings of less than 75 people would not need a permit.³⁶
- **San Juan, Puerto Rico:** In November 2009, Mayor Jorge Santini announced a new pilot program to restrict food and other services provided to homeless people in Río Piedras, an important sector of San Juan, to a single square, Plaza López Sicardó. Plaza López

²⁴ Amelia Patterson, Food Not Bombs battles the ‘inside not outside’ mentality, Street Roots, July 11, 2008.

²⁵ Fort Lauderdale, Fla., Park Rules and Regs., § 2.2, available at <http://ci.ftlaud.fl.us/life/rules.htm>.

²⁶ *Ibid.*

²⁷ Robert Nolin, *Group Gathers to Feed Homeless in Fort Lauderdale*, Sun-Sentinel, August 4, 2007

²⁸ Scott Wyman, *Lauderdale Zeroes in on Place to Feed Homeless*, Sun Sentinel, June 16, 2010

²⁹ Scott Wyman, *Fight over homeless feeding site heats up*, Sun Sentinel, July 1, 2010

³⁴ National Coalition for the Homeless and the National Law Center on Homelessness and Poverty, *Feeding Intolerance: Prohibitions on Sharing Food with People Experiencing Homelessness*, November 2007.

³⁵ Timothy Pratt, *Metro rethinks ‘Don’t feed homeless’*, Las Vegas Sun, April 14, 2009.

³⁶ Scott Wyland, *Proposal May End Fight Between Homeless Advocates*, City Las Vegas Review-Journal, June 11, 2010.

Sicardó is on the outskirts of Río Piedras, making it difficult for many homeless people to travel there.³⁷

- **Sarasota, Florida:** The City of Sarasota requires any group planning a gathering of 75 or more people in a park to obtain a permit. The law further states that the city manager can, at his or her discretion, move a planned gathering from a requested site to any other park in the city.³⁸
- **Wilmington, North Carolina:** The city continues to enforce an ordinance that prohibits the sharing of food on city streets and sidewalks.³⁹ This ordinance forces groups to seek out private property on which to conduct their food sharing activities.⁴⁰

Similar ordinances have been challenged successfully in two Florida cities, including:

- **Orlando, Florida:** An ordinance that restricted sharing food was passed by the City Council in 2006. The ordinance required groups sharing food with 25 or more people to obtain a permit that was only available twice a year per park covered by the ordinance. The ordinance would have caused groups to constantly move their food sharing activities.⁴¹ After a lawsuit filed by the American Civil Liberties Union (ACLU) against the City of Orlando on behalf of food sharing groups, a federal district court found the law to be unconstitutional in October of 2008.⁴² The city has appealed the decision and the appeal is pending.
- **West Palm Beach, Florida:** In September 2007, City Commissioners approved a ban on food sharing programs in several downtown city parks.⁴³ Food Not Bombs filed a lawsuit challenging the ordinance and the city agreed to rescind the ordinance in 2009 with the goal of working with Food Not Bombs to determine an alternative location. At the time of this publication, the City of West Palm Beach was still working toward reaching an agreement with Food Not Bombs.⁴⁴

While homelessness persists in both urban and rural communities, there are notable differences. In urban areas it is more common for homeless individuals to be in highly trafficked locations of

³⁷ Email from Tim Sherwood, volunteer with the Committee for Social Justice, to The National Law Center on Homelessness and Poverty and The National Coalition for the Homeless, April 16, 2010 (On file with the National Coalition for the Homeless).

³⁸ Sarasota, Fla., Code ch. 2, art. II §§ 22-22, 22-23 (2007).

³⁹ Wilmington, N.C., Code ch. 11, art. III, § 11-47 (2007).

⁴⁰ E-mail from Anita Oldham, Housing Development Manager, Southeastern Center for Mental Health, Wilmington, N.C., to National Law Center on Homelessness & Poverty (Sept. 6, 2007) (on file with National Law Center on Homelessness & Poverty).

⁴¹ Whitney Hamrick, *Homelessness to Rise as the Economy Sinks*, Central Florida Future, December 1, 2008

⁴² ACLU Florida Chapter, *Federal Judge Stinks Down Orlando Homeless Feeding Ban*

⁴³ Mark Hollis, *Feeding Organizations Work to Help the Homeless in Palm Beach County*, South Florida Sun-Sentinel, February 11, 2008.

⁴⁴ Tony Doris, Last-minute tiff erupts in West Palm Beach homeless deal, PalmBeachPost.com, December 17, 2008.

the city. Although the majority of places that have created food sharing restrictions are larger cities where many more homeless people are often seen on the streets, this issue has also reached some rural communities. One example is in Sultan, Washington where one person trying to share food came across opposition.

