



PUBLIC SANITATION AND HYGIENE
Issue Brief

Health Justice for People Experiencing Homelessness: Confronting the U.S. Public Sanitation and Hygiene Crisis

Introduction

The current multistate outbreak of [hepatitis A](#)—a viral liver disease associated with insufficient sanitation, hygiene, and clean water—illuminates systemic failures to meet the health needs of people experiencing homelessness (PEH). This issue brief examines the connection between inadequate access to public toilets, hand sinks, showers and laundry facilities and the disproportionate impact of the outbreak on PEH. Based on this assessment, the issue brief provides a menu¹ of legal and policy opportunities to advance equitable access and health justice for PEH.

An Escalating Public Health Crisis

The U.S. is grappling with its worst multistate hepatitis A outbreak² since the federal government approved a vaccine in [1995](#). The outbreak is an important wake-up call to confront a long-neglected population health crisis. In communities nationwide, safe, adequate and accessible public toilet, handwashing, shower and laundry facilities are scarce or altogether absent. The shortfalls are measurable and disproportionately affect PEH—especially the [one in three without shelter](#) on any given night. For example, in 2017, Los Angeles’s (L.A.) Skid Row neighborhood had only nine public toilets [available](#) for every 1,777 individuals unsheltered overnight—80 toilets short of the United Nations High Commission for Refugees sanitation standard for long-term refugee camps.³ Of those available, many were out of order or inaccessible to people with disabilities. [Similar shortages](#) exist throughout the U.S.

In the absence of public sanitation and hygiene facilities and the safety and dignity that they provide, PEH face inequitable physical and behavioral health risks. Lack of access can force unsheltered PEH to urinate and defecate outdoors and forgo handwashing, showers and clean laundry. Those who menstruate face [additional difficulty](#) securing, changing and disposing of sanitary products. PEH are left living in unhealthy environments contaminated by human waste; [vulnerable](#) to hepatitis A virus, meningitis, staph, lice and other health harms; and with limited access to health care services.

Snapshot: Health Inequities California’s Hepatitis A Emergency 2016–18⁴



Strategies for Change

Jurisdictions can combine a number of legal, policy and community approaches to advance equitable sanitation and hygiene access for PEH. Policymakers, advocates and practitioners can tailor responses to political context and community needs.

Harness Systems Thinking

Systemic problems require systemic solutions. A [systems thinking approach](#) can help policy stakeholders better understand the sociopolitical context of public sanitation and hygiene issues, avoid unintended population health consequences, and lead to the identification and adoption of responsive, effective and efficient policy solutions.

- **Empower community.** Participatory processes can enhance policy change efforts by adding important community knowledge, perspective and accountability to problem definition; policy design, action, and implementation; and monitoring and evaluation. Most importantly, they can empower PEH to address systemic injustices that undermine their health.
- **Infuse Health in All Policies (HiAP).** In the absence of a central authority coordinating all sanitation and hygiene-related policy, states and municipalities can leverage [HiAP](#), a collaborative framework that infuses considerations of health and health equity into the design, implementation and evaluation of policies across sectors. Through one such approach, government could establish a task force for departments of public health, health and human services, public works, and law enforcement to consider the interdependencies and consequences of existing policies on the health of PEH and advance policy solutions.
- **Understand the limits of deterrence.** Rather than invest in public toilet and hygiene services, policymakers often rely on punitive laws, policies, and other mechanisms to deter public urination and defecation. In practice, these approaches can be discriminatory, expensive, and even legally objectionable. A 2015 [pilot program](#) in San Francisco, California coated nine frequently urinated-upon city walls with Ultra-Ever Dry. This superhydrophobic paint forcefully deflects urine onto a urinator's pants and shoes potentially disastrous for PEH with no readily available public toilet, hand sink, shower, or laundry facilities. [Numerous state and local laws](#) prohibit human excretion in public places and impose costly civil or criminal penalties for violations, including incarceration. While ostensibly neutral in design, the laws could be vulnerable to constitutional challenges if public urination and defecation are unavoidable consequences of experiencing homelessness without shelter.⁵ The laws also perpetuate homelessness: a criminal record can [impede](#) employment and housing.
- **Identify and address service gaps.** When explaining scarce sanitation infrastructure or closures, municipal governments, businesses and others often cite concerns related to [safety](#), [security](#), and [misuse](#). Yet these issues are often symptomatic of service gaps affecting PEH. Addressing these gaps through multiple interventions can help reduce risks and build political will for policy solutions.
 - › **Hygiene centers.** Without alternatives, PEH may rely on public toilets and hand sinks to bathe and wash clothes. Safe, adequate and accessible public shower and laundry facilities could reduce unintended uses.
 - **Innovative design.** As the [Portland Loo](#) and other sanitation design solutions illustrate, innovations such as sharp boxes (to safely gather needles) and slats at the bottom of public toilets (to enable attendants to monitor the number of toilet users without compromising privacy) can help address safety concerns.

