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## When Poverty is the Diagnosis: The Health Effects of Living Without on the Individual

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## When Poverty is the Diagnosis: The Health Effects of Living Without on the Individual

Emily A. Benfer and Amanda M. Walsh\*

### INTRODUCTION

Poverty is the most serious and ignored public health crisis of the twenty-first century. The health of approximately 46.7 million individuals, who are predominantly low income and minorities, is threatened by the social determinants of health.<sup>1</sup> For people experiencing poverty, the social determinants of health—the social, economic, cultural, and environmental conditions that influence individual and group health status—largely dictate overall health outcomes. In turn, individual and community health affects everyone, regardless of income level or minority status. For example, it dictates crime levels, quality of education, real estate markets, and healthcare costs, and is relevant in nearly every law and courtroom.<sup>2</sup> Yet the

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<sup>1</sup> See Emily A. Benfer, *Health Justice: A Framework (and Call to Action) for the Elimination of Health Inequality and Social Injustice*, 65 AM. U. L. REV. 2 (2015); see also Carmen DeNavas-Walt & Bernadette D. Proctor, *U.S. Census Bureau, Income and Poverty in the United States: 2014* 12 (2015), <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p60-252.pdf/>.

<sup>2</sup> See Benfer, *supra* note 1 (describing how efforts to improve health among low-income and minority communities are impeded by inequitable social structures, stereotypes, as well as legal systems and regulatory schemes that are not designed to contemplate the social determinants of health in decision-making models and legal interpretation).

healthcare system, even at its optimal level of functioning, will not improve the health of all members of society unless the underlying causes of poor health are addressed. Under current laws and systems, when poverty is the diagnosis, there are no treatment options.

One cannot address the topic of living without in America without first hearing the individuals who experience the issue on a daily basis. Collectively, the authors have advocated for or supervised the representation of over three thousand individual clients experiencing situations that affect their health.<sup>3</sup> These clients represent the millions of people living in poverty who face injustice on a daily basis and struggle against the social factors that threaten their health and wellbeing.<sup>4</sup> These individuals have experienced firsthand the way their plights, and even their identities and experiences, are hidden from society's consciousness.

This Article is designed to bring the individuals experiencing the subject of the symposium, "Living Without in America," into the discussion.<sup>5</sup> Through their stories, this Article illustrates the relationship between poverty and poor health, the deep-rooted barriers to overcoming both, and the complexity of the issues. It also demands an answer to a question asked by a little girl in 2003. The little girl, Tysha, and her family became homeless after a summer storm flooded their apartment through a large hole in the roof. During the initial client interview with Tysha's mother, the four-year-old drew pictures of rainbows, held the author's hand and whispered, "You are my best friend."<sup>6</sup> At the end of the meeting, as the family left the building, Tysha stopped and turned around. Then, she asked the defining question: "Are you really going to help us?"<sup>7</sup>

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3 One of the authors, Emily Benfer, began her career as an Equal Justice Works Fellow working with homeless families and children in Washington, D.C., just blocks away from the nation's capital building. She went on to represent children with disabilities in a class action against the District of Columbia, serve as a legislative supervising attorney and Teaching Fellow in Georgetown Law's Federal Legislation and Administrative Clinic, and direct and teach in the Health Justice Project at Loyola University Chicago School of Law. The other, Amanda Walsh, was a student in Professor Benfer's Health Justice Project clinic, and is just beginning her legal career as an Equal Justice Works Fellow. She is focused on the rights of families with mental illness in Illinois. Prior to becoming a lawyer, Walsh advocated for low-income clients interacting with the criminal justice and mental health care systems through her Master of Social Work degree.

4 For 2015, the federal poverty guidelines define a family of four with an income of \$24,250 or below as living in poverty. OFF. OF THE ASSISTANT SEC'Y FOR PLANNING & EVALUATION, U.S. DEP'T OF HEALTH & HUM. SERVS., 2015 POVERTY GUIDELINES (2015), <http://aspe.hhs.gov/poverty/15poverty.cfm/>. See Benfer, *supra* note 1, at 278–306.

5 Symposium, *Living Without in America*, Indiana Journal of Law & Social Equality (2015).

6 Unless the authors received express permission otherwise, all client names in this article have been changed and any identifying details removed to maintain anonymity. The citations provided by the authors are from personal recollection.

7 *Id.*

Tysha's question has yet to be answered on a national level. Tysha, Mrs. B, Ms. W, Henry, Makayla, Samantha, Mr. G, and everyone in a similar situation knows all too well that, when poverty is the diagnosis, you can never go home again, your childhood determines lifelong poor health, and you are invisible and voiceless.

## I. NEVER GO HOME AGAIN

It is undeniable that healthcare, alone, is not the determining factor in individual health.<sup>8</sup> Healthcare is designed to address acute health problems, whereas health is determined largely by social factors especially for those living in poverty.<sup>9</sup> For example, the authors encountered Ms. W and Mrs. B in the Health Justice Project,<sup>10</sup> a medical-legal partnership law school clinic designed to resolve poor health outcomes among low-income patients by addressing the social issues that cause them.<sup>11</sup> In both cases, a pediatrician recognized the link between the patient's diagnosis and the environment in which the child lived and referred the patient for legal intervention. Substandard housing conditions can wreak havoc on an individual's health, resulting in dermatitis, respiratory distress, asthma, lead poisoning, and injuries, among other harms.<sup>12</sup>

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8 "There is more to health than health care." Risa Lavizzo-Mourey & David R. Williams, *Strong Medicine for a Healthier America: Introduction*, 40 AM. J. PREVENTIVE MED. S1, S1 (2011).

9 Benfer, *supra* note 1, at 278-305.

10 See *supra* note 6 discussion.

11 See HEALTH JUSTICE PROJECT: LOYOLA U. CHI. S. L., <http://luc.edu/law/centers/healthlaw/hjp/index.html> (last visited July 31, 2015). Since its founding in 2010, the Health Justice Project has served over 2,000 low-income patients of Erie Family Health Center in the medical-legal partnership model. The National Center Medical-Legal Partnership (NCMLP) defines the medical-legal partnership model as an "approach to health that integrates the expertise of health care, public health and legal professionals and staff to address and prevent health-harming social and civil legal needs for patients, clinics and populations." *Issue Brief on Medical-Legal Partnership and Health Centers*, NAT'L CTR. FOR MED.-LEGAL P'SHIP, (Feb. 20, 2015), <http://medical-legalpartnership.org/new-issue-brief-medical-legal-partnership-health-centers/>. The NCMLP, which was founded in 2006, tracks medical-legal partnerships across the nation; currently, these partnerships have been established with 292 healthcare institutions, 36 health and 51 law schools, and 142 legal aid agencies and 71 pro bono partners in 36 states. *Partnerships Across the U.S.*, NAT'L CTR. FOR MED.-LEGAL P'SHIP, <http://medical-legalpartnership.org/partnerships/> (last visited Sep. 8, 2015).

