

VOUCHERS FOR PANHANDLERS: CREATIVE SOLUTIONS TO AN OLD PROBLEM

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INTRODUCTION: THE PANHANDLING PROBLEM

While concern for issues of homelessness and poverty seemed to peak in this country during the 1980's,¹ considerable attention is now focused on urban street life. Conversations about the homeless and poverty-stricken center around middle-class perceptions of crime and urban aggression rather than around the plight of the homeless person.² Social science and legal scholars have produced a vast amount of literature on the reclaiming of the American city.³

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1. See C. CATON, HOMELESSNESS IN AMERICA 12 (1990); W. TUCKER, THE EXCLUDED AMERICANS: HOMELESSNESS AND HOUSING POLICIES 34 (1990). Sociologist Peter Rossi did extensive research on the homeless and the severely impoverished in the United States during the late 1980's. Rossi estimated that in 1989 there were between four and seven million extremely poor people in this country. See PETER H. ROSSI, DOWN AND OUT IN AMERICA: THE ORIGINS OF HOMELESSNESS 8 (1989). Christopher Jencks has produced a controversial statistical study which offers a developed theory of the causes of homelessness, attempting to search for solutions. See CHRISTOPHER JENCKS, THE HOMELESS: WHERE THEY CAME FROM AND HOW CAN WE HELP THEM (1994).

2. Rather than continuing the conversation on the causes of homelessness, the public debate has shifted toward discussions of urban renewal and reclaiming the city streets. See Ellen Goodman, *Swarms of Beggars Cause 'Compassion Fatigue'*, NEW HAVEN REG., Aug. 4, 1989, at 9; Pete Hamill, *How to Save the Homeless and Ourselves*, N.Y. MAG., Sept. 20, 1993, at 35; Timothy Egan, *A Tougher Tack on Street People*, STAR TRIB., Dec. 18, 1993, at 4A; Patt Harrison, *Uneasy Street*, L.A. TIMES MAG., Jan. 2, 1994, at 6.

3. See generally, Melanie B. Abbott, *Homelessness and Substance Abuse: Is Mandatory Treatment the Solution?*, 22 FORDHAM URB. L.J. 1 (1994); Peter Dreier, *America's Urban Crisis: Symptoms, Causes, Solutions*, 71 N.C. L. REV. 1351, 1352 (1994); Robert C. Ellickson, *Controlling Chronic Misconduct in City Spaces: of Panhandlers, Skid*

Interwoven with these issues is the public's rising concern with safety on the city streets.⁴ Panhandling, specifically, has been the subject of both scholarly and political debate among academics concerning the First Amendment right to beg⁵ and among city council members concerning the possibilities for laws prohibiting begging on the streets.⁶ Panhandlers have come to symbolize the intersection of

Rows, and Public Space Zoning, 105 YALE L.J. 1165 (1996); Nancy Millich, *Compassion Fatigue and the First Amendment: Are the Homeless Constitutional Castaways?*, 27 U.C. DAVIS L. REV. 255, 258 (1994); Steven R. Paisner, Comment, *Compassion, Politics, and the Problems Lying on our Sidewalks: A Legislative Approach for Cities to Address Homelessness*, 4 TEMPLE L. REV. 1259 (1994).

4. Reflecting the public's growing concern with safety in city streets, the media has begun to present a myriad of perspectives on responses to the issues of homelessness and urban decay. See generally, Edwin Meese, III & Bob Carrico, *Taking Back the Streets; Police Methods that Work*, 54 HERITAGE FOUND. POL'Y REV. 22 (1990); Nicholas Dawidoff, *To Give or Not to Give*, N.Y. TIMES MAG., Apr. 24, 1994, at 36; Betsy Gotbaum, *Standing up for Tompkins Square Park*, N.Y. TIMES, Aug. 29, 1992, at 19; John King, *Seeking Solutions for San Francisco: Businesses Go on the Offensive—Reclaiming the City Streets*, S.F. CHRON., Dec. 28, 1993, at A1; James Q. Wilson & George L. Kelling, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC MONTHLY, Mar. 1982, at 29.

5. This paper does little more than recognize that the free speech debate exists. For more developed analysis of the First Amendment arguments, see generally, *Aggressive Panhandling Laws: Do These Statutes Violate the Constitution?*, A.B.A. J., June 1993, at 40; Michael M. Burns, *Fearing the Mirror: Responding to Beggars in a "Kinder and Gentler" America*, 19 HASTINGS CONST. L.Q. 783 (1992); Helen Hershkoff & Adam S. Cohen, *Begging to Differ: The First Amendment and the Right to Beg*, 104 HARV. L. REV. 896 (1991); Charles F. Knapp, *Statutory Restriction of Panhandling in Light of Young v. New York City Transit: Are States Begging Out of First Amendment Proscriptions?*, 76 IOWA L. REV. 405 (1991); Anthony J. Rose, *The Beggar's Free Speech Claim*, 65 IND. L.J. 191 (1989); Elena W. Slipp, *Bankruptcy: Loper v. New York City Police Department Begs the Question: Is Panhandling Protected by the First Amendment?*, 60 BROOK. L. REV. 587 (1994); Robert Tier, *Maintaining Safety and Civility in Public Spaces: A Constitutional Approach to Aggressive Panhandling*, 54 LA. L. REV. 285 (1993).

6. Michael McIntire, *Council to Consider Panhandling Ordinance*, HARTFORD COURANT, Nov. 29, 1994, at B1; Janet Wells, *Berkeley Mayor Backs Plan to Ban Panhandling at ATM's*, S.F. CHRON., June 10, 1994, at D3; Timothy Egan, *A Tougher Tack on Street People: Advocates for Homeless Troubled by Shift in 3 Cities*, STAR TRIB., Dec. 18, 1993, at A4; Jennifer Warren, *A City Torn; Berkeley, Renowned for its Soft Heart, Is Divided by Proposal to Get Tough With Pushy Panhandlers*, L.A. TIMES, Mar. 13, 1994 at A3; Kathleen Sharp, *Putting the Heat on Panhandlers*, L.A. TIMES, June 7, 1993, at A3; Jody Callahan, *Panhandling Problem Draws Concern*; THE COMMERCIAL APPEAL, Dec. 8, 1994 at 1CE; John Buzbee, *Public Safety Dominates Council Race*, L.A. TIMES, Sept. 8, 1994, at J3.

homelessness and crime, destroying the myth that all homeless people are temporary victims who need public assistance to help them regain their economic stability. Many are depicted by the media as deceitful hustlers whose parasitic existence depends on money given out on the street, which inevitably is used for alcohol or drugs.⁷ Whereas in the past, the 'poor beggar' symbolized homelessness in this country, recently the panhandler has been associated with aggression, confrontation, manipulation, deceit, crime and violence.

This current image of panhandlers represents the modern incarnation of a long history of imagery of begging. For example, the seventeenth century English beggar was considered to be a lazy vagrant deserving of little sympathy, but retained some dignity and honor in the eyes of the aristocracy.⁸ It was not until Henry VIII's reign that more stringent laws were enacted to punish the "sturdy beggar" who could work.⁹ In 1862, a Victorian writer described the deceitful "sturdy beggar" of the past two centuries, and contrasted the honorable beggar, who could not work because of age or disability, with the deceptive beggar, who was too lazy to labor.¹⁰

While the claimed deception of the Victorian panhandler took the form of asking for money under the pretense that he was unable to work, today's "deception" takes the form of requesting "change for food," which inevitably will be used for alcohol and drugs. Nicholas Dawidoff's provocative 1994 article on panhandling in the New York City subways¹¹ mirrored Mayhew's 1862 editorial, differing only in the substance of the panhandlers' deceit considered to be offensive.

7. See Dawidoff, *supra* note 4; Hamill, *supra* note 2; Tony Perry, *No Alms for the 'Panhandlers'*, L.A. TIMES, Jan. 12, 1993, at 3A; James Bock, *The Homeless Aren't Who We Thought*, S.F. CHRON., May 13, 1993, at B3.

8. See 4 HENRY MAYHEW, LONDON LABOR AND THE LONDON POOR 393-94 (1968). In fact, honor was associated with the act of soliciting alms. Beggars were a necessary part of society, providing servants and masters with a third class of people over which to rule. There was no deception perceived from this class of people. In early Saxon times, the giving of alms by the lady of the house was considered to be a duty and an honor. "Lady" is derived from the English words "lef day," which mean "bread giver."

9. *Id.* at 34. The able-bodied panhandler was to be whipped the first time he was caught begging, have his ear cropped the second time, and be executed the third time.

10. *Id.*

11. See Dawidoff, *supra* note 4.

Dawidoff concluded that panhandlers were generally manipulative liars who often earned more than they claimed, spending the monies they collected on drugs and alcohol.¹²

Although historical parallels exist, the current discourse on begging shows a particular twentieth century variation. While the public is still concerned with whether or not a panhandler is able to work, people are increasingly interested in how a panhandler spends his or her money. Perceptions of the panhandlers' deception are at the heart of the public's concern and the legal system's backlash. Both Mayhew and Dawidoff, writing more than one hundred years apart, share a disgust with the beggars of their time. They are equally appalled by the deception and manipulation employed by charlatans who they believe are not as needy as they represent.