Snapshot: Community Empowerment

 **L.A., California**

In 2017, a coalition of nonprofits, service providers, advocates, and community members (including those with experience living on the streets) assessed and crafted policy recommendations to address public toilet shortfalls in L.A.'s Skid Row neighborhood, with a focus on meeting the needs of PEH. Their [Audit of Public Toilets on Skid Row](#) informed responses to L.A.'s hepatitis A outbreak. Several coalition members participated in the design and implementation of the City of L.A.'s [Skid Row Community ReFresh Spot](#), a one-year pilot expanding access to toilets, showers, hand sinks, and washers and dryers where needed most. The City aims to operate the center 24 hours a day and seven days a week, with on-site housing, health care, food, and shelter service referrals.



- **Attendants.** The City of Sacramento, California hired people on parole and with lived experience of homelessness as [attendants](#) to supervise public toilet facilities at all hours. In addition to enhancing safety and providing PEH with trustworthy points of contact for services, this intervention can potentially prevent homelessness by providing jobs to individuals who may face barriers to employment.
- › **Mental and behavioral health services.** Poor mental and behavioral health are causes and consequences of homelessness. In [January 2016](#), approximately 20 percent of PEH were living with a serious mental illness and 16 percent with chronic substance use disorder. Worse yet, PEH face heightened [barriers to treatment](#). Without a viable alternative, PEH with substance use disorder may [use drugs](#), [leave behind needles](#), or even [overdose](#) in public toilets. Improved access to services, including [safe injection sites](#), can help improve these outcomes.
- **Strengthen understanding of potential return on investment across sectors.** Municipalities often cite prohibitive [construction and maintenance costs](#) as barriers to investment. Yet enhanced public sanitation and hygiene resources could offset significant direct and indirect societal costs across health care, public health, public works, transportation, law enforcement, and the private sector.⁶

Unlock Underutilized Infrastructure

Several strategies can unlock underutilized government and private sector resources for public use.

- **Activate public resources.** Government can begin to address shortfalls in public hygiene and sanitation access by reopening [inactive](#) facilities, extending hours of operation, and expanding authorized uses of existing resources.
- **Cultivate public-private partnerships.** Government can collaborate with the private sector to increase sanitation and hygiene access. Under [one such arrangement](#), municipalities could offer businesses a license fee to open toilets and other relevant facilities to the public, yielding readily available and lower-cost infrastructure.

Leverage Healthy Planning Tools

Municipalities increasingly leverage planning tools to achieve public health aims. They can build on these successes by incorporating sanitation and hygiene into healthy planning efforts.

- **Prioritize place.** Enhanced sanitation and hygiene infrastructure can only improve the health of those who can readily access it. Government can advance equitable access by prioritizing placement where PEH live and frequent, such as emergency shelters and safety-net service providers, known encampments, public transit stations and stops, and other public spaces.
 - › **Mobile infrastructure.** Mobile infrastructure avoids the cost of building permanent structures in the wrong location and ensures that resources continue to reach PEH as encampments and individuals migrate overtime. Initiatives in [Nashville](#), [Oahu](#), [San Francisco](#), [Tempe](#), [St. Louis](#), and [Seattle](#) are equipping trailers and buses with free shower and toilet services and taking them on the road to meet PEH where they are.
 - › **Maps.** Government can help ensure PEH have accurate information by creating, distributing and posting up-to-date maps of available services, accessibility and hours of operation in priority locations and [online](#).
- **Advance a healthy general plan.** Municipalities can incorporate objectives for public sanitation and hygiene infrastructure into their general plans, which guide local planning and development activities, by creating a dedicated element for public health infrastructure or including relevant objectives under existing elements.
- **Adopt healthy zoning ordinances.** Municipalities may also leverage their zoning authority to require or incentivize the development of health-promoting public sanitation and hygiene infrastructure and ensure that they constitute permitted land uses.

Snapshot: Public-Private Partnership

Bremen, Germany

Through [Nette Toilette](#) (Nice Toilet), a public-private partnership model, over [200 municipalities](#) in Germany and Switzerland pay businesses between €30–100 (\$33–110) per month to make their toilets public.

Bremen, Germany spends €150,000 (\$165,000) annually—€100 per month to each of 125 participating businesses—to maintain its public toilet network through [Nette Toilette](#). An equivalent, exclusively city-run system would cost approximately €1.1 million (\$1.2 million) per year.