12 According to the Surgeon General, "In the United States today, the leading preventable causes of death, disease, and disability are asthma, lead poisoning, deaths in house fires, falls on stairs and from windows, burns and scald injuries and drowning in bathtubs and pools." U.S. DEP'T. OF HEALTH & HUMAN SERVS., OFFICE OF THE SURGEON, THE SURGEON GENERAL'S CALL TO ACTION TO PROMOTE HEALTHY HOMES, NAT'L CTR. FOR BIOTECHNOLOGY INFO., vii (2009), [http://www.ncbi.nlm.nih.gov/books/NBK44192/pdf/Bookshelf\\_NBK44192.pdf](http://www.ncbi.nlm.nih.gov/books/NBK44192/pdf/Bookshelf_NBK44192.pdf).

### A. *Ms. M*

Ms. M is one of the more “fortunate” low-income single mothers because she qualifies for benefits from the government. For a family of Ms. M’s size and need, her approximate monthly assistance should include Temporary Assistance to Needy Families<sup>13</sup> in the amount of \$500, Supplemental Security Income<sup>14</sup> (because her disability prevents her from working) in the amount of \$700, “food stamps” in the amount of \$900, and a rental assistance voucher through the Housing Choice Voucher Program<sup>15</sup> that covers all but \$75 of her rent. Not including the rental credit, this amounts to just over \$25,000 in benefits annually, assuming her benefits are not reduced or terminated, as is often the case.<sup>16</sup> These benefits are intended to help Ms. M make ends meet, even though they do not lift her out of the federal definition of poverty. Yet, since she is unable to work, she almost always comes up short with her rent, her utility bills, and her grocery bill. She is overwhelmed by stress, anxiety, and depression. It is questionable whether the single-family apartment is worth the rent she pays. The basement is flooded, there are bed bugs, roaches, and mice overrunning the home, and the landlord does not respond to requests for repairs.

In fact, her housing is the source of many concerns. In 2011, Ms. M’s children were diagnosed with lead poisoning. Their blood lead levels had reached levels well above the Centers for Disease Control and Prevention reference value.<sup>17</sup> No blood lead level is safe for children.<sup>18</sup> Lead is a neurotoxin that attacks the nervous system and permanently disables cognition and behavior, ultimately leading to academic failure, behavioral problems, development delay, seizure disorders, and even

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<sup>13</sup> The Temporary Assistance for Needy Families program was created by the Personal Responsibility and Work Opportunity Act, Pub. L. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 42 U.S.C.).

<sup>14</sup> Created in 1974, the Supplemental Security Income program provides stipends to low-elderly and disabled individuals.

<sup>15</sup> The Housing Choice Voucher Program provides rental assistance for low-income households.

<sup>16</sup> For example, the first client of the Health Justice Project has been a client for five years because every few months, regardless of the many meetings or appeals correcting the situation, his benefits have been terminated or reduced without any justifiable explanation.

<sup>17</sup> In 2012, the CDC replaced the term “blood lead level of concern” with a “reference value” that is updated every four years. CTRS. FOR DISEASE CONTROL & PREVENTION, CDC RESPONSE TO ADVISORY COMM. ON CHILDHOOD LEAD POISONING PREVENTION: RECOMMENDATIONS IN “LOW LEVEL LEAD EXPOSURE HARMS CHILDREN: A RENEWED CALL OF PRIMARY PREVENTION” 16 (2012), [http://www.cdc.gov/nceh/lead/acclpp/cdc\\_response\\_lead\\_exposure\\_recs.pdf](http://www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf).

<sup>18</sup> ENVTL. PROT. AGENCY, REPORT ON THE NATIONAL SURVEY OF LEAD-BASED PAINT IN HOUSING vi (1995), <http://www2.epa.gov/sites/production/files/documents/r95-003.pdf>. A blood lead level as low as three results in decreased end-of-grade test scores. CTRS. FOR DISEASE CONTROL & PREVENTION, EDUCATIONAL INTERVENTIONS FOR CHILDREN AFFECTED BY LEAD viii (2015), [http://www.cdc.gov/nceh/lead/publications/educational\\_interventions\\_children\\_affected\\_by\\_lead.pdf](http://www.cdc.gov/nceh/lead/publications/educational_interventions_children_affected_by_lead.pdf).

death.<sup>19</sup> “It is estimated that for each microgram per deciliter of [lead in the] blood[stream], a child can lose .52 IQ points. For each IQ point lost, a child makes between an estimated \$16,809 less over the course of his or her lifetime.”<sup>20</sup> Yet, under the current regulations, Ms. M’s situation was not an emergency that would trigger remediation of the lead hazard or entitle her to an expedited move out of the unit harming her children.<sup>21</sup>

Ms. M’s children are no exception and already exhibit signs of delay and qualify for individualized education plans through the special education system.<sup>22</sup> The lead poisoning of Ms. M’s children also affects society as a whole. Lead poisoning puts children at risk of future juvenile delinquency and crime due to loss of emotion regulation and impulse control.<sup>23</sup> In fact, recent research has uncovered a disturbing correlation between lead poisoning and crime in Englewood, a neighborhood notorious for being one of the most violent in Chicago: “A map of lead poisoning rates among children younger than six in 1995, for instance, looks very similar to a map of aggravated assault rates in 2012, when those kids were 17 to 22 years old.”<sup>24</sup>

<sup>19</sup> See Benfer, *supra* note 1, at 13–16, 46–51.

<sup>20</sup> *Savings to the Community From Lead Poisoning Prevention*, LEAD SAFE ILL. 1 (Sept. 2009), <http://www.lead-safe-illinois.org/uploads/documents/FactSheetSavingstocommunity.pdf>.

<sup>21</sup> See HEALTH JUSTICE PROJECT: LOYOLA U. CHI. S. L., *supra* note 11.

<sup>22</sup> Pursuant to Part B of the Individuals with Disabilities Education Act (IDEA), every “public school child who receives special education and related services must have an Individualized Education Program (IEP). . . . To create an effective IEP, parents, teachers, other school staff—and often the student—must come together to look closely at the student’s unique needs. These individuals pool knowledge, experience, and commitment to design an educational program that will help the student be involved in, and progress in, the general curriculum. The IEP guides the delivery of special education supports and services for the student with a disability.” U.S. DEPT. OF EDUC., A GUIDE TO THE INDIVIDUALIZED EDUCATION PROGRAM 1 (2000), <http://www2.ed.gov/parents/needs/spec-ed/iepguide/iepguide.pdf>.

<sup>23</sup> *Lead Poisoning and Health*, WORLD HEALTH ORG., <http://www.who.int/mediacentre/factsheets/fs379/en/> (last visited July 10, 2015). Most kids in the U.S. today have a blood-lead level of 1 or 2 µg/dL. But there are nearly a half-million children between the ages of one and five with a blood lead level above the 5-µg/dL threshold. These are mostly kids who are growing up in dilapidated inner-city houses with lead paint still on the walls or in neighborhoods with elevated levels of lead in the soil. Lauren K. Wolf, *The Crimes of Lead*, 92 CM. & ENG’G NEWS 27, 28 (2014), <http://cen.acs.org/articles/92/i5/Crimes-Lead.html/>. Despite progress in lowering lead levels in the environment, these kids would benefit from the reevaluation of crime policies and reinvigoration of cleanup efforts, says University of Colorado’s Stretesky. “People who are suffering the most from lead exposure are those that tend to be poor, minority, and low income.” *Id.*

<sup>24</sup> Michael Hawthorne, *Studies Link Childhood Lead Exposure, Violent Crime*, CHI. TRIB. (Jun. 6, 2015), <http://www.chicagotribune.com/news/watchdog/ct-lead-poisoning-science-met-20150605-story.html#page=1>.