For many states, the solution to the deceitful panhandler has been to criminalize panhandling. In the few cases litigated over the constitutionality of banning panhandling, holdings have been largely fact-specific, failing to set a precedent upon which cities and states can rely.¹³ Some states proscribe loitering for the purposes of panhandling, while others prohibit begging as disorderly conduct and/or vagrancy.¹⁴ Some states which have no begging statute grant

12. *Id.*

13. Courts have invalidated some laws on the basis that begging constitutes speech protected by the First Amendment and upheld others on the basis that laws against begging are not unreasonable restrictions on speech. While *Blair v. Shanahan*, 775 F. Supp. 1315 (N.D. Cal. 1991) invalidated § 647(c) of California's penal code (criminalizing the act of accosting another in a public place for the purpose of begging), the same section was later upheld in *People v. Zimmerman*, 19 Cal. Rptr. 2d 486, 15 Cal. App. 4th Supp. 7 (1993). While New York's regulation prohibiting panhandling in the subways, 21 N.Y.C.R.R. § 1050.6, was upheld in *Young v. New York City Transit Auth.*, 903 F.2d 146 (2d Cir. 1990), N.Y. PENAL LAW § 240.35(1) (McKinney 1983) was found to be unconstitutional in *Loper v. New York City Police Dept.*, 766 F. Supp. 1280 (S.D.N.Y. 1991). These two cases, however, do not contradict each other; rather, their rulings hinge on the nature of the public space in which speech was regulated (the confined nature of the subways justifying government intervention). In *C.C.B. v. State*, 458 So. 2d 47 (Fla. Dist. Ct. App. 1984) the court held that a city ordinance prohibiting all forms of begging was unconstitutional because it barred protected speech.

14. See ALA. CODE § 13A-11-9(a)(1) (1982); ARIZ. REV. STAT. ANN. § 13-2905(A)(3) (1989); ARK. CODE ANN. § 5-71-213(a)(3) (Michie 1987); CAL. PENAL CODE § 647(c) (West 1983); COLO. REV. STAT. § 18-9-112(2)(a) (1986); DEL. CODE ANN. tit. 11, § 1321(4) (1987); FLA. STAT. ANN. § 562.131(2) (West 1989); GA. CODE ANN. § 50-9-9(b)

power to their local governments to regulate panhandling.¹⁵ While these begging regulations have been subjected to constitutional challenge,¹⁶ the ordinances have served the short term needs of city

(1982); HAW. REV. STAT. § 711-1101(1)(e) (1985); IDAHO CODE § 44-1306 (1990); ILL. ANN. STAT. ch. 23, para. 2351 (Smith-Hurd 1989); KY. REV. STAT. ANN. § 201.090 (2) (Michie/Bobbs-Merrill 1981); LA. REV. STAT. ANN. § 14:107(3) (West 1986); MASS. GEN. LAWS ANN. ch. 272, § 66 (West 1988); MICH. COMP. LAWS ANN. § 750.167(1)(h) (West 1990); MINN. STAT. ANN. § 609.725(4) (West 1987); MISS. CODE ANN. § 97-35-37(g) (1972); MO. ANN. STAT. § 294.043 (Vernon 1983); NEV. REV. STAT. ANN. § 207.030(1)(d), (e) (Michie 1987); N.J. STAT. ANN. § 32: 1-146.6(1)(d) (West 1989); N.Y. PENAL LAW § 240.35(1) (McKinney 1983); N.C. GEN. STAT. § 14-444(a)(5) (1982); R.I. GEN. LAWS § 11-9-1(a) (1989); VT. STAT. ANN. tit.13, § 3901 (1989); WIS. STAT. ANN. § 947.02(4) (West 1988).

Despite the trend toward criminalization, some states have reduced their prohibitions on begging. Kansas formerly criminalized begging, but no longer does so. *See* KAN. STAT. ANN. § 21-4108(e) (1988) (repealed by Law of 1992, ch. 298, § 97). Connecticut is one of a few states whose disorderly conduct statute does not mention begging or the solicitation of alms. *See* CONN. GEN. STAT. § 53a-182 (1995). Because the statute criminalizes behavior which threatens, obstructs, annoys or interferes with pedestrian traffic, most panhandlers' actions could constitute disorderly conduct, thus rendering the statute constructively prohibitive of begging and related activities.

15. *See* IND. CODE ANN. § 36-1-3-4 (Burns 1981); MONT. CODE ANN. § 7-32-4304 (1989); NEB. REV. STAT. §§ 14-102(23), 15-257, 16-229 (1987); N.H. REV. STAT. ANN. § 47:17 (XIII) (1990); N.D. CENT. CODE § 40-05-01(43) (1989); OHIO REV. CODE ANN. § 715.55(B) (Anderson 1989); S.D. CODIFIED LAWS ANN. § 9-29-10 (1981); UTAH CODE ANN. § 10-8-51 (1990); WASH. REV. CODE ANN. § 9-35.22.280(34) (West 1987); W. VA. CODE § 8-21-10 (1990); WYO. STAT. § 15-1-103(a) (xvii) (1990).

Four states which have begging statutes also grant such power to local governments to regulate panhandling. *See* ARK. CODE ANN. § 14-54-1408 (Mitchie 1987); ILL. ANN. STAT. ch. 24, para. 11-5-4 (Smith-Hurd 1989); N.J. STAT. ANN. § 40:48-1 (West 1989); N.C. GEN. STAT. § 160A-179 (1982).

16. In *State ex rel. Williams v. City Court of Tucson*, 520 P.2d 1166 (Ariz. Ct. App. 1974), the court held that a city ordinance proscribing loitering for the purpose of begging was not unconstitutionally vague. However, in *C.C.B. v. State*, 458 So. 2d 47 (Fla. Dist. Ct. App. 1984), the court held that a Jacksonville ordinance preventing all forms of begging was unconstitutional because it restricted First Amendment rights in a more intrusive manner than necessary. Most recently, a New York City ordinance, 21 N.Y.C.R.R. § 1050.6, was upheld on appeal as the court found that begging restrictions on the New York City Subway were not overly intrusive so as to unduly restrict First Amendment rights. *Young v. New York City Transit Authority*, 903 F.2d 146 (2d Cir.), *cert. denied*, 498 U.S. 984 (1990). For a discussion of laws regulating panhandling and analysis of recent cases concerning First Amendment challenges of such laws, see Tracy A. Bateman, Annotation, *Laws Regulating Begging, Panhandling, or Similar Activity by Poor or Homeless Persons*, 7 A.L.R. 5th 455 (1993); *see also* note 5 (citing articles describing the relationship of the First Amendment to panhandling).

police, allowing them to clear the streets of panhandlers and temporarily remove the issue from public attention.

A survey of forty-nine cities conducted by the National Law Center on Homelessness and Poverty showed that sixty-two percent of these cities enacted or enforced anti-panhandling laws during 1994. This recent surge in anti-panhandling ordinances reflects a growing public backlash against street beggars.¹⁷

Rather than restrict the panhandler's speech, some communities have chosen to respond with "more speech."¹⁸ When a panhandler stands on a street corner and asks for money, another person will stand nearby and tell people not to give. Anti-panhandling publicity campaigns also fall into the "more speech" category of solutions. Organizations print and distribute brochures which discourage giving money to panhandlers, and encourage supporting social service agencies in their city. This "more speech" solution recognizes panhandling as speech, not conduct. Rather than trying to silence the panhandler through police action, these cities respond with additional speech.

Berkeley, California broke new ground in the national debate over panhandling in 1991. The city initiated *Berkeley Cares*, a program that placed limited-use vouchers on the streets as a new form of currency.¹⁹ These twenty-five cent vouchers could not be used for alcohol or drugs, but could be redeemed at grocery stores, restaurants,

17. See Robert Payne & Jerry Holloron, *The News Briefly: The Nation*, NEWS TRIB., Dec. 15, 1994, at A2. According to Maria Foscarinis, executive director of the National Law Center on Homelessness and Poverty, "There is an increasing crackdown on the homeless in many cities." Homeless people found loitering or panhandling are now being jailed. See David Holmstrom, *Cities Get Tougher on Homeless*, CHRISTIAN SCI. MONITOR, Dec. 14, 1994, at 1; see also David Jackson, *Homeless in Seattle on Original Skid Row and Elsewhere, New Laws Target Street People*, DALLAS MORNING NEWS, Mar. 22, 1994, at 1A; Jennifer Warren, *A City Torn; Berkeley, Renowned for its Soft Heart, is Divided by Proposal to Get Tough with Pushy Panhandlers*, L.A. TIMES, Mar. 13, 1994, at A3.

18. Evanston, San Diego, Portland, Santa Barbara and Philadelphia are among the cities that have adopted the "more speech" approach. See *infra*, part I.

19. While Berkeley was not the first community to use vouchers for panhandlers, it was the first city to receive nationwide recognition for developing a comprehensive voucher system.

pharmacies, laundromats and clothing stores.²⁰ Since the inception of this program, many others have developed across the country, each attempting to approach panhandling from an enlightened perspective.²¹

Vouchers have been supported by every segment of the political and ideological spectrum for divergent and contradictory reasons. Some think that vouchers are the vehicle through which panhandlers will become frustrated and move off the streets.²² Others feel that vouchers will encourage more giving, thus improving the panhandler's situation and reducing the likelihood that he or she will resort to aggressiveness and threats when asking people for help.²³ There is a segment of supporters who view the vouchers as a way to decrease the amount of dollar currency on the streets, thereby reducing the amount of drugs and alcohol that can be purchased.²⁴ Evidence for this proposition is derived by examining the composition of the Boards of Directors of voucher programs. The Boards are composed of homeless advocates, students, business entrepreneurs, young professionals, church volunteers, homeless people, police officers and corporate representatives, each of whom would probably give a different reason for supporting the voucher program.²⁵

20. Presumably, vouchers are not redeemable for drugs or alcohol because those are the goods that people are trying to prevent panhandlers from buying.