- **Build on momentum for Complete Streets.** The [Complete Streets](#) movement advocates for the design and operation of streets that are healthy, accessible, and safe for all, including pedestrians, cyclists, motorists, and public transit users and regardless of age, ability, income, or race. State, regional, and local governments can prioritize public toilets, hand sinks, and showers as key pedestrian and public transit user amenities.⁷
- **Create a government strategy.** All levels of government can formalize their commitment to ensuring equitable service access by developing written sanitation and hygiene [strategies](#). A strategy could contain an assessment of the availability, maintenance and accessibility of existing infrastructure; articulate policy objectives and priorities; set implementation metrics; and delineate an action plan. Policymakers could promote accountability and sustainability by engaging PEH and other stakeholders, requiring regular evaluation and reporting on progress, and producing regular strategy updates.

Snapshot: Municipal Strategy

 **Kingston, Victoria, Australia**

The City of Kingston's 2016 [Public Toilet Strategy](#) sets out a 10-year action plan to improve the equitable provision of accessible, safe, clean and sustainable public toilets. The Strategy contains an audit of existing facilities, feedback from stakeholder consultation, review of existing municipal policies, map of existing and proposed infrastructure, and strategic recommendations and actions for implementation.

Strengthen Social Protections

Although international treaties have [long recognized](#) sanitation and health as basic human rights, the U.S. does not guarantee access.⁸ Several measures have the potential to strengthen social protections.

- **Establish a Homeless Bill of Rights.** In line with international human rights law, a [Homeless Bill of Rights](#) can explicitly safeguard existing civil rights and secure new rights to sanitation, hygiene, and housing. Though specific protections and enforcement mechanisms vary, a number of jurisdictions have adopted Homeless Bill of Rights legislation, including [Rhode Island](#), [Connecticut](#), [Illinois](#), [Puerto Rico](#), and [Traverse City, Michigan](#).
- **Enact restroom access legislation.** Sixteen states have adopted [restroom access laws](#) to enhance access to toilet facilities for individuals with certain chronic conditions who require immediate toilet access. In these jurisdictions, retail entities with employee toilet facilities must provide immediate access without demanding purchases or fees to protected persons. Jurisdictions can build on these protections to require businesses with employee or customer toilet facilities to open them to PEH free of charge.⁹
- **Mandate municipal action and investment.** States can require municipalities to provide and invest in adequate, accessible, safe, and clean sanitation and hygiene services according to appropriate metrics.
- **Think fast and slow.** Emergency powers enable public and private actors to implement real-time responses to public health crises, limiting public health harms.¹⁰ Long-term investments in permanent sanitation and hygiene infrastructure as well as homelessness solutions¹¹ are necessary to improve population health and strengthen community resilience to future public health emergencies.


Conclusion

Ensuring sanitation and hygiene access for all is a challenging but achievable public health imperative. The multistate hepatitis A outbreak spurred modest progress in some jurisdictions, yet shocking health inequities demanding urgent attention and action persist. Jurisdictions can leverage systems thinking, underutilized public and private infrastructure, healthy planning tools, and stronger social protections to promote equitable access to basic public health services, advance health justice for PEH, and catalyze far-reaching population health improvements.

SUPPORTERS



Robert Wood Johnson Foundation



This document was developed by Madeline Morcelle, JD, MPH, Staff Attorney, and made possible through substantial research contributions from Walter Johnson, MSTP, JD Candidate and Legal Researcher; additional research assistance from Drew Hensley, JD Candidate and Legal Researcher, and Alexandra Hess, JD, Senior Legal Researcher; and input and edits from James G. Hodge, Jr., JD, LL.M., Director, all in the Network for Public Health Law—Western Region Office at the Sandra Day O'Connor College of Law, Arizona State University. The information in this issue brief does not constitute legal advice or representation. For legal counsel, readers should consult an attorney in their state.

The Network for Public Health Law—Western Region Office thanks the following individuals for information and guidance in support of this effort: Corey Davis, JD, MSPH, Deputy Director, Network for Public Health Law—Southeastern Region Office; Lauren Dunning, JD, MPH, Liaison to the Board of Supervisors, L.A. County Department of Public Health; Sarah New, MPH, Epidemiologist, California Department of Public Health; and Greg Spiegel, JD, Director of Strategic Initiatives, Inner City Law Center. The Network for Public Health Law is supported by the Robert Wood Johnson Foundation (RWJF). The views and recommendations in this issue brief are those of the research and writing team and should not be attributed to external contributors or RWJF.

¹ While this issue brief focuses on opportunities to advance health justice for PEH, many interventions have the potential to improve health outcomes for people who require immediate toilet access, such as families with children, seniors, and people living with chronic conditions, as well as for the public at large.