In **Sultan, Washington**, a small city in rural Washington, Donna Rice had been serving food to about 12-18 homeless people in a city park each week when she received a call in early April 2010, from Sultan Mayor Carolyn Eslick. During their conversation, Rice was told she would be required to pay for the use of a park picnic shelter and prepare the food in a licensed kitchen if she continued to serve food each week.⁴⁵ City leaders have said that visible homelessness is hurting tourism and business in the town. Sultan homeless advocates worry about the availability of services for homeless people in this rural setting. A lack of resources in the rural town means homeless individuals are less likely to have access to shelters and soup kitchens. Rice moved her location to a church downtown and continues to serve food.⁴⁶

As seen in Sultan, city leadership can play a significant role in enacting food sharing restrictions. However, examples exist of leadership in other communities that recognize the importance of access to healthy food for homeless people and protect food sharing programs.

In early 2010, some residents from **Little Rock, Arkansas**, became increasingly concerned about a group serving food to homeless people at Riverfront Park. The group, From His Throne Ministries did not feel as though the food sharing program posed a problem to the park or its visitors. However, local advocates claimed that the real problem was visitors to the park feeling threatened by large groups of homeless individuals.⁴⁷ The City Director asked that the city attorney write an ordinance restricting the group's ability to share food in the public park, but the mayor of Little Rock avidly supports the current park location, unless an alternative suitable location is found. He stated that although it is not the ideal location to serve homeless people, several well-intended groups have used the park for years, and he will continue to support their work unless a new site is found.⁴⁸

Limitations on the Number of People Served

Typically, food sharing activities that occur outside in public spaces are those being restricted. However in Gainesville, Florida, the simple act of providing any food to a homeless person is under attack.

Early in 2010, the city of **Gainesville, Florida**, started enforcing a rule that limits the number of meals that soup kitchens may serve to 130 meals per day.⁴⁹ Ministers, politicians, and

⁴⁵ Lynn Thompson, *In rural Sultan, a crackdown on the homeless*, The Seattle Times, April 4, 2010.

⁴⁶ Ibid.

⁴⁷ Email from Bob Advocate Volunteer to Michael Stoops, National Coalition for the Homeless on January 22, 2010 (on record at NCH).

⁴⁸ *Message from the Mayor* in an email from Bob Advocate Volunteer to Michael Stoops, National Coalition for the Homeless on January 31, 2010 (on record at NCH).

⁴⁹ Gainesville, Fla., Code A6 § 30-11.

community activists have called for an end to the limit because they strongly believe it violates the First Amendment.⁵⁰ The City Planning Board proposed to remove the limit for ten Federal holidays, but city commissioners approved having the limit in effect for all but three days of the year: Thanksgiving, Christmas, and a holiday chosen by the soup kitchen.⁵¹ Homeowners and businesses in the area say that the presence of homeless people causes their businesses to suffer.⁵² They have encouraged the city to retain the meal limit because it limits the concentration of homeless individuals in downtown areas. The idea behind the meal limit was to spread food sharing sites around town instead of using one area of the city. Homeless advocates claim the limit causes increased panhandling, and actually encourages more people to come to the downtown area in an effort to arrive early for a meal.

Zoning Restrictions

As discussed in the Gainesville, Florida example, food sharing is not only being challenged in public spaces, but also on private land. In Phoenix, Arizona and San Diego, California two churches sharing food on their own private properties have been targets of zoning restrictions.

Early in 2009, residents of a **Phoenix, Arizona** neighborhood asked that a Saturday food sharing program for homeless individuals be moved from its location outside CrossRoads United Methodist Church.⁵³ Usually, crowds of homeless people would gather at picnic tables and listen to sermons while settling in for breakfast. City officials responded to the request by halting the breakfast, and saying that it violated zoning laws. In November 2009, the City's Zoning Hearing Officer ruled in favor of the city, saying that the church had created a "charity dining hall" in a residential area in violation of the zoning law. CrossRoads appealed the decision to the Phoenix Board of Adjustment in January 2010, and the decision was affirmed. The church filed a lawsuit in federal court claiming that the city's restrictions violate its First Amendment right to freely exercise its religious beliefs, the Religious Land Use and Institutionalized Persons Act, and the Arizona Religious Freedom Act.⁵⁴ CrossRoads and the city reached an agreement, in June 2010, that will end the court battle. The church agreed to drop its lawsuit against the city and will move their weekly breakfast inside the church.⁵⁵

In April 2008, a church in **San Diego, California** prevailed in a lawsuit against the city. The zoning department had attempted to prohibit the church from serving a weekly meal to community members, many of them homeless.⁵⁶ Attorney Scott Dreher successfully defended

⁵⁰ Cindy Swirko, *City's Meal Limit for Homeless Protested*, The Gainesville Sun, February 14, 2010.