21. *Coupons, Inc.* (Boston), *West Side Cares* (New York City), *Caring Neighbors* (Seattle), *Chicago Shares* (Chicago), *New Haven Cares* (New Haven) and *Real Change, Not Spare Change* (Portland) are all voucher programs that have followed Berkeley's lead.

22. Interviews conducted with donors and merchants in New Haven indicate that a substantial number of people believe that vouchers help to reduce the number of panhandlers. See *infra*, Part III.

23. Interview with Matthew Lieberman, Former Executive Director, *New Haven Cares*, in New Haven, Conn. (Apr. 29, 1994). The organizers of *New Haven Cares* cited this as the reason for starting the program in New Haven. Interview with Susan Chevalier, *Greater New Haven Chamber of Commerce*, and Board Member, *New Haven Cares*, in New Haven, Conn. (Mar. 31, 1994).

24. Interview with Meghan Howes, Board Member, *New Haven Cares*, in New Haven, Conn. (Apr. 6, 1994).

25. See *id.*; Interview with Lieberman, *supra* note 23; Interview with Chevalier, *supra* note 23; Interview with Robert Mussara, Homeless Advocate of *We The People*, and Board Member, *New Haven Cares*, in New Haven, Conn. (Apr. 14, 1994); Interview with David O'Sullivan, Director, *Christ Church Community Soup Kitchen*, Board Member, *New Haven Cares*, in New Haven, Conn. (Mar. 29, 1994); Interview with Joe Burnett, Director,

This article attempts to demystify the voucher concept and judge its usefulness as a solution to the problems associated with begging on city streets. The author conducted extensive interviews with people affected by vouchers, including panhandlers, merchants, pedestrians, and police officers. Based on these interviews and available information about the various ways to address the panhandling issue, the author concludes that vouchers are the most humane and effective method of dealing with panhandlers. Rather than pushing beggars out of downtown areas and out of the public eye, vouchers ask pedestrians to interact with the panhandlers and to recognize their existence.

Cities that have adopted aggressive anti-panhandling programs or statutes view the panhandler as a sign of crime, like graffiti or a broken window, however, "repairing" a panhandler does not mean throwing him in jail or aggressively pushing him off the streets. After serving time in jail, that panhandler will be back on the street, more desperate and more aggressive.²⁶

On a macro-level, solutions to the panhandling problem should focus on the underlying causes: unemployment, drug addiction and severe poverty. Thus far, however, solutions to the panhandling problem have dealt with individual panhandlers on a micro level. Among such solutions, vouchers provide the most hope for progress. By allowing panhandlers to remain on the streets and enabling pedestrians to recognize their existence and help them, vouchers begin a conversation between two segments of the community, which is necessary for progress on the macro level.

This article analyzes vouchers as an alternative to the criminalization and intolerance of panhandling. It identifies the contradictory motives of the supporters of the programs, and explores how panhandlers react to receiving the limited-use currency.

Part I details the "more speech" solution and analyzes various

Ninth Square Special Services District, and Board Member, *New Haven Cares*, in New Haven, Conn. (Apr. 11, 1994); Interview with Lieutenant Barbara Morton, Yale Police and Board Member, *New Haven Cares*, in New Haven, Conn. (Apr. 9, 1994); Interview with Marci Sternheim, Secretary's Office at Yale University and Board Member, *New Haven Cares*, in New Haven, Conn. (Apr. 5, 1994).

26. Interview with Officer Merle Davis, Yale Police, and Board Member, *New Haven Cares*, in New Haven, Conn. (Apr. 11, 1994). See also Jody Callahan, *Panhandling Problem Draws Concern*, THE COMMERCIAL APPEAL, Dec. 8, 1994, at 1CE.

"more speech" programs that exist throughout the country. Part II provides a survey of available information concerning voucher programs throughout the country, attempting to examine the effectiveness of such programs. In Part III, the author presents the results of numerous interviews conducted in New Haven, Connecticut in order to illustrate the true effects of vouchers on those who supposedly use them. The article concludes with an argument in support of vouchers as the most humane and effective response to panhandling.

I. THE "MORE SPEECH" APPROACH

Some communities have chosen to respond to the beggar's speech with additional information, or "more speech," which educates the public about alternative ways of giving. This information takes many forms. Some communities encourage people to give to local soup kitchens and shelters which provide substantial services to the homeless population, and need donations to expand and improve their operations. Others simply send out the message, "Say No to Panhandlers!"²⁷ By providing statistics about the panhandlers in the area and their problems with alcohol and drug addiction, these programs proclaim that money given on the streets increases the resources available for drugs and alcohol and hurts everyone involved: the panhandlers, residents and community.

A. *Evanston's Program - Intervening with the Donors*

Evanston, Illinois dubs its community volunteers the "interveners." The interveners confront and educate the donor before he or she gives out money on the streets. Their philosophy is that all panhandlers are addicts with severe drug and/or alcohol problems.²⁸

27. SANTA BARBARA DOWNTOWN ASSOCIATION, SAY NO TO PANHANDLING, (1992) (on file with author).

28. Telephone Interview with John Perman, Representative from the Evanston Chamber of Commerce sitting on the Evanston Citizens Panel on Panhandling (Nov. 2, 1994). Local businesses support measures to decrease begging on the downtown streets because they feel that panhandlers drive away potential customers. See Ann S. Tyson, *Keep Your Change:*

According to a survey of panhandlers completed by the police, 80% of the 36 total panhandlers had criminal records and 42% had a history of alcohol or drug abuse.²⁹ In addition, many of them (29 of the 36) had a permanent address and were not homeless. The goal of the project was to move panhandlers out of downtown Evanston by decreasing the amount of cash given on the streets.³⁰ Evanston claims that giving money to panhandlers hurts them by supporting their addictions.

The results of the police "survey" are far from compelling. One should not be surprised by the number of panhandlers with drugs and/or crime in their histories. According to the most detailed and current study on homelessness and poverty, drug addiction is a significant aspect of many homeless people's lives.³¹ It should be noted, however, that according to the police survey, most panhandlers would not take advantage of social services if given the opportunity.³² Thus, disseminating information about shelters, soup kitchens and drug rehabilitation programs might do very little to address the problems of these panhandlers. Without additional drug rehabilitation or income support, panhandlers will remain on the streets, more desperate for money and more desperate for drugs.

The Evanston program has three components: 1) a widespread

Illinois Town Frowns on Handouts, CHRISTIAN SCI. MONITOR, Aug. 12, 1994, at 3.

29. Jon Hilkevitch, *Evanston Fights Panhandlers - With a Smile*, CHIC. TRIB., May 27, 1994, at 1, 19. One should be careful when trusting statistics compiled by the police. By nature of a police officer's work, he or she deals predominantly with drug addicts and criminals. There is a strong possibility that more panhandlers exist than were approached for the police survey and such panhandlers may not have drug or alcohol problems.

30. This goal has been partially accomplished by more severe police action. Two panhandlers reported that the police had been cracking down on them during the summer, literally taking panhandlers beyond the city limits and leaving them there. According to these men, any reduction in panhandling in the downtown area was solely due to the increased police presence. See Ariel Rosenthal, *Brother, Can You Spare a Dime...Not in Evanston*, SUMMER NW., July 21, 1994, at 1. The author noted a similar crackdown in the New Haven, Connecticut area during the summer months. Both New Haven (with Yale University) and Evanston (with Northwestern University) lose most of their students in the summertime, the largest source of money for panhandlers. Perhaps the summer police crackdowns exploit the students' absence by employing tactics that students would probably challenge.

31. See Abbott, *supra* note 3; Jencks, *supra* note 1.

32. See Hilkevitch, *supra* note 29.

advertising campaign aimed at educating customers through posters, counter displays and brochures, and frequent lectures and discussion groups at Northwestern University; 2) increased police presence in the downtown area; and 3) the insertion of two "interveners" into the downtown area who are supposed to educate pedestrians about other donation opportunities. To help the social service agencies, donation boxes have been placed in some stores so that customers may directly contribute to these agencies.³³

The interveners are two men dressed in khaki pants, white polo shirts and blue sports jackets, patrolling the downtown area six days per week, armed with cellular phones which they use to notify police of developing problems. It is the interveners' responsibility to inform the public about alternatives to giving money to panhandlers. Rather than addressing panhandlers, they focus on the donors. The interveners disseminate information about social service agencies in Evanston, and about the large amount of money given on the streets that is subsequently used to purchase drugs and alcohol.³⁴ The brochures they hand out direct the public not to give to panhandlers. By informing pedestrians about the extensive free food network (lunches and dinners are provided by local churches every day of the week), the availability of emergency and transitional housing, the variety of substance abuse and mental health programs, and the existence of free emergency medical care,³⁵ Evanston's Downtown Merchant Association hopes to counterbalance some of the stories pedestrians hear from panhandlers who often claim that they need money for food or shelter.³⁶ The Association's poster hangs in many downtown stores and depicts the outstretched hand of a faceless

33. The total cost of this project is \$1200 per week, funded by the downtown Chamber of Commerce and the Special Services District. See Jon Hilkevitch, *Suburb Tries a New Tack to Stop Panhandling*, PHILA. INQUIRER, June 5, 1994.