² Hepatitis A is a highly infectious, debilitating, and potentially fatal liver infection spread person to person and primarily through the fecal-oral route. As of May 30, 2018, [California](#), [Indiana](#), [Kentucky](#), [Michigan](#), [Utah](#), [West Virginia](#) and [Nashville, Tennessee](#) have declared outbreaks spread through person to person contact, with 2660 cases and 57 deaths reported to date.


³ The situation only worsened in the daytime, when shelters often released overnight consumers onto the streets. During this period, Skid Row fell 164 public toilets short of the United Nations sanitation standards.

⁴ On a single night in 2017, an estimated [134,278](#) experienced homelessness in California—fewer than 0.003% of the total state population. From November 24, 2016 through March 3, 2018, an alarming 367 of 704 (52.13%) diagnoses, 283 of 460 (61.52%) hospitalizations, and 15 of 21 (71.43%) deaths in the state's hepatitis A outbreaks affected individuals who reported experiencing homelessness, especially in unsheltered locations. Email from Sarah New, Epidemiologist, California Department of Public Health, to Madeline Morcelle, Staff Attorney, Network for Public Health Law—Western Region Office (April 17, 2018, 10:36 MT) (on file with author).

⁵ See, e.g., *Jones v. City of L.A.*, 444 F.3d 1118 (9th Cir. 2006) (ruling enforcement of an ordinance prohibiting sitting, lying, or sleeping on public property, without time or place limitations, against PEH in the absence of available shelter violated the Eight Amendment ban on cruel and unusual punishment).

⁶ For example, the L.A. County Department of Public Health spent \$2.1 million in response to its hepatitis A outbreak from September–December 2017 (including supplies, resources, and personnel salaries). See email from Lauren Dunning, Liaison to the Board of Supervisors, L.A. County Department of Public Health, to Madeline Morcelle, Staff Attorney, Network for Public Health Law—Western Region Office (May 31, 2018, 9:45 MT) (on file with author). A hepatitis A vaccination cost-effectiveness model based on 2013 (pre-Affordable Care Act) medical costs found HAV-related outpatient costs could range from \$809–1,355; hospitalization costs from \$6,360–22,841; fulminant costs from \$16,613–49,840; and annual costs for patients with liver transplants from \$175,345–208,693 (first year) and \$35,161–52,062 (subsequent years). Adjusted to 2018 dollars, HAV-related hospitalizations could have cost California \$6,852.73–\$24,610.57 per capita. HAV-related hospitalizations of 283 PEH could have cost \$1,939,322.59–6,964,791.31 total. Because homelessness is associated with substantial excess costs per discharge, their hospitalization costs are more likely on the higher end of each range. Together with potential outpatient, fulminant, and short- and long-term liver transplant costs, adequate access to sanitation and hygiene for PEH could have averted millions of dollars in health care costs. See Sarah New, *supra* note 4; Praveen Dhankar et al., *Public Health Impact and Cost-Effectiveness of Hepatitis A Vaccination in the United States: A Disease Transmission Dynamic Modeling Approach* 18(4) *Value in Health* 362, 358–367 (2015); Sharon Salit, et al., *Hospitalization Costs Associated with Homelessness in New York City*, *N. Eng. J. Med.* 1734, 1734–1740 (June 11, 1998).

⁷ See, e.g., S.F., Cal., *Streetscape Elements* in Better Streets Plan 225,170–241 (Dec. 2010); S.F., Cal. Ordinance 309-10 (Nov. 23, 2010) (“amending the Urban Design and Transportation Elements of the San Francisco General Plan to incorporate the San Francisco Better Streets Plan by reference, and to make objectives and policies relating to pedestrian transportation consistent with the Better Streets Plan”).



⁸ There are limited exceptions. In 2008, the U.S. House of Representatives [resolved](#) to support “the goals and ideals of the International Year of Sanitation” and recognize “the importance of sanitation on public health, poverty reduction, economic and social development, and the environment.” In 2012, California enacted [AB 685](#), which states “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes[.]” Though the law requires state agencies to consider the right to water in discrete policy, regulatory, and grant-related actions, it does not expand state responsibility to provide water to residents or expend resources to ensure its provision.

⁹ Chicago is [considering](#) a variation of this expansion under which licensed businesses that provide public toilet facilities to customers would need to open them to all “individuals who have an emergency” without requiring a purchase or payment of a fee.

¹⁰ For example, [state](#) and [local](#) emergency declarations in [California](#) enabled public health departments to accelerate the procurement and provision of 24-hour public toilets, hand sinks, vaccines, street cleanings, and other hepatitis A outbreak responses.

¹¹ For example, [permanent supportive housing](#), an evidence-based housing intervention that combines affordable housing assistance and supportive services, would ensure sanitation and hygiene access for PEH and at a [fraction](#) of what shelter and emergency services cost per person.