As a Housing Choice Voucher Program participant, Ms. M trusted trained and certified government employees to confirm that her housing would be safe for her children. However, federal regulations only required that the inspector conduct a visual assessment of lead hazards prior to approving the unit for occupancy.<sup>25</sup> While a visual inspection might be time and cost-effective, it does not guarantee the safety of the home and, in Ms. M's case, it did not protect her children from the permanent effects of lead poisoning. In fact, no lead laws are designed to entirely prevent lead poisoning and rarely require intervention before a child's blood lead level is above 5 µg/dL.<sup>26</sup> Pre-rental inspections, along with other primary prevention approaches, could greatly reduce the incidence of lead poisoning and the devastating consequences for health caused by indoor environmental hazards.<sup>27</sup>

Thinking of her children's wellbeing, Ms. M searched for a place for her family to live. This time, with the assistance of advocates, Ms. M requested that the local Department of Public Health conduct a lead inspection. She knew all too well that the housing authority's inspection, which is required in federally funded housing and by the housing authority,<sup>28</sup> was not thorough enough to protect her children. In her urgency to move, while she did find lead-safe housing, she was unable to find housing in a neighborhood where she and her children felt physically safe.

## B. Mrs. B

When Mrs. B moved into her new apartment she noticed that the walls would "sweat" whenever she cooked for her family. By March, she noticed black spots on the exposed pipe in the shower. In July, the mold had spread to the wall behind the toilet and next to the sink. It crept along the floor into the living room and attached

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<sup>25</sup> U.S. DEP'T OF HOUS. & URBAN DEV., CH. 10: HOUSING QUALITY STANDARDS 18 (2001), <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/7420g10GUID.pdf>.

<sup>26</sup> Despite the permanent effects any blood lead level can cause, the Centers for Disease Control and Prevention (CDC) states that public health intervention is necessary when blood lead levels reach 5 µg/dL. See CTRS. FOR DISEASE CONTROL & PREVENTION, *supra* note 18, at viii. For additional information on the effects of lead poisoning and the policies surrounding lead poisoning, see Benfer, *supra* note 1, at 13–16, 46–51.

<sup>27</sup> See generally Policy & Advocacy HEALTH JUSTICE PROJECT: LOYOLA U. CHI. S. L Health Justice Project, <http://luc.edu/law/centers/healthlaw/hjp/policy.html> (last visited Sept. 18, 2015).

<sup>28</sup> The housing quality standards that apply to the Housing Choice Voucher program. See 24 C.F.R. § 982.401 (1995). "All program housing must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy." *Id.* § 982.401(a)(3). 24 C.F.R. § 982.401(j) provides: "Lead-based paint performance requirement. The Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821–4846 (2012), the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851–4856 (2012), and implementing regulations at part 35, subparts A, B, M, and R of this title apply to units assisted under this part."

itself to the couch. In the bedroom, it trailed under the bed and onto the bedframe. Mrs. B slept under the blistered and warped, water-damaged ceiling and worried about her son, who had developed a deep cough since moving in. The pediatrician explained that her son was having a severe asthmatic and allergic reaction to the mold. When Mrs. B informed the landlord about the issues and described the mold growing on their belongings, including their clothes, the landlord told her it was her family's fault for being dirty people. Mrs. B called the city helpline and was told by the operator that she had no recourse because she resided in the apartment with knowledge of the mold. Mrs. B had no choice but to move out of the apartment, becoming homeless, and "couch-surfing"<sup>29</sup> with friends until she could save the money for a security deposit at a new apartment.

Substandard housing conditions, including mold and infestations, often lead to disabling health problems including asthma, allergy, and respiratory distress.<sup>30</sup> There are six million children like Mrs. B's son.<sup>31</sup> Asthma is the leading chronic pediatric disease in the United States.<sup>32</sup> Children with asthma require constant monitoring and treatment through medications, and must avoid common triggers, such as mold and other infestations.<sup>33</sup> The substandard housing conditions leading to mold and infestations are most commonly found in public housing and low-income neighborhoods.<sup>34</sup> A nationwide analysis found that government-funded

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29 "Couch surfing" refers to the population of homeless individuals and families who stay with friends and family. Alan Hoback & Scott Anderson, *Proposed Method for Estimating Local Population of Precariously Housed*, NAT'L COAL HOMELESS 1 (last visited Sept. 18, 2015), <http://nationalhomeless.org/publications/precariouslyhoused/Hobackreport.pdf>. For more information on homelessness, see NAT'L COAL HOMELESS, <http://nationalhomeless.org/> (last visited July 31, 2015); see also NAT'L LAW CTR. HOMELESSNESS & POVERTY, <http://www.nlchp.org/> (last visited July 31, 2015).

30 See, e.g., Helen Fields, *Household Mold Links to Childhood Asthma*, NAT'L INST. HEALTH (Aug. 20, 2012), <http://www.nih.gov/researchmatters/august2012/o8202012molds.htm>.

31 CTRS. FOR DISEASE CONTROL AND PREVENTION, *Most Recent Asthma Data*, [http://www.cdc.gov/asthma/most\\_recent\\_data.htm](http://www.cdc.gov/asthma/most_recent_data.htm) (last updated Oct. 2, 2015); see also Benfer, *supra* note 1, at 16–18.

32 See CTRS. FOR DISEASE CONTROL AND PREVENTION, *supra* note 24; Benfer, *supra* note 1, at 16–18; ASTHMA & ALLERGY FOUND. OF AM., <https://www.aafa.org/display.cfm?sub=42&id=8/> (last visited Sept. 25, 2015).

33 See Johnna S. Murphy & Megan T. Sandel, *Asthma and Social Justice: How to Get Remediation Done*, 41 AM. J. PREVENTATIVE MED. S57 (2011); see also Carolien Dekker, Robert Dales, Sheryl Bartlett, Bert Brunekreef, & Harry Zwanenburg, *Childhood Asthma and the Indoor Environment*, 100 CHEST 922 (1991).