34. See Shawn McFarlane, *Looking For Change*, DAILY NW., Oct. 4, 1994, at 3.

35. EVANSTON DOWNTOWN ASSOCIATION, *Interveners Program* (Aug. 1994) (on file with author).

36. See Jon Hilkevitch, *Politely, Evanston Targets Panhandling*, CHI. TRIB., Aug. 2, 1994, at 1, 8 [hereinafter Hilkevitch, *Politely*]. According to one intervener, there are plenty of jobs available in Evanston and also sufficient help from soup kitchens, drop-in centers and shelters to enable every homeless person to escape their plight. The panhandlers are really manipulating and deceiving the donors. *Id.*

panhandler. Above the picture it says, "Most panhandlers in Evanston are struggling with substance abuse and are not homeless."³⁷

Organizers of the anti-panhandling program were quick to claim success. Only a few months after the advertising campaign began and the police became a stronger presence in the downtown area, advocates were claiming that panhandling had decreased by 50%.³⁸ However, these reports came before the August 1, 1994 start date for the interveners segment of the project. In addition, the first survey of panhandlers was taken in April, when Northwestern University was in session, while the follow-up survey was done during the summer, when most of the students had left the area.³⁹ Panhandlers, merchants and project organizers agree that college students provide most of the income on the streets.⁴⁰ Thus, their absence should cause a substantial decrease in panhandling. Without a survey which uses legitimate statistical procedures rather than anecdotes, nothing definitive can be said about a change in the number of panhandlers on the streets.⁴¹ New Haven experienced a similar decline in the number of panhandlers on the street during the summer months, when the potential money to be made was substantially decreased because the college students were not there.⁴²

Evanston's program fails on a number of levels. Donor intervention is somewhat meaningless without a more concerted effort

37. EVANSTON DOWNTOWN ASSOCIATION, INTERVENERS PROGRAM POSTER (Aug. 1994) (on file with author).

38. See Marilyn Claessens, *Panhandling Down By Half, Official Says*, EVANSTON REV., July 21, 1994, at 16, 147; see also Gary Wisby, *Panhandling Down By Half in Evanston*, CHI. SUN-TIMES, Oct. 19, 1994, at 20.

39. Alderwoman Emily Guthrie suggested that the students' absence wholly explained any decrease in panhandling. See, Claessens, *supra* note 38.

40. Interview with Lieberman, *supra* note 23; Interview with Davis, *supra* note 26; See also Hilkevitch, *supra* note 36. An intervener referred to Northwestern students as "the guilt-ridden sons and daughters of some of the richest people in the world." *Id.* The college students in the area are definitely considered to carry the "soft touch," giving to panhandlers far more frequently than other city residents. See Hilkevitch, *supra* note 32.

41. Even if the methodology of the research for the survey was not suspect, by taking the second survey when Northwestern was not in session the police guaranteed the receipt of skewed results.

42. Interview with Davis, *supra* note 26.

to specifically address college students,⁴³ the group that gives most frequently.⁴⁴ While the second component of the program includes an effort to educate students, little has been done thus far to implement this component. John Perman, one of the program's organizers, admits that more should be done to educate the students, but offers little in the way of suggested methods. His plan for "informal lectures and meetings" would probably only reach the most interested students who were already contemplating alternative responses to panhandlers.

The program also fails because of its disregard for the panhandler. No program can claim to deal effectively with panhandling without dealing directly with panhandlers. The interveners, however, are not permitted to interact with panhandlers; rather, they focus their energies on convincing donors not to give. No effort has been made to connect panhandlers with necessary drug rehabilitation services or employment training programs. The police regularly interact with panhandlers, but only with the goal of moving them out of the downtown area. In fact, the decrease in panhandling which was so celebrated by Evanston's program was largely due to a more aggressive policing policy where beggars were either warned against future begging or arrested for disorderly conduct or a similar violation.⁴⁵ Just as with the anti-panhandling ordinances, this type of solution ignores the backdrop of problems, such as unemployment, drug addiction, and extreme poverty, of which panhandling is merely symptomatic. Regardless of how vigorously Evanston's program attempts to pursue get rid of the panhandlers, they will return to the streets, either in downtown Evanston or neighboring towns, perhaps resorting to crime to get the money they need to survive.

Organizers of the Evanston program claim that giving money to

43. Only one member of the twenty person panel on panhandling that developed the anti-panhandling program was from any of the area colleges. Telephone Interview with Perman, *supra* note 28.

44. Interview with Davis, *supra* note 26; Telephone Interview with Whitney Woodward, Program Director, *Berkeley Cares* (May 12, 1994). *See also* Interviews with "regular" panhandlers, *infra* part III.C. While New Haven and Berkeley's experience cannot be assumed to be representative of every city in the country, the fact that college students in these two communities provide the majority of support to panhandlers suggests that in college towns, panhandlers depend on the generosity of the students.

45. Telephone Interview with Perman, *supra* note 28.

social service agencies "best helps" panhandlers, even though the police survey upon which they relied also reveals that most panhandlers do not take advantage of these agencies, and would not do so in the future if given the opportunity.⁴⁶ Regardless of the Evanston panhandlers' true situation, this contradiction shows how Evanston's program used the police survey to condemn panhandlers. Their claim that helping panhandlers could best be accomplished by donating to service organizations, a claim which is refuted by their own survey, appears to be a half-hearted attempt to appease those concerned about the panhandlers' plight.⁴⁷

B. Portland's Program - Guiding Panhandlers Off the Streets

Evanston's program was modeled after a somewhat more developed plan in Portland, Oregon. Portland focused on the donor and recipient, rather than adopting a donor-only philosophy.⁴⁸ The "Portland Guides," who wear green jackets, navy pants and white shirts, are similar to the interveners. They too stand next to panhandlers and give out information to pedestrians about other options besides giving cash on the street. However, while the interveners avoid contact with panhandlers and focus on educating the donor, the guides address both groups. They discourage donors from giving money, and encourage panhandlers to seek help at a soup

46. See Hilkevitch, *supra* note 32.

47. In New Haven, the author noted from a series of interviews with panhandlers that few took advantage of the free food services, the drop-in centers or the emergency shelters. See Interviews with "regular" panhandlers, *infra* part III.C. While giving money to soup kitchens, shelters and other programs might help the average homeless person in New Haven or Evanston, it might have little effect on the average panhandler.

48. Portland has an extremely developed and well-funded network of programs organized under the Association for Portland Progress ("APP"). This organization is a non-profit corporation with a \$4.2 million budget, dedicated to the growth and development of the central business district of Portland. In 1988, APP set up an Economic Improvement District (EID) which was to provide services focused on safety and security for downtown merchants who funded the project through a tax assessed to their property. See ASS'N FOR PORTLAND PROGRESS, *Downtown Clean & Safe: Services That Work For You* (Aug. 1994) (brochure on file with author).

kitchen or social service agency.⁴⁹ A guide will stand next to panhandlers and distribute information to passersby. The most important pamphlet describes Portland's voucher program⁵⁰ and social service agencies.⁵¹ The pamphlet instructs people to respond to panhandlers in one of three ways:

- 1) Just say 'No'. Acknowledge the request through eye contact ... (and) [r]espond ... by saying 'No' and going on your way.
- 2) Offer the person a *Real Change, Not Spare Change* voucher ... redeemable for food, public transit, laundry facilities and personal hygiene items.
- 3) Direct them to any one of the agencies that provide emergency services such as food and shelter.

Portland might have the most reasonable response to panhandlers. In addition to the guides, *Downtown Clean & Safe* provides employment services, enabling the homeless to get off the streets and earn a wage.⁵² By combining employment services with a voucher

49. The Portland Guides reported that 49,824 citizens were helped during 1993 and there were 6,739 panhandling interventions in that time period. Included in their list of activities for 1993 was the following: 1) assisted panhandlers in locating basic services, 2) provided panhandling information to the public and 3) reduced disorderly conduct. ASS'N FOR PORTLAND PROGRESS YEARLY REPORT, *Services: Downtown Clean & Safe* (Aug. 1994) (on file with author).

50. *Real Change, Not Spare Change* is Portland's voucher program. While infamous for the lowest redemption rate in the country (15%), the program does offer the best opportunity for panhandlers to get off the streets. Because the redeemers of the vouchers are service agencies which place homeless people into part-time and full-time jobs, panhandlers who use the vouchers are encouraged to get off the streets and work. This also explains why so few choose to redeem the vouchers. Telephone interview with Rick Williams, Staff Member of Association for Portland Progress (Oct. 15, 1994).