⁵¹ Chad Smith, *City Votes to Lift Meal Limit at Shelters for Three Holidays*, The Gainesville Sun, February 19, 2010.

⁵² Jenna Davis, *Meals for Needy Ark Church's Neighbors*, The Arizona Republic, July 31, 2009.

⁵³ Javier Soto and Catherine Holland, *Judge says Phoenix church cannot feed homeless*, AZFamily.com, November 10, 2009.

⁵⁴ Complaint at 2, *CrossRoads United Methodist Church v. City of Phoenix*, Docket No. 2:10-CV-00085 (D. Ariz. Jan. 14, 2010).

⁵⁵ Sadie Jo Smokey, *Phoenix church, city settle case over pancake service to homeless*, AZCentral.com, June 18, 2010, available at <http://www.azcentral.com/news/articles/2010/06/17/20100617phoenix-church-pancake-homeless-settlement.html>

⁵⁶ Ronald Powell, *City to allow food-for-need program*, Union-Tribune, April 22, 2008.

the church's First Amendment right to practice its religion. The weekly meal takes place on church property, in the church social hall, and serves 150 to 200 people each week. This aspect of the church's ministry has been in place for approximately 15 years.⁵⁷

Police Harassment

Huntington, New York is one of four locations where Food Not Bombs continues to distribute food on Long Island. In 2008, police threatened to shut down the Huntington site. Police detained volunteers in handcuffs for approximately three hours before charging one of them with peddling. Because peddling refers to the sale of goods, and food was being distributed free of charge, peddling law used to charge the volunteer was not applicable. When Food Not Bombs rallied their supporters to write letters and call the City of Huntington and the Suffolk County Police Department, over 3,000 people expressed their objection to the decision. The Suffolk Police dropped the charges and issued a letter of apology to Food Not Bombs. The letter stated that it was a mistake to charge the volunteers for peddling, and that the entire situation was based on a misunderstanding. In the letter, the police department agreed to stop sending a police car to food sharing sites, a request made by Food Not Bombs. Police cars were absent for about a month before appearing at food sharing sites, once again, parked across the street and frequently shining a spotlight on food sharing operations. Food Not Bombs volunteers consider this an intimidation tactic. Between November 2009 and March 2010, police officers visited Food Not Bombs' Farmingville food share site with regularity. Each week they would enforce new requirements that included prohibiting Food Not Bombs from using area trash receptacles, and forcing them to relocate a certain distance off the road so that they wouldn't be in sight of community members.⁵⁸

Over 3,000 Food Not Bombs supporters expressed their objection when police charged a volunteer with peddling.

Food Safety Restrictions

When discussing food sharing restrictions, NCH and the Law Center acknowledge that some ordinances are created to ensure the safety of the food shared with homeless individuals. This is a noble goal. Concerns arise, however, when the restrictions and ordinances focus on limiting or denying the ability to share food and meet the needs of a community with very low food access. Another concern is when restrictions come out of NIMBY attitudes.

Members of Food Not Bombs in **Middletown, Connecticut** were stopped from distributing food on a local street on several different occasions during 2009. In one instance, two Food Not Bombs volunteers were arrested. The Middletown Health Department issued a cease-and-desist order to the group under the public health code.⁵⁹ In addition to Food Not Bombs, the St. Vincent DePaul's Place soup kitchen was cited for serving food not prepared in a licensed kitchen. Although the law excluded charities selling food from health code restrictions, groups

⁵⁷ Email from Pastor April Herron, Pacific Beach United Methodist Church, to NCH. (On file at NCH).

⁵⁸ Telephone interview with Jon Spetanian, Volunteer, Long Island Food Not Bombs, (April 29, 2010).

⁵⁹ Email from Meghan Quinn, Volunteer with Food Not Bombs, to NCH, April 30, 2010 (On file at NCH).

that were giving food out for free were required to prepare food in an inspected and licensed facility. The group appealed the order to the State Health Department, and filed a federal lawsuit against the city and the state on First Amendment grounds in the spring of 2009.⁶⁰ The suit was dropped due to a change in a state law that protected the activities of groups serving food to homeless people. The amendment now allows food cooked in private kitchens to be shared with the community. In 2010, the Food Not Bombs group has been able to continue serving its regular meal on Main Street without police interruption.⁶¹

Three other cities have also addressed food sharing with homeless people in light of food safety concerns.