34 A study of Illinois public housing residents found that fifty-three percent had mold or mildew, thirty-one percent had a cockroach infestation, and twenty percent had a rodent infestation. Victoria Persky, Mary Turyk, Julie Piorkowski, Lenore Coover, John Knight, Cynthia Wagner, Eva Hernandez, Kamal Eldeirawi, & Anne Fitzpatrick, *Inner-City Asthma: The Role of Community*, 132 CHEST 831, 832 (2007), [http://www.researchgate.net/profile/Mary\\_Turyk/publication/5849270\\_inner-city\\_asthma\\_the\\_role\\_of\\_the\\_community/links/0a85e53b46f2694db0000000.pdf](http://www.researchgate.net/profile/Mary_Turyk/publication/5849270_inner-city_asthma_the_role_of_the_community/links/0a85e53b46f2694db0000000.pdf).

public housing apartments had three times as many leaks, often leading to mold, and nearly four times as many roach infestations as private apartments.<sup>35</sup> For children living in these types of units and in poverty, these environmental hazards have led to increased rates of asthma. For example, Philadelphia's two communities with the highest number of children living in poverty have rates of asthma at 40% and 47%; St. Louis's poorer neighborhoods have rates between 30% and 40%; in New York City, the impoverished neighborhood of East Harlem has rates at 19%, compared to its affluent neighbor, the Upper East Side, at just 7%.<sup>36</sup>

The consequences of mold and other infestations are great: asthma is the leading cause of school absences, causing 48.6% of all absences,<sup>37</sup> and accounted for 14.2 million missed days of work in 2008.<sup>38</sup> These absences can lead to further instability for a family, such as unemployment<sup>39</sup> and termination from public housing.<sup>40</sup> Current remedies to these issues require legal representation.<sup>41</sup> Building inspections would be an effective way to hold landlords accountable;<sup>42</sup> however, inspections are rarely conducted or enforced due to a fragmented system of housing

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35 Amelia Krales, *Mold, Mice, and Zip Codes: Inside the Childhood Asthma Epidemic*, NBC NEWS (Jan. 3, 2014), [http://inplainsight.nbcnews.com/\\_news/2014/01/03/22149240-mold-mice-and-zip-codes-inside-the-childhood-asthma-epidemic](http://inplainsight.nbcnews.com/_news/2014/01/03/22149240-mold-mice-and-zip-codes-inside-the-childhood-asthma-epidemic).

36 *Id.*

37 CTR. FOR DISEASE CONTROL & PREVENTION, *Asthma Facts: CDC's National Asthma Control Program Grantees* 8 (July 2013), [http://cdc.gov/asthma/pdfs/asthma\\_facts\\_program\\_grantees.pdf](http://cdc.gov/asthma/pdfs/asthma_facts_program_grantees.pdf). Asthma accounts for more than 10.5 million total missed school days per year. ASTHMA & ALLERGY FOUND. OF AM., *supra* note 32.

38 CTR. FOR DISEASE CONTROL & PREVENTION, *Asthma's Impact on the Nation: Data from the CDC National Asthma Control Program*, [http://cdc.gov/asthma/impacts\\_nation/asthmafactsheet.pdf](http://cdc.gov/asthma/impacts_nation/asthmafactsheet.pdf).

39 See Dan Witters, *Employed Americans in Better Health Than the Unemployed: The Underemployed More Likely to Be Obese, Have Diabetes, and Have Asthma*, GALLUP (June 29, 2012), <http://www.gallup.com/poll/155408/employed-americans-better-health-unemployed.aspx>.

40 States can include school absences as a basis for public housing termination. *E.g.*, MIAMI-DADE CNTY., PUBLIC HOUSING AND COMMUNITY DEVELOPMENT: ADMISSIONS AND CONTINUED OCCUPANCY POLICY § 13, at 69–70 (2013), <http://www.miamidade.gov/housing/library/reports/2013-proposed-plans/2013-proposed-acop.pdf>.

41 Legal interventions include a warrant of habitability certifying a home is safe and free of hazardous conditions, placing responsibility on landlords for any housing code violations. Health Justice Project, *Barrier to Health: Asthma*, LOYOLA U. CHI. SCH. L. 1, [http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/policy\\_barriers\\_asthma.pdf](http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/policy_barriers_asthma.pdf).

42 In many cities, such as Chicago and New York City, building inspections only occur once a complaint is made. See *Inspections, Permitting, and Licensing*, CITY CHI., <http://www.cityofchicago.org/city/en/progs/inspectionspermitting.html> (last visited July 22, 2015); *Healthy Indoors: Mold*, N.Y.C. DEP'T HEALTH & MENTAL HYGIENE, <http://www.nyc.gov/html/doh/html/environmental/mold.shtml> (last visited July 22, 2015).

regulation.<sup>43</sup> Even then, it is often too late because the harm to health and property has occurred.<sup>44</sup> Similar to lead poisoning, preventative efforts are necessary to fully remedy the consequences of mold and infestations.<sup>45</sup>

Fortunately, Mrs. B and her son recovered from the mold exposure. She was one of the few low-income people able to obtain pro bono representation. In a rare outcome, she was awarded \$6,100 for damaged property and rent overpaid in an apartment that violated the warranty of habitability.<sup>46</sup> In her words, “It felt like there was justice out there. The judge listened to me and didn’t throw out my case. I felt like a fair sentence was served.”<sup>47</sup>

David E. Jacobs, Ph.D., a professor at the University of Illinois at Chicago School of Public Health, said, “It makes no sense to treat children in the hospital and then release them to the home that made them sick in the first place. Our two biggest sectors in crisis are housing and health; both are linked and both must be fixed.”<sup>48</sup> Ms. W’s and Mrs. B’s stories demonstrate the reality and urgency of this statement.

## II. CHILDHOOD DETERMINES LIFELONG POOR HEALTH

Studies have shown that childhood experiences dictate health outcomes as an adult. One study, the Adverse Childhood Experiences Study (“ACE Study”), found a correlation between adverse childhood experiences and an individual’s health as

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43 See, e.g., *A City and Countywide Summit to Advance Healthy Homes & Healthy Communities in Chicago and Cook County, Illinois*, CTR. HUM. RTS. CHILD. 16 (2014), <http://www.luc.edu/media/lucedu/chrc/pdfs/A%20City%20and%20Countywide%20Summit%20to%20Advance%20Healthy%20Homes%20&%20Healthy%20C.pdf> [hereinafter *Summit to Advance Healthy Homes & Healthy Communities*].

44 See Benfer, *supra* note 1, at 300–302 (discussing the need for primary prevention policies).

45 An example of a primary prevention policy concerning environmental hazards in the home is the proposed Chicago Healthy Homes Inspection Program (CHHIP). E.g., *Chicago Healthy Homes Inspection Program*, METROPOLITAN TENANTS ORG., <http://www.tenantsrights.org/programs/legislation/chhip/> (last visited July 22, 2015). CHHIP is a proactive inspection program that would identify health hazards and other maintenance needs and require the landlord to address any issues before a tenant moves in. See *id.*

46 “Most jurisdictions read residential leases to include an *implied warranty of habitability*. This warranty requires landlords to keep their property ‘habitable,’ even if the lease does not specifically require them to make repairs. Furthermore, the warranty conditions a tenant’s duty to pay rent on the landlord’s duty to maintain a habitable living space.” *Implied Warranty of Habitability*, CORNELL U. L. SCH., [https://www.law.cornell.edu/wex/implied\\_warranty\\_of\\_habitability](https://www.law.cornell.edu/wex/implied_warranty_of_habitability) (last visited July 31, 2015).

47 *Health Justice Project*, LOYOLA U. CHI. SCH. L. 4 (Summer 2014), <http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/Health%20Justice%20Project%20Summer%202014%20Newsletter.pdf>.