51. DOWNTOWN CLEAN & SAFE, *Real Change, Not Spare Change*, (Aug. 1994) (pamphlet on file with author).

52. Telephone interview with Williams, *supra* note 49. One sub-project focuses on cleaning the graffiti off the city streets and sidewalks. The cleaning services were provided every day of the week, supporting the employment placement service for homeless people who were employed to clean the streets and sidewalks. Graffiti is described in *Downtown Clean & Safe's* yearly report as being a "precursor to crime" interpreted by others as signifying

program and guide program, the Association for Portland Progress seems to cover all the possibilities. The guides intervene with the panhandlers as well as the donors, and try to encourage them to seek help at one of the neighborhood service agencies, where they might be able to secure job training and/or part-time work. Rather than sweeping panhandlers off the streets, Portland employs them to clean up the streets, providing them with the opportunity to earn money instead of beg for it.⁵³

Still, Portland's solution fails to address many of the problems associated with drug addiction, which tends to be the main cause of aggressive panhandling.⁵⁴ The program makes little effort to recognize and treat addiction in the street people who take advantage of the employment services. The extremely low redemption rate (15%) of Portland's vouchers, which are only redeemable at the social service agencies, shows that most panhandlers do not seek help from social services and do not leave the streets. If most panhandlers will not choose to leave the streets after being offered employment opportunities, it might be more useful to suggest solutions which assume that some panhandlers will remain on the streets. These solutions would focus on the interaction between the donor and the panhandler, rather than attempting to remove the panhandler from the equation.

"permissiveness toward gang activity." ASS'N FOR PORTLAND PROGRESS, *A National Trend - Downtown Safe & Clean's Yearly Report* (Aug. 1994) (on file with the author). This parallels the "broken windows" thesis through which a minor disorder such as a broken window, if not repaired, sends a message to the average pedestrian that such disorder has crept into the social fabric of the community. See Wilson & Kelling, *supra* note 4. This pedestrian, receiving the message that there has been a breakdown of social controls, will commit more crimes. *Id.* Thus, the broken window, left in disrepair, will lead to more disorder and crime in a community. *Id.* In this way, graffiti left on the streets and sidewalks contributes to a less safe and secure streetscape.

53. ASSOCIATION FOR PORTLAND PROGRESS YEARLY REPORT, *Services: Downtown Clean & Safe*, *supra* note 48.

54. See Brandt Goldstein, *Panhandlers at Yale: A Case Study in the Limits of Law*, 27 IND. L. REV. 295, 308 (1993). Goldstein notes that the panhandlers around the Yale campus were much more aggressive when they were addicted to drugs or alcohol.

C. *Santa Barbara's Program - Spreading the Message,
"Just Say No"*

Santa Barbara and Santa Monica, California both seek to eliminate the giving of money on the street through programs which aggressively confront the donor with the message, "Say No to Panhandlers." The stated purpose of this project is to "inform residents and visitors that giving money to transients on the streets is generally supporting drug and alcohol habits as opposed to feeding individuals and families in need."⁵⁵ Based on a survey of homeless people staying in Santa Barbara's shelters which found that only 7% of those interviewed panhandled, organizers of *Say No to Panhandlers* decided to convey to the public the message, however suspect, that the cities' panhandlers were not homeless and did not need money for food or shelter.⁵⁶

The project offered merchants in downtown Santa Barbara a package of panhandling information which included 500 colored business cards telling customers why they should not give to panhandlers, a counter display to sit near the merchant's register and an identification poster to be placed in the merchant's window.⁵⁷ Since the program's inception in September of 1994, over 100 stores (approximately half of the downtown merchants) have purchased the information package, and many have purchased additional packages of cards. Organizers claim that while the program has not yet reduced panhandling or significantly affected people's giving habits on the streets, it has empowered those that would like to help, but feel uncomfortable giving cash on the streets.⁵⁸ In many ways, this justification resonates the message of *Berkeley Cares* and other voucher programs around the nation.

55. SANTA BARBARA DOWNTOWN ASS'N PROJECT STATEMENT, *Say No to Panhandling* (1992) (on file with author).

56. See Kathleen Sharp, *Putting the Heat on Panhandlers*, L.A. TIMES, June 7, 1993, at A3.

57. To cover printing costs, the program charged \$20 per package, and \$15 for each additional package of 500 cards. Telephone Interview with Tammy Wilson, Project Director, *Say No to Panhandlers* (Nov. 3, 1994).

58. *Id.*

The *Say No to Panhandling* cards instruct customers not to allow their money to be used for drugs and alcohol. They ask people to contribute to a charity, referring them to two agencies for more information: The card concludes, "Walk with confidence-the streets of Santa Barbara belong to all of us."⁵⁹ This last statement on the card resonates with the message of other cities and programs whose focus is to reclaim the downtown streets for the people who live and work there.⁶⁰ Even Beverly Hills, while claiming to contain only 40-50 homeless people, is following in Santa Barbara's footsteps, intent on removing panhandlers by empowering its citizens to "Just Say No."⁶¹

The "Just Say No" approach seems to be ineffective. Besides neglecting the panhandler and solely focusing on the donor, its reliance on advertising to donors through merchant interaction seems futile. Evanston's interveners educate the public at the point of confrontation between the panhandler and the donor, thus providing alternative information to counterbalance the street person's desperate pleas for money. Santa Barbara's program relies on its merchants to distribute the *Say No to Panhandling* cards to customers, preparing them for the inevitable interaction with a panhandler. Most people who would potentially give to a panhandler make the decision to give at the moment of contact with the panhandler,⁶² thus, disseminating information prior to such time has little effect on a donor's giving habits. In addition, distributing information through pamphlets and business cards would most likely be ineffective. Without human

59. *Say No to Panhandling* card, *Say No to Panhandlers* (Sept. 1994)(on file with author).

60. Santa Barbara has some of the toughest anti-homeless laws in the nation. Homeless advocate Peter Marin said, "Almost every normal function is criminalized in this town." *See Sharp, supra* note 54. Camping, building fires, sleeping and drinking alcohol are a few of the activities prohibited in public areas. The city council outlawed public urination, while not providing any public bathroom facilities for the estimated 3,500 homeless people in Santa Barbara (an estimate which has little statistical support or anecdotal corroboration), *supra* note 57.

61. *See Jeannette Avent, Lending a 'Helping Hand, Not a Handout' in Beverly Hills*, L.A. TIMES, Mar. 19, 1993, at B1.

62. Interview with Howes, *supra* note 24; Interviews with numerous donors from Yale University, Yale Law School and the New Haven Shopping District, in New Haven, Conn. (April - May of 1994); *see also* Burns, *supra* note 5, at 787.

intervention, donors may be more likely to be swayed by the panhandler's personal plea than by the pamphlet's detached assertions about drug abuse on the streets.⁶³

Like Evanston's focus on donors, Santa Barbara's success is limited. With no intervention on behalf of the panhandler, reduced giving would offer no solutions to the street person, leaving her in an even worse position from which to deal with the drug addiction, unemployment and extreme poverty that most likely contributed to her present situation. Just as with ordinances or other donor oriented responses, the risk of increased crime and aggressive behavior on the streets would become more serious.

D. San Diego's Program - Giving out Worthless Change

The most problematic "more speech" solution is San Diego's *Real Change* program.⁶⁴ *Real Change* places displays with panhandling information in participating downtown businesses. The displays, which are placed at merchants' cash registers, contain small information packets for the public. The information includes a list of three soup kitchens and a telephone number to call for additional information about services for the homeless.⁶⁵ People without money can call from a special phone located near City Hall.

Real Change's stated goal is to better inform the public. By responding to panhandling with "more speech," the program educates people who must decide whether to give to panhandlers. However, behind this goal is also an outwardly paternalistic sentiment. A coin that reads, "Spare Change: A Helping Hand, INFO-LINE 549-0997"

63. Burns, *supra* note 5, at 787; Interview with Howes, *supra* note 23.

64. The program began in 1989. It predates the modern anti-panhandling ordinances, the "more speech" programs, and the voucher systems. *Real Change* brought a message of restraint to its public, attempting to educate local residents and tourists about the dangers of giving cash out on the streets. As with most other panhandling programs, *Real Change* was started by a representative group of business professionals, volunteers, police officers and service agency directors from the community. See REGIONAL TASK FORCE FOR THE HOMELESS, PRESS RELEASE (Nov. 9, 1989) (on file with author).

65. See REGIONAL TASK FORCE FOR THE HOMELESS, PRESS RELEASE: FREE INFO LINE DEDICATED TELEPHONE UNVEILED FOR DOWNTOWN NEEDY (Jan. 29, 1990) (on file with author).

is included with the information packets. The coin has no monetary value; stores will not redeem it. *Real Change* encourages pedestrians to give these coins to panhandlers instead of money. The rationale is that a panhandler who is truly in need of food, shelter and other services will be better served by the INFO-LINE than by spare change.⁶⁶

Still, the practice of handing out fake coins seems like a slap in the face to the panhandler. While vouchers have been strongly criticized by some as being overly paternalistic and controlling, at least they can be used to buy food, clothing and other items.⁶⁷ These fake coins give nothing more to the panhandler than a phone number which can be called to receive information about local service organizations. Panhandlers in San Diego have been extremely hostile to this type of handout.⁶⁸ Most knew about the social service agencies in San Diego and chose not to go to them because of their regimented system and numerous rules. All agreed that they would rather have nothing than be given a *Real Change* coin, warning that distributing such worthless coins could easily start a "war" on the streets.⁶⁹ Glenn Allison, executive director of Episcopal Community Services in San Diego, explained, "Essentially, [*Real Change*] creates distance between people."⁷⁰ Panhandlers seem to have interpreted the coins as a

66. Telephone Interview with Ron Oliver, Director, *San Diego Downtown Association* (Nov. 2, 1994).

67. Interviews with donors, *supra* note 62; Survey of Yale Law School (May 1994) (on file with author).

68. REAL CHANGE, TOKENS WITH SELF-HELP THEME NOT A HIT AMONG PANHANDLERS (Dec. 1989) (on file with author). One panhandler, Bobby Jackson, responded, "All I want is a lousy quarter and two people this week gave me this dumb coin. I don't need something like this to tell me how to get help. I know where help is if I need it." Most panhandlers had similar reactions, appalled that the coins could not be redeemed for anything and angry that *Real Change* was attempting to push them off the streets.