- **Atlanta, Georgia:** Mayor Shirley Franklin issued an "executive order", in 2003, which declared that serving food to homeless people outside of officially designated locations was not to be permitted. No new ordinance was created, but the order instigated the enforcement of existing health code ordinances to stop food sharing activities in the downtown areas.⁶²
- **Miami, Florida:** The City Commission began considering an ordinance, in early 2010, that would prohibit unauthorized people and groups from distributing meals to homeless people in downtown areas. The ordinance would require that anyone who wishes to share food with homeless persons must receive formal training first. Other requirements include providing a portable restroom and having an on-site sink.⁶³ To date, the ordinance has not been adopted.⁶⁴
- **Nashville, Tennessee:** At least six different street food sharing groups were stopped because they did not fulfill a city health code requirement in 2007. The Metro Public Health Department was responding to complaints, and cited unsanitary conditions as the reason for the stopping the programs. One of the groups has found a licensed kitchen where they can prepare food, and other groups have continued to serve food to homeless persons under the bridge despite the earlier problems.⁶⁵

Sometimes when cities impose restrictions on food sharing activities, it is clear that groups that share food are being targeted. Other times, local advocates, food sharing groups and city officials disagree on the best way to coordinate food sharing in a manner that addresses all concerns. For example, in 2007, **Cleveland, Ohio** city officials stopped the local Food Not Bombs group from sharing food with homeless people at Public Square, a meal distribution site

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Email from Anita Beaty, Executive Director at Metro Atlanta Task Force for the Homeless, to NCH, June 20, 2010 (On file at NCH)

⁶³ Kyle Munzenrieder, Miami's Proposed Solution to Homelessness: *Treat Them Like Pigeons and Make it Illegal to Feed Them*, Miami New Times, February 24, 2010.

⁶⁴ Email from Rita Clark, Policy Director at Miami Coalition for the Homeless, Inc, to NCH, May 7, 2010 (On file at NCH) .

⁶⁵ Steve Samra, *Homeless People Deserve Safe Food, Too*, The Contributor, December 2007.

that had been used by the group for ten years.⁶⁶ Both the city and some local advocates felt that the current system did not work because there was a lot of food waste, trash, no bathrooms, and inconsistent food access. Meetings between the City of Cleveland and the 13 religious and civic organizations were held to coordinate food sharing groups. The meetings led to the relocation from Public Square to a parking lot behind the Mental Health Services, 18 blocks away, where participants could also use the bathroom. The City of Cleveland agreed to pay for additional trash pick up and security for the parking lot. As long as groups sign an agreement with the city to clean up they would be able to serve freely in the parking lot, but would need to obtain a permit if they wanted to serve in Public Square. Cleveland Food Not Bombs believes food sharing should continue in Public Square and their volunteers continue to serve meals there.

Regardless of the policies or tactics used, when cities use restrictions to limit the number of people that can be served by food sharing groups, or move homeless people to certain areas of the city where they might be less visible to downtown business patrons, the problem of homelessness is not being addressed. Cities should take steps to identify both the number of people experiencing homelessness in their communities and the root causes of homelessness. This knowledge would enable cities to provide the necessary services to effectively address homelessness. A more constructive approach includes ensuring access to affordable housing, living wage jobs, healthcare, and social services.

The Right to Food

Food sharing restrictions also raise human rights concerns. The right to food is an internationally recognized human right. This basic human right has been explicitly addressed in over 120 instruments of international law since 1920, including major international agreements such as:

- The International Convention on Economic, Social and Cultural Rights (ICESCR)
- The Universal Declaration of Human Rights (UDHR)⁶⁷
- The Convention on the Rights of the Child⁶⁸
- The Convention on the Elimination of all Forms of Discrimination against Women⁶⁹

The case of Serac v. Nigeria is representative of several regional human rights organizations' recognition of the right to food. In a case brought before the African Commission on Human and People's Rights, the Nigerian government was found liable for violating the right to food for using the military to destroy crops and kill farm animals in an effort to displace a population. A similar case was brought before the Inter-American Commission on Human Rights, and the International Court of Justice has recognized the right in an advisory opinion.⁷⁰

"The right to adequate food is indivisibly linked to the inherent dignity of the human person."

⁶⁶ Stan Donaldson, *Food-for-poor program moved from Public Square*, Cleveland Plain Dealer, December 2, 2007.

⁶⁷ Laura Niada, *Hunger and International Law*, 22 Conn. J. Int'l. L. 131, at 166.

⁶⁸ Document A/RES/44/25 (12 December 1989) Article 24.