48 *Summit to Advance Healthy Homes & Healthy Communities*, *supra* note 43, at 6.

an adult.<sup>49</sup> The study identified ten adverse experiences, most of which are common in poverty: emotional abuse, physical abuse, sexual abuse, emotional neglect, physical neglect, mother treated violently, household substance abuse, household mental illness, parental separation or divorce, and incarcerated household member.<sup>50</sup> Children living in poverty commonly experience situations involving “household dysfunction” and neglect.<sup>51</sup> For example, most families have difficulty accessing reliable and timely transportation to doctor appointments or jobs;<sup>52</sup> 46.5% of these families are single-parent households,<sup>53</sup> and 30.9% of adults in poverty are diagnosed with depression.<sup>54</sup> The more of these experiences that a child endures, the more likely a child will develop health difficulties, including heart disease, diabetes, liver disease, and depression, in adulthood.<sup>55</sup>

Sadly, Henry and Makayla’s stories are not unique from these findings. Most likely, their parents also experienced adverse childhood experiences that contributed to their own health problems in adulthood, leading to an intergenerational cycle of childhood trauma and adult disease.

#### A. *Henry*

Henry, who loved his trucks and crayons, first experienced homelessness and poverty as an infant. His mother, Jessica, lives with bipolar disorder,<sup>56</sup> and like the

<sup>49</sup> See CTRS. FOR DISEASE CONTROL & PREVENTION, *Adverse Childhood Experiences Study* <http://www.cdc.gov/violenceprevention/acestudy/findings.html> (last visited July 10, 2015); see also Benfer, *supra* note 1, at 20–22.

<sup>50</sup> Benfer, *supra* note 1.

<sup>51</sup> For an in-depth discussion on the correlation of adverse childhood experiences to circumstances of poverty, see Benfer, *supra* note 1, at 20–22.

<sup>52</sup> Mikayla Bouchard, *Transportation Emerges as Crucial to Escaping Poverty*, N.Y. TIMES (May 7, 2015), [http://www.nytimes.com/2015/05/07/upshot/transportation-emerges-as-crucial-to-escaping-poverty.html?\\_r=0&abt=0002&abg=1](http://www.nytimes.com/2015/05/07/upshot/transportation-emerges-as-crucial-to-escaping-poverty.html?_r=0&abt=0002&abg=1). One extreme example of the importance of transportation is James Robertson of Detroit, Michigan who had to take a bus and walk twenty-one miles to get to work. Bill Laitner, *Heart and Sole: Detroiters Walks 21 Miles in Work Commute*, DETROIT FREE PRESS (Feb. 10, 2015), <http://www.freep.com/story/news/local/michigan/oakland/2015/01/31/detroit-commuting-troy-rochester-hills-smart-ddot-ubs-banker-woodward-buses-transit/22660785/>.

<sup>53</sup> Carmen DeNavas-Walt & Bernadette D. Proctor, *Income and Poverty in the United States: 2013* U.S. CENSUS BUREAU 16 (2014), <https://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-249.pdf>.

<sup>54</sup> Alyssa Brown, *With Poverty Comes Depression, More Than Other Illnesses: Many in Poverty Lack Access to Health Basics Needed to Treat or Prevent Illnesses*, GALLUP 2 (Oct. 30, 2012), <http://www.gallup.com/poll/158417/poverty-comes-depression-illness.aspx> (as compared to 15.8% of people not living in poverty).

<sup>55</sup> *Id.* at 5.

<sup>56</sup> Eighteen percent of adults are diagnosed with a mental illness. SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., *Behavioral Health, United States, 2012*, xxiii (2013), <http://media.samhsa.gov/d>

majority of low-income people, does not have access to mental health treatment.<sup>57</sup> She is unable to maintain stable employment or housing. Untreated, Henry's mother was repeatedly incarcerated for offenses such as disturbing the peace, becoming one of the many individuals with mental illness in Cook County Jail, notoriously known as the largest "mental health provider" in the country.<sup>58</sup> It was during one of these times on the streets that Henry was removed from Jessica and placed into foster care, where he lived until he met Mrs. L.

Mrs. L adopted Henry as a toddler and tried to provide for him. At age eight, however, Henry began to act disruptive and violent, and he was eventually diagnosed with oppositional defiant disorder (ODD) and conduct disorder (CD).<sup>59</sup> Mrs. L immediately pursued every treatment option available to her. Outpatient therapy multiple times per week at a local free mental health clinic in Chicago seemed to help until Henry lost his therapist. The city closed half of its mental health clinics as an attempt to "improve care."<sup>60</sup> Next, Mrs. L sought treatment covered by her health insurance. The nearest approved therapist was ninety minutes from their home, and her insurance only guaranteed coverage for a limited number of appointments. Mrs. L's struggle to find accessible and adequate mental health care for Henry is a common experience: less than 20% of children like Henry receive the treatment they need.<sup>61</sup>

Despite Mrs. L's efforts and commitment to his wellbeing, Henry was hospitalized six times before he turned ten years old. During his last hospitalization, Mrs. L's health insurance coverage refused to cover any additional inpatient stays.<sup>62</sup>

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ata/2012BehavioralHealthUS/2012-BHUS.pdf. From 2013–2014, 40% of individuals with severe mental illness (schizophrenia, bipolar disorder, and major depression) received no treatment at all. Rick Jervis, *Mental Disorders Keep Thousands of Homeless on the Streets*, USA TODAY (Aug. 27, 2014), <http://www.usatoday.com/story/news/nation/2014/08/27/mental-health-homeless-series/14255283/>.

57 As few as 29% of adults with mental illness can access adequate treatment. SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., *supra* note 56, at 24.

58 Matt Ford, *America's Largest Mental Hospital Is a Jail*, THE ATLANTIC (June 8, 2015), <http://theatlantic.com/politics/archive/2015/06/americas-largest-mental-hospital-is-a-jail/395012/>. It is estimated that as many as 40% of individuals with mental illness will end up incarcerated. *Id.*

59 He is one of the 20% of children who experience mental illness in the United States. Shannon Stagman & Janice L. Cooper, *Children's Mental Health: What Every Policymaker Should Know*, NAT'L CTR. FOR CHILD. IN POVERTY (Apr. 2010), [http://www.nccp.org/publications/pub\\_929.html](http://www.nccp.org/publications/pub_929.html).

60 Cheryl Corley, *Closure of Chicago Mental Health Clinics Looms*, NPR (Apr. 27, 2012), <http://www.npr.org/2012/04/27/151546358/closure-of-chicago-mental-health-clinics-looms>.

61 *Mental Health Myths and Facts*, MENTALHEALTH.GOV, <http://www.mentalhealth.gov/basics/myths-facts/> (last visited July 28, 2015).

62 A federal law, the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), Pub. L. No. 110-343 (2008), is aimed at preventing these kind of insurance denials for mental health treatment. The MHPAEA requires private and employer-sponsored insurance plans to cover mental

The Department of Children and Family Services told Mrs. L that if she relinquished custody to the state, the state would provide insurance and treatment. Mrs. L was forced to choose between her son and his care. Mrs. L eventually chose to relinquish custody as her only hope for getting Henry treatment.<sup>63</sup> The family Henry knew became a casualty of the failed mental health system for people in poverty. These adverse childhood experiences, which dictate his health well into adulthood, have already had a negative effect on Henry's health.