69. See JACKIE MCGRATH, REAL CHANGE, SPARE A SLUG (Dec. 1989) (on file with the author). One panhandler complained, "They're trying to kick us in the ass with these. I wish them luck because there's going to be a hell of a war if they start handing out that [*Real Change* coin]." Many warned that panhandlers would react violently to the coins, which look tantalizingly like the tokens needed to get into the public bathrooms. "They might think (people) are playing a game on them ... People get real rebellious out here on the street."

70. *Panhandlers: Reviews Are Mixed*, SAN DIEGO UNION, Dec. 30, 1989, at B1.

message of disdain and indifference by the donor.

While *Real Change* replaces the panhandlers' income with worthless funny money, the also program obfuscates its message in the information that it distributes to the public. Instead of saying that panhandlers spend most of their money on drugs and alcohol, *Real Change* claims that the spare change given on the streets is "often not used for food or lodging," generally avoiding any direct condemnations of panhandlers and thus seeming to be more tolerant of the street person's plight.⁷¹

Philadelphia has a similar program to San Diego's, encouraging people to donate money to charities rather than give change on the street. It also supplies customers with information cards to give to panhandlers instead of cash. Unlike San Diego's program, however, Philadelphia's *Campaign for Real Change* attempts to tell pedestrians that over 80% of the money they give out is used to purchase drugs and alcohol.⁷² The information cards list two agencies to which the customer can donate money, rather than giving the money to a panhandler. Customers in Philadelphia are encouraged to hand out the

71. The San Diego community has not always been so analytically careful. One editorial included the following description:

I was walking across a dark parking lot one night when a woman came up to me and asked for a buck. I looked at her as she was talking to me. She was young and sickly thin, missing several teeth, her hair was dirty and she was strung out and shaking. Crystal, I figured. Maybe heroin... So who are the panhandlers? Alcoholics and drug addicts mostly. A handout is the last thing they need.

Jim Gogek, *Give That Panhandler a Break: Just Say No*, SAN DIEGO UNION-TRIB., Jan. 31, 1994, at A2.

72. Dave Davies, *Survey Exposes Panhandlers*, PHILA. DAILY NEWS, Dec. 10, 1993, at 3. This figure is based on a survey done by the program which revealed that 50% of the panhandlers had places to live and spent the money that they collected on drugs. The 80% figure quoted by *Campaign For Real Change* is an embellishment based on anecdotal evidence and the claim that many of the panhandlers surveyed were not completely honest. Few studies have been done which focus on how a panhandler spends his/her money and no reliable statistics are available. Brandt Goldstein's study on panhandling around the Yale University campus comes the closest by examining the lives and experiences of twelve panhandlers from the downtown New Haven area. See Goldstein, *supra* note 54. While Christopher Jencks asserted that over 50% of homeless people have a drug or alcohol problem, Goldstein's study and other anecdotal evidence suggests that panhandlers are not homeless. See Jencks, *supra* note 1.

section of the information card that describes local social service agencies.⁷³

The general sentiment from cities that have initiated more aggressive anti-panhandling programs rather than adopting voucher programs was that they feared the development of a black market for the vouchers. According to Dr. Michael Cooper of Santa Barbara's program, more than thirty panhandlers he spoke with claimed that people would easily figure out a way to get drugs and alcohol.⁷⁴ Ron Oliver of San Diego's Downtown Association, explained that the merchants were suspicious that any limited currency would soon be traded on the streets, defeating the purpose for which they were created.⁷⁵

In addition to the fear of a black market, some merchants and city representatives did not want to encourage an influx of panhandlers or provide homeless people with a reason to enter the downtown stores. With only five or ten redeemers in the center city area, all of the 3500 homeless people in San Diego who received vouchers would be entering these stores.⁷⁶ While such fears might sound inflated, they are legitimate to restaurant owners concerned with losing customers, albeit, customers who have prejudice towards homeless people. However, based on the limited anecdotal data about voucher programs, the fear that more people will begin panhandling is wholly unfounded.⁷⁷ Vouchers seem to repel panhandlers, rather than attract them. The limited currency has been anything but desirable for street

73. CAMPAIGN FOR REAL CHANGE, CENTER CITY SPECIAL SERVICES DISTRICT INFORMATION CARD, (1994) (on file with author). The information card is perforated, separating into two pieces, one listing the agencies and the other listing the person's donation. This second section is then sent to the agency to which the money was donated. *Id.*

74. Telephone Interview with Dr. Michael Cooper, Santa Barbara Chamber of Commerce (Nov. 4, 1994).

75. Telephone Interview with Oliver, *supra* note 66.

76. *Id.* Dr. Cooper also spoke of Santa Barbara's fear of attracting panhandlers. According to him, the city council "buried" the material sent to it by *Berkeley Cares* in 1991 out of a fear that such a program would bring more homeless people into Santa Barbara. See Telephone Interview with Cooper, *supra* note 74.

77. Telephone Interview with Aliena Wells, Executive Director of *Berkeley Cares* (Oct. 19, 1994); Interview with Lieberman, *supra* note 23.

people who prefer cash.⁷⁸ Because the only available data suggests that most panhandlers are not homeless,⁷⁹ citing the number of homeless people that exist in an area and assuming that they will all be using the vouchers is foolish. Certainly, Evanston has more than 36 homeless people, yet the police only found 36 panhandlers. New Haven contains no more than 30 regular panhandlers. Dealing with panhandlers requires a better understanding of the panhandling population, their problems, motivations and desires.⁸⁰

III. THE "VOUCHER" SOLUTION

Compassion for the homeless person seems to be waning in recent years as politicians pave a blistering path toward welfare reform.⁸¹ Perhaps as a reaction to the perceived rise in violent crime across the nations' cities or as a reaction to the growing federal budget deficit, people seem to be less willing to recognize the plight of the homeless person. This compassion fatigue is symptomatic of a backlash against the street person as citizens fight to reclaim the safety of their city

78. See Interviews with "regular" panhandlers, *infra* part III.C.

79. See Goldstein, *supra* note 54; Interviews with regular panhandlers, *infra* part III.C.

80. This lack of understanding is highlighted by Washington, D.C.'s anti-panhandling campaign. The Dupont Circle Merchants and Professionals Association published a guide entitled *Your Nickels and Dimes Don't Add Up to Sense*, with the following advice: "Say no. Never give them money. Be courteous, but firm. Avoid a conversation. Avoid a confrontation. If followed or touched, tell panhandlers you will call the police and then do so. If you feel a need to do something for panhandlers, take them to lunch." See Linda Wheeler, *Panhandlers Tap Deep Pockets of Resentment*, WASH. POST, May 9, 1993, at B1 (describing *Your Nickels and Dimes Don't Add Up to Sense*). The Dupont Circle Merchants Association tells pedestrians to avoid conversation and contact, yet advises those who feel compelled to help to take the panhandler out to lunch. The message both suggests that panhandlers are dangerous criminals, and that they are just hungry and homeless. This contradictory message conjures up an image of the "concerned pedestrian" buying the "hungry panhandler" a meal, juxtaposed to an image of the "intimidated pedestrian" calling the police because of the "con-artist panhandler."

81. Gergen, *An Age of Indifference*, U.S. NEWS & WORLD REP., June 25, 1990, at 68; Tye, *Seeking Shelter, The Street People Are Finding Scorn*, BOSTON GLOBE, Aug. 27, 1990, at 1; Millich, *supra* note 3.

streets.⁸² The voucher programs address the very concerns that have brought about such an intense backlash.

Although Berkeley has attained national fame as the inventor of vouchers for panhandlers,⁸³ other communities had developed voucher programs prior to Berkeley. Perhaps the largest and most successful of these began in Los Angeles, California in 1989.⁸⁴

A. *The Weingart Center - Beginning with Food Coupons*

In 1983, the Weingart Center began bringing together a network of resources for homeless people, designed to enable them to stay off the streets. Located in the heart of skid row in downtown Los Angeles, the center occupies a 12-story building that was formerly the El Rey Hotel, a poorly maintained flophouse.⁸⁵ Rather than providing shortsighted and limited transitional housing, Weingart addressed the need for a more service oriented response to the homeless crisis. The center attempts to provide extensive employment services, drug counseling, medical and mental health treatment and educational programs in a "one-stop shop" approach to help homeless people escape from the streets and the cycle of dependency.⁸⁶

Presently, twenty-four private and public agencies work together in the center to ensure that the needs of each homeless person who comes to the center are evaluated and served.⁸⁷ The services provided include transitional housing programs, counseling and

82. See generally, Brian Cox & Jon Hilkevitch, *Doors Open to Homeless; Fears Enter*, CHI. TRIB., Dec. 9, 1992, at N1; Dreier, *supra* note 3, at 1352; Jeff Lyon, *Social Change: Negotiating the Mine Field (and mind field) of Urban Want*, CHI. TRIB., May 30, 1993, at C10; Slipp, *supra* note 5, at 588; Warren, *supra* note 17.

83. See *infra* part II.B.

84. WEINGART CENTER ASSOCIATION, *THE WEINGART CENTER: BACKGROUND INFORMATION* (Nov. 1994) (on file with author); Telephone Interview with Dr. Cooper, *supra* note 74.