⁶⁹ GA res. 34/180, 34 UN GAOR Supp. (No. 46) at 193, UN Doc. A/34/46; 1249 UNTS 13; 19 ILM 33 (1980)

The right to food has also been included in the domestic constitutions of 22 nations.⁷¹ Under the ICESCR, state parties recognize “the right of everyone to an adequate standard of living for himself and his family, including adequate food...and the fundamental right of everyone to be free from hunger.”⁷² The Committee on Economic Social and Cultural Rights further clarified the meaning of the right to food by explaining that “the right to adequate food is indivisibly linked to the inherent dignity of the human person” and noted that the root of hunger issues is simply lack of access to food rather than lack of food itself.⁷³ The Committee also explains that states have an obligation to respect, protect and fulfill these rights. For the right to food this means a state: must not take action resulting in preventing access to food, must ensure that enterprises or individuals do not deprive someone of their access to food and must take proactive action to increase access to food.⁷⁴

Since the time of President Franklin Delano Roosevelt’s proclamation of the “Second Bill of Rights” in 1944, the U.S. has recognized that freedom from hunger is part of our national commitment to economic equality and safety. Although the United States has not ratified the ICESCR, and is thus not bound by it, it is a party to the Universal Declaration of Human Rights and has taken steps toward fulfilling the right to food through federal nutrition programs such as the Supplemental Nutrition Assistance Program (SNAP) and the Women, Infants & Children (WIC) program. These programs provide monthly benefits and food vouchers, respectively, to increase the amount of healthy food that people are able to purchase. Despite this demonstrated recognition of the right to food, laws regulating sharing food with homeless people exist throughout the nation. As an independent expert appointed by the UN to examine the situation on the right to food in the various countries, the United Nations Special Rapporteur on the Right to Food has stated that a nation must refrain from taking “actions that result in increasing levels of hunger, food insecurity and malnutrition.”⁷⁵ Food sharing restrictions deny people experiencing homelessness this basic human right. Placing restrictions on sharing food is in direct opposition to the human right to food.

Food sharing restrictions violate the obligation of respecting and protecting the right to food. Limiting the areas of the city in which food can be shared, how many people may be served, and requiring that groups obtain a permit to share food actively prevents people from providing food

⁷⁰ See *Serac v. Nigeria*, ACHPR/COMM/A044/1 (27 May 2002); *Indigenous Community Yakye Axa v. Paraguay* (28 September 2006), available at: http://www.escri-net.org/caselaw/caselaw_show.htm?doc_id=405985; *Legal Consequences of a Wall in the Occupied Palestinian Territory* (9 July 2004), available at: <http://www.icj-cij.org/docket/index.php?pr=71&p1=3&p2=1&case=131&p3=6>.

⁷¹ Food and Agriculture Organization of the United Nations, Fact Sheet, *available at* <http://www.fao.org/WorldFoodSummit/english/fsheets/food.pdf>. The nations include Bolivia, Brazil, Colombia, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Nicaragua, Paraguay, Congo, Ethiopia, Malawi, Nigeria, South Africa, Uganda, Ukraine, Bangladesh, India, Iran, Islamic Rep., Pakistan, and Sri Lanka.

⁷² International Convention on Economic Social and Cultural Rights, GA res. 2200A (XXI) (3 Jan 1976), Article 11.

⁷³ *Substantive Issues Arising in the Implementation of the International Convention on Economic, Social and Cultural Rights: General Comment 12*, Committee on Economic, Social and Cultural Rights/E/C.12/1999/5 12 May 1999.

⁷⁴ *Ibid.*

⁷⁵ United Nations Special Rapporteur on the Right to Food, www.righttofood.org <<http://www.righttofood.org/>>.

to homeless people, and limits or eradicates access to nutritious food. Food sharing restrictions are in violation of international human rights norms.

Alternatives to Food Sharing Restrictions

Despite the prevalence of cities with food sharing restrictions that hinder access to food for individuals experiencing homelessness, there are many examples of positive ways hunger is being addressed in communities around the country. These examples include the expansion of existing federal nutrition programs, innovative new programs and collaboration between cities and local service providers. Each makes an important contribution to the effort of combating hunger among homeless persons.

Cities and Providers Working Collaboratively

When cities work collaboratively with local service providers and food sharing groups, the problems of homelessness and hunger can be more effectively addressed.

For example, in 2007, officials in **Fort Myers, Florida** abandoned plans to limit food sharing with homeless persons in city parks in response to public outcry. The proposed ordinance would have prohibited the distribution of food in city parks to groups of ten or more people without a permit and would have limited groups to only two approved gatherings per year. NCH and the Law Center both communicated with the city attorney's office and testified before the city council along with local providers and advocates to oppose the proposed ordinance. The negative public response, and a subsequent initiative by a city council member and local homeless service providers to find an alternative solution, led the City Council to reject the proposed ordinance. The City of Ft. Myers now has a Hunger Task Force, which brings together the agencies who supply food and provide meals to people experiencing hunger in their community. The development of the Hunger Task Force has strengthened local alliances and resources. An initial strategy of the Task Force was to identify alternative food distribution methods, which led to the creation of a mobile food pantry.⁷⁶

Portland, Oregon offers another example of successful collaboration. Between 2000 and 2008, the Bridge of Fire Ministry served food and worshiped every Tuesday underneath the Burnside Bridge. In 2008, construction began around the bridge and city officials felt that it was no longer an adequate location to serve food. The City conducted meetings with community members, Bridge of Fire Ministry, and Manna/New Song Ministries to determine a new location. In March 2010, two public locations were determined and the groups have been able continue to serve