Children who move to foster care through custody relinquishment face multiple adverse health consequences, in addition to their untreated mental illness.<sup>64</sup> Children in foster care have a greater likelihood of developing post-

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health care at equal rates to what is covered for physical health conditions. The MHPAEA, however, does not statutorily extend to public insurance plans, such as Medicaid and Medicare, which serve low-income, disabled, and elderly Americans. Currently, no similar mental health parity protection law exists for these public plans; however, in April 2015, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule for mental health parity for Medicaid and the Children's Health Insurance Program (CHIP). *Mental Health Parity Proposed Rule for Medicaid and CHIP*, CTR. FOR MEDICARE & MEDICAID SERVS. (Apr. 6, 2015) <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2015-Press-releases-items/2015-04-06.html>.

<sup>63</sup> See Tracy J. Simmons, *Relinquishing Custody in Exchange for Mental Healthcare Services*, 10 J.L. & FAM. STUD. 377 (2007). For an in-depth discussion on how abuse and neglect proceedings influence these outcomes, see Benfer, *supra* note 1, at 30–39.

<sup>64</sup> The outcomes are just as bleak for those outside the foster care system. It is estimated that as many as 40% of individuals with mental illness will end up incarcerated, Ford, *supra* note 58, and one-fifth of the overall homeless population lives with a mental illness, Jervis, *supra* note 56. In order to avoid these outcomes, laws have been passed as an attempt to secure coverage for treatment, including the MHPAEA and the new benefit requirements under the Patient Protection and Affordable Care Act of 2010 (ACA), Pub. L. 111-148 (2010), including mental health and substance abuse treatment. *What Marketplace Health Plans Cover*, HEALTHCARE.GOV, <https://www.healthcare.gov/coverage/what-marketplace-plans-cover/> (last visited July 26, 2015). In addition the essential health benefits mandate, the ACA also provides states with the option to expand their Medicaid programs to cover single, childless adults with incomes below 133% of the federal poverty line. Many individuals with mental illness fall into this new category of eligibility. See JUDGE DAVID L. BAZELON CENTER FOR MENTAL HEALTH LAW, TAKE ADVANTAGE OF NEW OPPORTUNITIES TO EXPAND MEDICAID UNDER THE AFFORDABLE CARE ACT 1 (2012), <http://www.bazon.org/LinkClick.aspx?fileticket=cwAuDZLEmQI%3D&tabid> (“as a result of these [Medicaid eligibility] rules, many childless adults with serious mental illness have not been eligible for the program.”). While the ACA originally required all states to expand Medicaid to this new population, this provision was struck down by the Supreme Court in *National Federation of Independent Business v. Sebelius*, No. 11-393, slip op. at 2–3 (U.S. decided June 28, 2012) (holding that the requirement for states to expand Medicaid or face the penalty of losing all federal Medicaid funds was an invalid exercise of Congress' spending power). As of the date of this writing, thirty-one states have expanded Medicaid. *A 50 State Look at Medicaid Expansion*, FAMILIES USA (July 2015), <http://familiesusa.org/product/50-state-look-medicaid-expansion>. A recent study found that over half a million individuals with serious mental illness who wanted treatment could not access treatment because they lived in states that did not expand Medicaid. Michael Ollove, *Wanting Mental Health Treatment and Not Getting It*, PEW (Apr. 8, 2015), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/4/08/wanting-me>

traumatic stress disorder (PTSD) than combat veterans;<sup>65</sup> are more likely to be maltreated or sexually abused;<sup>66</sup> frequently experience trauma, depression, panic attacks, and anxiety disorders;<sup>67</sup> and are often less likely to receive adequate healthcare.<sup>68</sup> Twenty-four percent of those who age out of the foster care system end up homeless,<sup>69</sup> and 64% of those males and 32.5% of those females will end up incarcerated.<sup>70</sup> Other outcomes include unemployment<sup>71</sup> and early pregnancy.<sup>72</sup> Another child's story exemplifies the reasons for these devastating outcomes.

### B. Makayla

Makayla first entered the foster care system when she was five years old. Her mother had been arrested for drug use. Makayla eventually returned to her mother, but became a ward of the state at age ten after her mother died from a drug overdose. Within a few months, Makayla was diagnosed with developmental delay and low IQ, anxiety disorder, and adjustment disorder. Over the span of four years, she cycled through five foster families, two therapeutic foster homes, and three psychiatric hospitalizations. Then she was placed with the Smith family.

Makayla lived with the Smith family for nearly one year before her caseworker conducted a home visit. At the visit, the caseworker discovered that Makayla was living in a closet and subsisting off of the Smith's leftovers as her main meals. Makayla confided to the caseworker that her foster father had raped her multiple times every week. She was immediately removed from the home and placed in a new home, only to be hospitalized within two days for PTSD and severe depression—new mental health conditions that only developed after her placement into foster care. Makayla has been unable to live outside a mental health treatment facility ever since.<sup>73</sup>

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ntal-health-treatment-and-not-getting-it. However, these attempts at securing treatment are futile if mental health services are nonexistent; in recent years, states have cut \$5 billion from their mental health budgets. Liz Szabo, *Cost of Not Caring: Nowhere to Go—The Financial and Human Toll for Neglecting the Mentally Ill*, USA TODAY (May 12, 2014), <http://www.usatoday.com/story/news/nation/2014/05/12/mental-health-system-crisis/7746535/>.

<sup>65</sup> Elizabeth Ralston, *KinderLARDen Cop: Why States Must Stop Policing Parents of Obese Children*, 42 SETON HALL L. REV. 1783, 1814 (2012).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 1813.

<sup>68</sup> *Id.* at 1814.

<sup>69</sup> *Facts*, FIRST STAR (2015), <https://www.firststar.org/whats-at-stake/facts/>.

<sup>70</sup> *Id.*

<sup>71</sup> Clare Huntington, *Rights Myopia in Child Welfare*, 53 UCLA L. REV. 637, 694 n.258 (2006).

<sup>72</sup> *Id.*

<sup>73</sup> Sadly, several treatment centers, such as residential treatment facilities, are known for perpetrating similar abuse to what Makayla endured with the Smith family. For example, in Illinois,

Makayla's story demonstrates how damaging the loss of assistance from a family and a support system can be, as well as the inadequacy of substitute systems like foster care. In this example, adverse childhood experiences and the foster care system contributed to long-term and, most likely, lifelong poor health.