85. See Janice Nagano, *Helping the Homeless*, LACMA PHYSICIAN, Jan. 11, 1993, at 1 (on file with author).

86. *Id.*

87. The American Red Cross, the Los Angeles County Department of Mental Health, the Community Redevelopment Agency and the California Department of Corrections are among the diverse agencies that serve the homeless people at the Weingart Center. See WEINGART CENTER ASS'N, *supra* note 84.

referral, alcohol detoxification and recovery, a learning center, employment programs, veterans' services, AIDS testing and counseling, education through exposure to the arts, a full-service meal cafe and a meal coupon program.⁸⁸ The center, a 700-bed transitional housing complex with customized health and social services, is one of the largest facilities of its kind in the country.⁸⁹

In March of 1989 the Weingart Center initiated an experimental coupon program, the goal of which was to provide customers in the "Skid Row District" with another way to help panhandlers. The coupons were worth \$2.50 and could be redeemed at Weingart's subsidized cafeteria,⁹⁰ which offers inexpensive meals. Each coupon has an expiration date so that it will not be redeemed indefinitely. Rather than printing a dollar amount on the coupon, the center chose to simply print "Coupon Value - 1 Complete Meal" on its face, including the address and hours of the cafeteria.⁹¹

The coupons are not sold through merchants. They can be purchased from the Center or through the mail.⁹² In addition, people can purchase coupons by mail and donate them directly to the Center. These donated coupons are then distributed to homeless people who come in off the street and have no money for a meal in the cafe.⁹³ While the coupons are more expensive than vouchers from other programs, the Weingart Center insists that people are

88. WEINGART CENTER, *supra* note 84; Telephone Interview with Susan Shaddock, *Weingart Center* (Nov. 1994).

89. The goal of the center is "to enable homeless men and women to permanently leave the streets and achieve economic self-sufficiency and an independent way of life." Approximately 2,000 clients are served daily and approximately 300,000 meals are served annually. Sixty-two percent of "Weingart Center Screening and Referral services/High Risk Homeless program clients" have left the streets. *See* WEINGART CENTER ASS'N, *supra* note 84. These numbers are suspect without more descriptive data. For example, the "62%" figure does not address instances of re-entrance onto the streets and into homelessness. At most, we can assume that the Weingart Center provides useful services to the average homeless person who seeks shelter and/or food there.

90. *See Brother, No Dimes Please*, TIME, Oct. 11, 1989 at 37.

91. *See* WEINGART CENTER ASSOCIATION., *supra* note 84.

92. Telephone Interview with Susan Shaddock, *supra* note 88.

93. *Id.* *See also* WEINGART CENTER ASSOCIATION, *supra* note 84. This component is also similar to segments of other voucher programs that provide a means for people to donate to non-panhandling homeless people.

willing to pay the extra money for a coupon because of the peace of mind it grants. In the first few months of operations, 1610 of the \$2.50 coupons had been sold and 1028 of them redeemed. Donors no longer have to worry about determining whether or not a panhandler is lying when he or she asks for money for a particular purpose.⁹⁴

Corporations purchase many of the coupons, and distribute them to their employees to donate.⁹⁵ Weingart encourages charities and organizations to adopt the coupon approach, a more sensible response to aggressive panhandling. The Center claims that coupons provide peace of mind to the donor while enabling the recipient to take advantage of the services available at the center.⁹⁶ The result is a less aggressive atmosphere on the street.

The conclusion that coupons will reduce confrontational panhandling is based on the idea that people will give more to panhandlers if they know their money is being used to purchase food.⁹⁷ Thus, the panhandlers' frustration and anger with people for not giving is lessened. This presumption is untenable if those who are panhandling do it solely to earn money for drugs and alcohol. Such a panhandler might get more frustrated when handed pieces of paper instead of cash, paper that is worthless for what he or she wants to buy.

The Center's additional justification for the coupon system is most persuasive. "[I]t presents the frustrated and possibly guilt-ridden a way to directly help a panhandler in a positive way, while encouraging at least a small measure of interaction between the haves and the have-nots."⁹⁸ Interaction is more a concern for those advocating coupons than for those advocating ordinances or anti-panhandling campaigns. Presumably, panhandlers are not good for the downtown environment because they intimidate shoppers and give people the impression that

94. See *A Better Way to be Charitable*, FAMILY CIRCLE, Apr. 24, 1990, at 6.

95. Michael McCabe, *Novel Way to Deal with Panhandlers: LA Program Serving as a Model*, S.F. CHRON., Jan. 29, 1990, at A6.

96. See Maxene Johnston, *Another Way*, L.A. TIMES, Nov. 18, 1992.

97. Interview with Lieberman, *supra* note 23.

98. See McCabe, *supra* note 95.

the streets are not safe.⁹⁹ Coupon advocates address this problem by assuming that panhandlers are here to stay and focus on improving the relationship between the public and the street people. By encouraging more tolerance of the panhandler, this approach provides little opportunity for substantial change in the downtown environment. Panhandlers will not be swept off the streets by the police. Unless they choose to leave voluntarily because they are unable to attain drugs or alcohol, people will have to interact with them regularly. The public will not be inundated with the message to give to local charities instead of panhandlers. Those who want to help will give food coupons to panhandlers and, presumably, will interact with panhandlers. Adopting Weingart's approach means accepting the inevitability of this interaction and attempting to develop constructive results from it.

B. Berkeley - Responding with Vouchers

Berkeley Cares ("BC"), the first nationally renowned voucher program,¹⁰⁰ developed for the same reasons as Weingart's coupon program. Merchants and community residents were searching for a way to respond to panhandlers in downtown Berkeley that would respect their rights and offer them support, while enabling shoppers to feel safer. Responding to Weingart's call for a sensible response, BC proposed a solution that fell somewhere in between a law against panhandling and an aggressive anti-panhandling campaign.¹⁰¹

99. Interview with Morton, *supra* note 25; Telephone Interview with Perman, *supra* note 28.

100. See generally, *ABC News: World News Tonight with Peter Jennings*, (ABC Television Broadcast, Mar. 4, 1992); Max Boot, *Voucher Program Launched in Berkeley to Care for Homeless*, L.A. TIMES, May 7, 1991, at A3; Brian Cox, *Hey Brother, Can You Spare a Dime or Even a Voucher?* CHI. TRIB., Jan. 15, 1993, at 1; Ira Eisenberg, *Berkeley's Answer to Begging*, N.Y. TIMES, Sept. 19, 1991, at A27; Ira Eisenberg, *Panhandling: Vouching for a Better Way*, SEATTLE TIMES, Jan. 31, 1992, at A9; Felix Hoover, *Officials Unsure about Panhandler 'Coupons'*, COLUMBUS DISPATCH, Apr. 6, 1992, at 6B; Valerie Richardson, *Sparing 'Spare Change?' Business Vouchers Aid Berkeley Poor*, WASH. TIMES, Oct. 1, 1992, at A1.

101. Barbara Sullivan, *Program Makes a Difference*, DAILY CALIFORNIAN, Aug. 20, 1992, at 1, 5. "Berkeley Cares has caught people's imagination," said John Burcham, the program's president, "It helps people understand the plight of others." *Id.*

People with entirely different social and political agendas came together to work on the BC voucher project. Both police officers who wanted to get rid of panhandlers and homeless advocates who wanted other people to respect the panhandlers' rights were working to develop BC's voucher system.¹⁰² While some felt that vouchers would eliminate panhandlers, or at least reduce the number of panhandlers in the area, others supported vouchers because they felt that they would deter aggressive panhandling and encourage panhandling for food, not drugs.¹⁰³ Others liked vouchers because of the increased safety in not having to take out one's wallet to give, as well as the added guarantee that their money would not be used for drugs.¹⁰⁴

The voucher concept has been developed for many conflicting and seemingly irreconcilable reasons. Depending on who you ask, the goal of vouchers could be to reduce the number of panhandlers on the street, or to increase the amount of giving on the street and encourage panhandling for the necessities. While each voucher program is different, they are somewhat similar in their confusing and contradictory goals.¹⁰⁵ None will admit that they want panhandling to decrease or move elsewhere.¹⁰⁶ None will admit that they only support panhandlers that ask for money to satisfy wholesome needs.¹⁰⁷ None will admit that the danger of a black market is real and depends largely on the amount of vouchers injected into the

102. Telephone Interview with Woodward, *supra* note 44.

103. Sullivan, *supra* note 101; Telephone Interview with Woodward, *supra* note 43.

104. Sullivan, *supra* note 101, at 1, 5. See also Katherine Bishop, *Vouchers Route Money to the Needy Separating Hustlers from Homeless*, N.Y. TIMES, July 26, 1991, at A7.

105. According to BC's informational flyer, the goal of the program is to "provide basic services, including food, laundry and bus transportation to homeless individuals and families; to provide an alternative to giving cash to panhandlers; to decrease the amount of money on the street that might be used for drugs and alcohol; to encourage more people to give to homeless people and homeless services." BERKELEY CARES (May 1993) (on file with author).

106. See *Id.*; CARING NEIGHBORS (Nov. 1994) (on file with author); NEW HAVEN CARES (Nov. 1994) (on file with author).

107. See BERKELEY CARES, *supra* note 105; Telephone Interview with Lieberman, *supra* note 23; Telephone Interview with Woodward, *supra* note 44.

system.¹⁰⁸ Perhaps as a reflection of these conflicting goals, interest seems to be dwindling for the voucher idea.¹⁰⁹ As some of the effects of vouchers become apparent (e.g. vouchers get rid of panhandlers), those who supported the concept for other reasons will abandon it.