⁷⁶ Email from Janet Bartos, Executive Director, Lee County Homeless Coalition, Ft. Myers, Florida, to National Law Center on Homelessness and Poverty, April 20, 2010 (on file with National Law Center on Homelessness & Poverty).

weekly meals.⁷⁷ Pastor Chuck from Manna/New Song Ministries considered the experience working with the city to be very positive.⁷⁸

In addition to city collaboration with local food sharing groups, there is hope found in the innovative ways people are striving to meet the needs of homeless men, women and children in their communities. Below are examples of programs, both new and previously established, that have been identified for their innovative approach to food sharing in their communities.

Swipes for the Homeless

In universities and colleges across the country, the end of an academic term means hundreds of unused meal plan meals, each meal valued between 6-8 dollars. Jonathan Lee, while a student at UCLA in **Los Angeles, California** identified those as potential meals and snacks to be donated to people experiencing homelessness and hunger in their community. Lee recruited help and, for the past four years, UCLA students have headed up Swipes for the Homeless, a quarterly program that collects hundreds of donated meal card swipes from their peers. In 2010, the student directors partnered with the Undergraduates Students Association Council to expand the program and increase their goal to 800 donated meal swipes. The dining halls agreed to prepare up to 575 hot meals and the rest of the meal swipes will go toward snack items and bottled water. Student volunteers pick up the meals from the dining hall to then distribute to Los Angeles shelters, and to people living on Skid Row. In addition, Swipes for the Homeless accepts canned and nonperishable food for distribution. The program not only seeks to provide nutritious meals, but also to dispel myths about homelessness by giving UCLA students the opportunity to meet men, women, and children experiencing homelessness in their own community.⁷⁹ Participating students have spread word of the program to friends attending UC-Berkeley, UC-Irvine, and UC-Davis where similar programs are in the works.⁸⁰

Each quarter, thousands of students' unused meal plan meals could translate into donated meals for homeless people.

First Helping

First Helping, a program of the DC Central Kitchen in **Washington, D.C.**, seeks to provide a comprehensive approach to fighting hunger and poverty. The mission of this street-level outreach program is to use food as a tool to establish trust and build relationships with homeless and low-income individuals. Their goal is to empower people to begin addressing the complex issues at the heart of the personal challenges that have led to their homelessness. Each morning a mobile outreach team provides breakfast at multiple locations in D.C. Over 180 meals are served daily and outreach workers speak to more than 250 people experiencing homelessness.

⁷⁷ Telephone interview with Sam Chase, Chairperson, Portland Continuum of Care, (March 25, 2010).

⁷⁸ Telephone interview with Pastor Chuck, Manna/New Song Ministries, (May 27, 2010).

⁷⁹ Katvitha Subramanian, *Swipes for the Homeless Collects Leftover Meals for Cause*, Daily Bruin, March 11, 2010, available at <http://www.dailybruin.com/articles/2010/3/11/swipes-homeless-collects-leftover-student-meals-ca/>.

⁸⁰ Telephone interview with Jonathan Lee, Founder, Swipes for the Homeless, April 29, 2010.

Over breakfast, outreach specialists take the opportunity to build rapport, assess clients' needs and make referrals.⁸¹ One place outreach workers refer individuals is the DC Central Kitchen's very own Culinary Job Training Program. This program provides both personal and professional growth, preparing unemployed, underemployed, formerly incarcerated, and homeless individuals for careers in the foodservice industry.⁸²

Free Farm

Thanks to months of hard work done by dedicated volunteers, a vacant, overgrown lot in **San Francisco, California**, has been transformed into an urban farm that will provide free food to those who need it.⁸³ Pastor Megan Rohrer, Executive Director of the Welcome Ministry, had been sharing meals with homeless people when she decided she wanted to grow food for the same purpose. The St. Paulus Lutheran Church was willing to offer an empty lot it owned to her and dedicated volunteers to start a garden. Meanwhile Tree, a long time food-justice advocate, community gardener and founder of the Mission District's Free Farm Stand, was looking for a place to grow more produce to supply the farm stand. A collaborative relationship was formed, uniting Megan's church connections and Tree's gardening expertise. With that, the Free Farm was born. In early 2010, volunteers planted the seeds that will translate into a harvest to share. The fresh produce will be used for twice-weekly meals for people experiencing homelessness that are organized by the Welcome Ministry. The excess produce will supply the Free Farmstand.⁸⁴ Meals at Welcome are considered community-building experiences. There are no lines; food is served restaurant style and volunteers eat with guests.⁸⁵