### III. YOU ARE INVISIBLE AND VOICELESS

Homelessness is often the consequence of poverty, domestic violence, eviction, and substandard housing conditions, among other unavoidable situations. The health consequences of homelessness and shelter residency are undeniable. It is estimated that as much as 70% of the homeless population does not have health insurance.<sup>74</sup> This exacerbates the devastating issues of individuals who are homeless, as they are "three to six times more likely to become ill" than those who are housed.<sup>75</sup> The experience of homelessness obstructs both preventative efforts, such as the provision of nutritious food or the ability to sustain personal hygiene and get enough sleep, and long-term maintenance efforts, such as the management of chronic diseases through consistent medications and frequent doctor visits for treatments.<sup>76</sup> Furthermore, homelessness leads to new health concerns through increased exposure to communicable diseases in shelters or harmful weather conditions outside.<sup>77</sup> To make these poor health conditions and outcomes even worse, the homeless population is overlooked and underserved. As Samantha's and Mr. G's stories demonstrate, they are often voiceless and powerless to overcome their conditions or circumstances.

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a recent Chicago Tribune investigation uncovered systemic abuse and neglect in state-operated residential facilities. See David Jackson & Gary Marx, *Harsh Treatment*, CHI. TRIB. (Dec. 2–8, 2014), <http://www.chicagotribune.com/news/watchdog/rtc/>. In part to this investigation and pursuant to a nearly three decade old consent decree demanding reforms to the foster care system, a federal court appointed an expert panel to analyze the services and placements provided by the Department of Child and Family Services (DCFS). *B.H. v. McDonald*, No. 88-C-5599 (N.D. Ill. Dec. 20, 1991). The expert's report, submitted to the court on July 23, 2015, stated, "[t]hese youth suffer from the pervasive impact of trauma due to neglect and abuse, and typically have lost a sense of trust in caregivers due to the combined effects of trauma and repeated placement and caregiver changes" and found that DCFS "has not adopted a sustainable model of practice which incorporates evidence-supported, evidence-informed, and promising practices." Mark F. Testa, Michael W. Naylor, Paul Vincent & Marci White, *Report of the Expert Panel: B.H. v. Sheldon Consent Decree*, ACLU ILL. 3, 4 (2015), <http://www.aclu-il.org/wp-content/uploads/2015/07/BH-Expert-Panel-Report-Efiled.pdf>.

<sup>74</sup> *Health Care and Homelessness*, NAT'L COAL. FOR HOMELESS (July 2009), <http://www.nationalhomeless.org/factsheets/health.html>.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Homelessness & Health: What's the Connection?*, NAT'L HEALTHCARE FOR HOMELESS COUNCIL 1 (June 2011), [http://www.nhchc.org/wp-content/uploads/2011/09/Hln\\_health\\_factsheet\\_Jan10.pdf](http://www.nhchc.org/wp-content/uploads/2011/09/Hln_health_factsheet_Jan10.pdf).

A. *Samantha*<sup>78</sup>

Every day, Samantha packed four of her six children's book bags with their clothes and toiletries because of the high likelihood that their address would change by the last school bell. While the older children were in school, Samantha and her two younger children (aged four months and three years, respectively) spent hours on city buses and trains trying to secure welfare benefits, such as food stamps and cash assistance, as well as healthcare and stable housing. When they were unsuccessful in navigating the overwhelming government systems or obtaining stability, the family's new address was often a friend's couch, a car, or even a storage locker. A consequence of the family's homelessness was the deterioration of their health: two children developed asthma, a third was diagnosed with developmental and speech delays, and another child was found to have a learning disability that required inpatient mental health treatment.

Samantha made every attempt to end her family's homelessness. Unable to secure employment or stretch her public aid benefits, she could not save enough money for a security deposit. Samantha often depended on the assistance of her city's telephone information system, 311, for help. The operator would most often refer her and other homeless callers to emergency rooms or police stations. In a study of 311 operators in Chicago, a mere 16% of operators offered detailed resources and assistance.<sup>79</sup> One operator even admonished Samantha for not saving her money for a security deposit.

Perhaps more troubling, the family's homelessness puts Samantha at risk of losing her children or facing additional criminal charges due to laws that criminalize homelessness. These measures "prohibit life-sustaining activities such as sleeping/camping, eating, sitting, and/or asking for money/resources in public spaces. These ordinances include criminal penalties for violations."<sup>80</sup> Although there are strategies for avoiding prosecution under many of these ordinances—such as asserting Fourth Amendment rights against unlawful search and seizure when a city confiscates personal property, or the right to sleep in public spaces when no shelter

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<sup>78</sup> Samantha was a client of the Health Justice Project during the 2010-2011 school year who gave permission to share her story. For additional press coverage on this client's story, see Meribah Knight, *Homeless Families in Illinois Walking a Hard Road*, N.Y. TIMES (Dec. 10, 2011), [http://nytimes.com/2011/12/11/us/homeless-families-walking-a-hard-road.html?\\_r=1](http://nytimes.com/2011/12/11/us/homeless-families-walking-a-hard-road.html?_r=1).

<sup>79</sup> *Id.*

<sup>80</sup> *Criminalization*, NAT'L COAL. FOR HOMELESS, <http://nationalhomeless.org/issues/civil-rights/> (last visited Feb. 28, 2016); see also Solvej Schou, *The Crime of Poverty: Some Homeless People Face Arrest for Asking for Help*, TAKEPART (Oct. 9, 2013), <http://www.takepart.com/article/2013/10/09/homeless-people-face-arrest-asking-help-some-places>.

space is available<sup>81</sup>—one survey found that up to 88% of homeless individuals did not believe that or “were unsure if they had [any] legal rights” at all.<sup>82</sup>

The reaction of the 311 operator and the prevalence of ordinances that criminalize homeless status<sup>83</sup> clearly demonstrate that individuals and families experiencing homelessness are voiceless in their circumstances and ignored by systems that are meant to help them.

## B. Mr. G

Mr. G was a father of four in a homeless shelter that resembled a condemned building—wrought with infestations, cracked walls and peeling paint, and unreliable plumbing. Families were crowded into communal-style rooms that were unsafe for children. These children were subjected to physical and emotional abuse. Shelter staff withheld blankets and food as punishment. The residents’ forward movement was thwarted. Their pleas for help, their human dignity, were ignored.

Mr. G and the other shelter residents organized. They orchestrated a City Council Committee on Human Services hearing on December 22, 2005 that brought cameras, newspapers, and the future mayor of Washington, D.C. to the shelter, D.C. Village.<sup>84</sup> When the committee members asked who would be testifying that day, in unison the residents rose and one by one told their story. They told how the shelter destroys a person’s spirit, how it made them sick. It affirmed what many of the residents believed: they were the forgotten, throw-away people, unworthy of help or compassion.<sup>85</sup>

One woman testified, explaining how they became homeless. “We in our own way are the victims of natural disasters. We are the victims of domestic violence, slum lords who won’t fix our roofs, unaffordable housing, and a poor economy, and other unavoidable things.”<sup>86</sup>

81 *Criminalization of Homelessness Legal Strategy Guides*, HEALTH JUSTICE PROJECT: LOYOLA U. CHI. S. L., [http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/policy\\_crim\\_legal.pdf](http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/policy_crim_legal.pdf) (last visited Feb. 28, 2016).

82 *Data Collection Resources to Support the End of Criminalization of Homelessness: Chicago Pilot Project*, HEALTH JUSTICE PROJECT: LOYOLA U. CHI. S. L. A-3 (May 18, 2012), [http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/policy\\_crim\\_data.pdf](http://luc.edu/media/lucedu/law/centers/healthlaw/pdfs/hjp/policy_crim_data.pdf).