St. Louis Bread Company Cares Café/Panera Cares Café

In metropolitan **St. Louis, Missouri** former Panera Bread CEO Ron Shaich converted a Panera-owned restaurant into a non-profit called the St. Louis Bread Company Cares Café. Instead of having cashiers that take customers' money, they hand each customer a receipt that states what their meal would cost at a conventional Panera. Customers then have the opportunity to put money into one of five donation boxes in the store. A sign at the entrance of the store says, "Take what you need, leave your fair share."⁸⁶ The pilot restaurant is run by a non-profit foundation, which will pay the new restaurant's bills, including staff salaries, rent and food

⁸¹ DC Central Kitchen, *First Helping*, available at <http://www.dccentralkitchen.org/firsthelping.php>.

⁸² DC Central Kitchen, *Culinary Job Training*, available at <http://www.dccentralkitchen.org/culinary-job-training.php>.

⁸³ Marc Hertz, *Free Farm*, Tonic.com, March 23, 2010, available at <http://www.tonic.com/article/free-farm-san-francisco/>.

⁸⁴ Stephanie Rosenbaum, *Food Runners and Urban Gardens*, Bay Area Bites, April, 25, 2010, available at <http://thefreefarm.org/>.

⁸⁵ Welcome Ministry, <http://www.welcomeministry.org/about/>.

⁸⁶ Bruce Horowitz, *Non-Profit Panera Café: Take What You Need, Pay What You Can*, USA Today, May 18, 2010, available at http://www.usatoday.com/money/industries/food/2010-05-18-panerabread18_ST_N.htm.

costs.⁸⁷ The intention is to take in enough money to cover expenses and use extra money for job training programs and provide food to the hungry.⁸⁸ If the store does well, Shaich plans to open two more non-profit cafes in two additional cities within the next six months. In St. Louis, the restaurant takes the name Panera uses it its hometown, but will be known as Panera Cares Café around the country. Shaich's goal is to have hundreds of Panera Cares Café, one in every community that has a Panera.⁸⁹

Feeding America's Backpack Program



Feeding America's Backpack Program was designed to meet the needs of hungry children at times when other resources are not available, such as weekends and school vacations. Backpacks are filled with child-friendly, nonperishable food that children take home. Backpacks are discreetly distributed to children on the last day before the weekend or holiday vacation. In addition to providing nutritious food to school children in need, some Backpack Programs provide extra food for younger siblings at home and others operate during the summer months when children are out of school and have limited access to free or reduced-priced meals. The Backpack Program became a pilot program in 1995 before becoming an official national program of the Feeding America Network in July 2006. More than 140 Feeding America members operated more than 3,600 Backpack Programs and served more than 190,000 children in FY2009.

Federal Nutrition Programs

When identifying programs essential to combating hunger among homeless persons, it is crucial to recognize the importance of established federal programs created for that purpose.⁹⁰



The Supplemental Nutrition Assistance Program (SNAP), formerly named Food Stamps, has long been considered the nation's primary safety net against hunger. Acknowledging the barriers homeless people face in storing and preparing food, Congress amended the Food Stamp Act in 1990 to make SNAP benefits redeemable for hot meals at authorized restaurants for homeless people. While most states do not take advantage of the EBT (Electronic Benefits Transfer) Restaurant Meals Program, the program has expanded in the several states that do. California's Los Angeles County has 477 restaurants participating in the program, including Subway, Dominos Pizza, El Pollo Loco and Jack in the Box. Michigan and Arizona also have restaurants

⁸⁷ Christopher Leonard, *New Panera Location Says Pay What You Want*, Associated Press, May 18, 2010, available at http://www.google.com/hostednews/ap/article/ALEqM5g__EQ-OG9DhU1YwC4Fo4s5QREdbgD9FPI2380.

⁸⁸ Stephanie Strom and Malcolm Gay, *Pay-What-You-Want Has Patrons Perplexed*, The New York Times, May 20, 2010, available at <http://www.nytimes.com/2010/05/21/us/21free.html>.

⁸⁹ Bruce Horowitz, *Non-Profit Panera Café: Take What You Need, Pay What You Can*, USA Today, May 18, 2010, available at http://www.usatoday.com/money/industries/food/2010-05-18-panerabread18_ST_N.htm.