83 See Sara K. Rankin, *A Homeless Bill of Rights (Revolution)*, 45 SETON HALL L. REV. 383, 393 (2015).

84 Theola S. Labbe, *At Shelter, Pleas for Reforms*, WASH. POST (Oct. 20, 2005), <http://washingtonpost.com/wp-dyn/content/article/2005/10/19/AR2005101902281.html>; COUNCIL OF THE DISTRICT OF COLUMBIA, COMMITTEE ON GOVERNMENT OPERATIONS, *Notice of Public Hearing* (Dec. 9, 2005), [http://dcregisterarchives.dc.gov/sites/default/files/dc/sites/OS/release\\_content/attachments/14285/12-09-05\\_4.pdf](http://dcregisterarchives.dc.gov/sites/default/files/dc/sites/OS/release_content/attachments/14285/12-09-05_4.pdf).

85 See *supra* note 6 discussion.

86 Labbe, *supra* note 83.

Then the children spoke: “I don't like the rats, the spiders, the cockroaches [at the shelter]. It's dirty, people talk mean, and people talk about other people and yell at the children. Kids at school tease me because I live here.”<sup>87</sup>

“Dear Councilmembers, Don't forget about us! We want a home for Christmas! Please build more HOUSES!”<sup>88</sup>

“I love the volunteers, I love to play, and I love going to the park. Can you take us to the park? Please? I love the park. You get to scream, you get to yell and run around, I feel so so happy at the park. I wish I could ride a bike.”<sup>89</sup>

“I live at the shelter; I think you forgot about us; we are the poor people who mostly live on the street; we need your help! We need food; we need houses; please help us.”<sup>90</sup>

Two months later, after minimal changes, the City Council Committee on Human Services returned to the shelter to learn more. After listening to her mother testify about the harm the shelter caused her family, nine-year-old T'Roya Jackson raised her hand and asked if she could read her testimony.<sup>91</sup>

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87      *See supra* note 6 discussion.

88      *Id.*

89      *Id.*

90      *Id.*

91      T'Roya Jackson gave the authors permission to reprint her testimony here. T'Roya Jackson, Address to D.C. Committee on Human Services (Dec. 22, 2005).

Before the Committee on Human Services  
December 22, 2005

My name is T'Roya Jackso and when I arrived to dc village I began to get sick more and I was scared because one of the old residents ~~was~~ ~~she~~ was mean and yells a lot and her dauter showed me bad pictures and because of the I started to pull out my her and wet the bed and If you can help us please do. ~~and~~ When we became homeless I started to worry ~~and~~ about where we are going to live and how and I worry about my mom because she gets sick a lot and she has a tumor and I worry about everybody. And when I see the leds at dc village I get scared that they will hurt each other because they seem like they have a lot of anger and stress please help us beut you do not have to worry because I will survive ~~then~~ because God has me when I grow up I want to be the mayor of dc and I know I will make it and my plan for the city is for it not to have to be a shelter and everybody will be in housing espiesally the children and when I get ~~my~~ my house I am going to thank the Lord for placing me there and I will dance please the homeless. Thank You

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92 *Id.* ("Before the Committee on Human Services / December 22, 2005 / My name is T'Roya Jackso and when I arrived to dc village I began to get sick more and I was scared because one of the old residents was mean and yells a lot and her dauter showed me bad pictures and because of the I started to pull out my her and wet the bed and If you can help us please do. When we became homeless I started to worry and about where we are going to live and how and I worry about my mom because she gets sick a lot and she has a tumor and I worry about everybody. And when I see the leds at dc village I get scared that they will hurt each other because they seem like they have a lot of anger and stress please help us beut you do not have to worry because I will survive because God has me when I grow up I want to be the mayor of dc and I know I will make it and my plan for the city is for it not to have to be a shelter and everybody will be in housing espiesally the children and when I get my house I am going to thank the Lord for placing me there and I will dance please the homeless. Thank you").

Finally, Mr. G sat at the hearing table. Like everyone else, he was asked to state his name and who he was. He took a breath and repeated exactly what society told him all of his life: “My name is no one and I am invisible.”<sup>93</sup> Mr. G held up a mirror for the city council and showed them society’s refusal to acknowledge him and everyone who endures poverty and homelessness.

Albert Schweitzer describes the spark of divinity in every human being in his work.<sup>94</sup> This is similar to the Quaker belief that everyone possesses a divine spark and an inner light.<sup>95</sup> Hardship begins when society fails to recognize that light or to confer basic human dignity. On the day that Mr. G testified, as the recorder scribed “no one” and “invisible” into the record,<sup>96</sup> it was clear that he and the other shelter residents had forced society to see and hear their undeniable humanity.<sup>97</sup> That day, the power of Mr. G and the residents of the family shelter was undeniable. In fact, their voices still echo today.

## CONCLUSION

Throughout the United States, people of all ages are experiencing poverty and its collateral health consequences. They are suffering in profound ways that affect their ability to achieve long-term health and stability. It is out of reverence and in honor of the spark of divinity that glows throughout humanity, lighting our way, that we have memorialized a few of our clients’ stories to ensure that their voices are heard, especially in discussions about those living without. Ms. W, Mrs. B, Henry, Makayla, Samantha, Mr. G, and the millions of people in similar situations make it clear that poverty, injustice, and health are inextricably linked. The achievement of health equity and social justice for those living in poverty requires swift action.

As advocates, our responsibility to these individuals includes not only providing them with a voice, but also advocating when they are left powerless, defeated, or ignored. We must work to implement policies that prioritize health

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<sup>93</sup> See *supra* note 6 discussion.

<sup>94</sup> See generally ALBERT SCHWEITZER, *The Dignity of the Individual*, in AN ANTHOLOGY (Charles R. Joy ed., 1947).

<sup>95</sup> See generally Hans Weening, *Meeting the Spirit: An Introduction to Quaker Beliefs and Practices*, QUAKER.ORG (1997), <http://charlestonwv.quaker.org/meeting-the-spirit.html>.

<sup>96</sup> See *supra* note 6 discussion.

<sup>97</sup> Bayard Rustin, who counseled Martin Luther King, Jr. on techniques of nonviolent resistance, has said, “When an individual is protesting society’s refusal to acknowledge his dignity as a human being, his very act of protest confers dignity on him.” Meredith Fenton, *We Remember Bayard Rustin*, ELLA BAKER CTR. FOR HUMAN RIGHTS (Aug. 24, 2012), <http://ellabakercenter.org/blog/2012/08/we-remember-bayard-rustin>.

through preventive measures; reform the systems that fail to support, and in many cases further harm, the population they are designed to serve; and put an end to practices that ignore or criminalize a person's struggles for survival.<sup>98</sup> A four-year-old little girl once asked, "Are you really going to help us?"<sup>99</sup>

Humanity—and everyone who is a part of it—is called to answer the question.

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<sup>98</sup> For additional recommendations for addressing the diagnosis of poverty, see Benfer, *supra* note 1, at 51–64.

<sup>99</sup> See *supra* note 6 discussion.