⁹⁰ Feeding America, *BackPack Program*, available at <http://feedingamerica.org/our-network/network-programs/backpack-program.aspx>.

participating, and Florida is in the process of implementing a pilot program.⁹¹

SNAP is not the only Federal Nutrition Program that works to eliminate hunger among homeless persons. The Child and Adult Care Food Program (CACFP) was expanded in 1999 to provide meals to children residing in homeless shelters. Eligible shelters may receive reimbursement for up to three meals each day served to homeless children, through age 18. Emergency shelters receive the highest rates of payment for serving meals, which meet federal nutritional guidelines, to eligible children. There are no application forms for families to fill out, and all reimbursable meals are served in group settings, at no cost to the child or to the child's family. Additionally, the Food and Nutrition Service has considered the unique nature of non-traditional childcare facilities such as emergency shelters, and have made certain accommodations to facilitate their participation in CACFP. For example, unlike most other CACFP facilities, a shelter does not have to be licensed to provide day care.⁹²

Policy Recommendations

State and local policy recommendations:

- States should collaborate with food sharing groups to effectively address the problems of hunger and homelessness. Local authorities should reach out to food sharing groups to coordinate provision of food and educate providers on how to help homeless persons access services. Food providers can be an important part of this process, as they have already established relationships with homeless individuals. One way to collaborate would be to create a coalition similar to the Fort Myers Hunger Task Force which has strengthened local alliances and resources.
- States and cities should ensure homeless persons have adequate assistance in accessing benefits through federal nutrition programs, including SNAP, WIC, and child nutrition programs. As participation rates among the homeless population in these programs are relatively low, state and local authorities should increase homeless persons' outreach and enrollment in benefit programs for which they are eligible.
 - Cities should have one or more roving SNAP caseworkers visit established outreach sites easily accessible by the homeless population, such as shelters and soup kitchens.
 - States should choose to eliminate work requirements that often prohibit people experiencing homelessness from receiving SNAP benefits.
 - School districts should improve categorical eligibility processing to ensure all children from households receiving SNAP benefits are automatically enrolled in free and reduced price meals.

⁹¹ General Accounting Office, *Homelessness: Barriers to Using Mainstream Programs* (2000).

⁹² Susan Ponemon, *Nutrition Funding for Shelters... Child and Adult Care Food Program*, available at <http://www.nlchp.org/content/pubs/CACFPforShelters.pdf>.

Federal level policy recommendations:

- The U.S. Department of Agriculture and/or the U.S. Interagency Council on Homelessness should provide trainings and technical assistance to communities to aid them in developing constructive alternatives to food sharing restrictions.

- The U.S. Congress and the U.S. Department of Agriculture should improve the homeless population's access to the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps, as follows:
 - Restore expedited SNAP eligibility for all homeless persons.
 - Increase outreach to states to participate in the EBT Restaurant Program. Target outreach efforts to restaurants with healthy food.
 - Provide performance bonuses to states that increase the number of homeless persons receiving SNAP benefits.
 - Establish annual SNAP re-certification periods for households receiving SSI and SSDI benefits as their sole income sources.
 - Collect and report data on the housing status of SNAP applicants and beneficiaries.
 - Publish a report on best practices by states, local governments and private not-for-profit agencies in assisting homeless persons to apply for and obtain SNAP benefits.

- The U.S. Congress and the U.S. Department of Agriculture should improve homeless service providers' access to the Child and Adult Care Food Program (CACFP).
 - Perform targeted outreach to shelters encouraging participation in CACFP.
 - Continue to simplify application process for shelter participation in CACFP.
 - Collect and report data on shelter participation rates in CACFP.

Conclusions

Access to food is a basic, well-recognized human right. When a person is experiencing homelessness, he or she often loses consistent access to food, in addition to shelter. When sharing food is limited or prohibited, cities are violating that right.

Harmful myths about homeless people and their access to food lead to attitudes and laws that penalize food sharing in public settings. Local soup kitchens and food pantries have neither the capacity nor quantity of food to meet the needs of people experiencing homelessness and hunger in their communities. It is a false assumption that all people who are homeless are well enough or physically able to travel to the specific locations where food is served or distributed indoors. Food sharing in public settings allows for the most vulnerable population to have access to food. It is, perhaps, the only way they have the opportunity to access healthy, safe food. This connection between homeless people and food sharing groups can be the first step for those individuals to find out about services that would move them out of homelessness and into housing.

Although some communities have created models of providing food to homeless individuals and are addressing hunger among the homeless population, many others continue to target organizations that share food and homeless people through food sharing restrictions. When individuals and groups are penalized for sharing food, cities are not simply denying access to food, but taking measures that are inhumane, and sometimes contrary to domestic and international law. Creating or arbitrarily enforcing ordinances for the sole purpose of prohibiting food sharing or moving homeless people out of sight ignores the root causes of homelessness, such as lack of affordable housing, shelter space, social services, and job opportunities.

When individuals and groups have extra food to share with others who go without, they should not be denied the opportunity to do so. As the country continues to feel the effect of the current economic crisis, more men, women and children are facing homelessness and hunger. Only by expanding and strengthening existing federal nutrition programs, increasing collaboration between cities and service providers, and continuing to develop new innovative programs to address hunger can the great need begin to be met.