While cities such as Boston, New Haven, New York, Boulder, Miami, Seattle and Portland have followed in Berkeley's footsteps, many more communities have adopted ordinances and/or donor-oriented, anti-panhandling campaigns to remove cash and panhandlers from the streets.¹¹⁰ Berkeley's adoption of an ordinance banning panhandling could be symbolic of the failure of voucher programs to solve the problems presented by street beggars.

The BC program was the result of discussions between representatives from the city, universities, merchant groups, church organizations, homeless service providers and homeless community. When BC began in 1990, it was justified as the solution which offered

108. The executive director of BC stated that a black market for vouchers did not exist, but gave very little evidence to support such a conclusion. She cited the voucher's small denomination as a profit inhibitor, as providing no incentive for a secondary market. Telephone interview with Wells, *supra* note 73. If, however, enough 25¢ vouchers are injected into the system, panhandlers might receive \$50 or \$100 in vouchers per week, rendering the voucher's denomination irrelevant. Regardless of how much each individual voucher is worth, if a panhandler receives \$100 worth of vouchers, he or she then has the trading power of \$100, offering a profit incentive for a third party to trade cash for vouchers at a discount.

109. Telephone Interview with Wells, *supra* note 73. After four years of experimentation with vouchers, Berkeley's residents have opted for a more aggressive approach by voting in an anti-panhandling law by referendum. *Id.* *Castro Cares*, a program in San Francisco, has failed due to lack of support from merchants and residents. Telephone Interview with Barry Hermanson, Former Director, *Castro Cares* (Oct. 17, 1994). *Boulder Change*, a Colorado based program, organized in March of 1993 in response to a recently developed anti-panhandling ordinance. However, sales for the program have been embarrassingly low, as pedestrians are choosing not to buy or give vouchers. *Boulder Change* will most likely disband. Telephone Interview with Director, *Boulder Change* (Nov. 10, 1994). *West Side Cares* is also on the brink of extinction due to a severe lack of volunteer involvement and community support. Telephone Interview with Laura Friedman, Director, *West Side Cares*. (Nov. 10, 1994).

110. Michael McIntire, *Council to Consider Panhandling Ordinance*, HARTFORD COURANT, Nov. 29, 1994, at B1; Michael McIntire, *Curbing Pugnacious Beggars*, HARTFORD COURANT, Dec. 2, 1994, at A16.

choices to donors and panhandlers.¹¹¹ The voucher would be a new currency redeemable for a limited number of goods at a limited number of merchants in the downtown area. The idea was to provide something that pedestrians could hand out to panhandlers which enabled the donor to have some assurance that the proceeds would not go to purchase drugs or alcohol.

BC determined the basic model of a voucher program; most imitators have remained loyal to BC's original structure.¹¹² Vouchers are worth twenty five cents each, and can be redeemed for food, clothing, personal hygiene products, laundry and bus tokens.¹¹³ No change is given if the panhandler does not spend the entire voucher. Customers can purchase vouchers in participating stores. Customers can also donate money to the non-panhandling homeless by placing cash in donation boxes at many of the participating stores.¹¹⁴

Only merchants who sell groceries, clothing and personal hygiene products may redeem vouchers. Liquor stores are able to sell vouchers, but are not allowed to redeem them. Merchants who

111. BC began actual operations in July of 1991, funded by private donations of \$5,500 and staffed entirely by volunteers. Shortly thereafter BC incorporated as a charitable non-profit and, in March of 1992, hired a program coordinator with federal grant money. BC is the only voucher program that employs a paid staff and receives federal grant money. Along with this \$25,000 grant BC has more than \$10,000 in donation proceeds, giving the program a yearly budget of over \$35,000. Its largest expense after salaries is printing costs. \$6000 of this total is used to print new vouchers. BERKELEY CARES, OPERATIONS REPORT (Sept. 30, 1992) (on file with the author). Since its inception, BC has expanded to 200 stores in five commercial districts, recently hiring another part-time staff person to assist in managing daily operations. Many of these 200 stores participate by having a donation box, but do not sell or redeem the vouchers. Telephone Interview with Wells, *supra* note 77.

112. Because few people knew about the Weingart Center's coupon program and because BC offered a workshop for those interested in starting voucher programs in their communities, the voucher programs that developed after BC used it as their model. Many of the directors of the current voucher programs attended the 1991 workshops at Berkeley to learn how to organize and manage a program. Telephone Interview with Lieberman, *supra* note 23; Telephone Interview with Amelia Canaday, Executive Director, *Caring Neighbors* (Nov. 4, 1994).

113. Depending on the city, other items can be purchased with vouchers. For example, the vouchers in New Haven are redeemable for shelter as well.

114. While all voucher programs have a component dedicated to providing for non-panhandling homeless people, BC is the only program to place donation boxes in the stores. However, recent theft problems in Berkeley have caused them to question this system. Telephone Interview with Woodward, *supra* note 44.

support the program appreciate the extra publicity that it provides, and feel that participation in the program improves their reputation in the community, and increases their patronage.¹¹⁵ Some merchants support vouchers because they feel that reducing the number of street people improves the shopping environment, and makes fearful suburbanites more comfortable in downtown shopping districts.¹¹⁶

Programs typically have far fewer redeemers than sellers because a limited number of merchants sell goods that can be purchased with vouchers and many merchants do not want to encourage panhandlers to come into their stores.¹¹⁷ The percentage of vouchers redeemed has been used as a measure of success by directors of voucher programs.¹¹⁸ BC's redemption rate has been steadily increasing since the program began.¹¹⁹ In BC's first year its redemption rate was 40%, increasing to 80% during its second year and to 89% over

115. Interview with Janet Burcher, Store Manager of WaWa Food Market, in New Haven, Conn. (Apr. 1, 1994); Interview with Susan Regan, General Manager of The Yale Co-op, in New Haven, Conn. (Apr. 22, 1994); Interview with Waiva Wagner, General Manager of Store 24, in New Haven, Conn. (Apr. 7, 1994).

116. Interview with Jay Luther, Owner of Dakota J's, in New Haven, Conn. (Apr. 20, 1994); Interview with Regan, *supra* note 109; Interview with Chevalier, *supra* note 24. One Berkeley merchant explained, "Homeless, bums, vagrants, down-and-outers...what ever label people use to describe these poor individuals...no matter what your politics...no matter what business you are in, one thing is clear, and that is people 'hanging out' [gives] a negative image [to] your shopping district, and is just plain bad for your business investment." Letter from Cary Nasatir, Owner of Tupper & Reed in Berkeley, Cal., to Matthew Lieberman, Executive Director of New Haven Cares (July 1993) (on file with author).

117. *New Haven Cares* has 40 sellers and 19 redeemers. Interview with Lieberman, *supra* note 22. *Caring Neighbors* started with forty sellers and sixteen redeemers. Telephone interview with Canaday, *supra* note 106. *West Side Cares* started with twenty sellers and eight redeemers. Telephone interview with Friedman, *supra* note 109. *Berkeley Cares* started with just under thirty seller and twelve redeemers. Telephone Interview with Woodward, *supra* note 44.

118. Interview with Lieberman, *supra* note 22; Telephone Interview with Woodward, *supra* note 43.

119. The redemption rate is measured by dividing the total number of vouchers redeemed by the number sold. Because many people who purchase vouchers do not give them out until weeks and sometimes months later, redemption rates may be lower than expected. Accurate measures of the rate would account for a lag between purchase and distribution. For example, most voucher programs seem to experience a large increase in their redemption rate after the first year of operations, as this lag begins to correct itself.

the first nine months of 1994.¹²⁰ A high redemption rate, however, might also be a signal that a black market exists for the vouchers. If someone (e.g. a drug dealer) is trading vouchers for cash at a discount, his profit depends on the voucher being redeemed. Food stamps that are given as payment for drugs must be redeemed for food so that their value is realized and transferred into cash for the drug dealer.

While panhandlers have not stopped asking for money in Berkeley, they have moved out of neighborhoods where BC is a strong presence.¹²¹ BC expanded to 200 stores by responding to merchants from other neighborhoods who were requesting that the voucher program saturate their districts.¹²² Anecdotal evidence suggests that as soon as BC saturates a commercial district, the panhandlers move to another section of the city where there are no vouchers.¹²³ New Haven, whose voucher system has been operating for less than two years, has recently seen similar results, as many panhandlers have moved away from the Yale University campus to other commercial districts.¹²⁴

If these findings are accurate, one would expect serious consequences for voucher programs. For the supporters who felt that vouchers would get rid of panhandlers, such results would encourage

120. See Telephone Interview with Wells, *supra* note 77.

121. *Id.*

122. *Id.* Wells bases her assertions about panhandlers moving out of commercial districts where BC vouchers are sold and into others where BC has not yet established itself on reports that she receives from merchants participating in the program. Panhandlers seem to move away from areas where vouchers are given. Merchants in other commercial districts have called BC and requested that it they establish the program in that district because panhandlers have begun asking for money in front of their stores. Wells claims that after BC has established itself in a commercial district, merchants in new commercial districts will call her, saying that panhandlers have come into their neighborhood. *Id.*

123. *Id.*

124. See interview with O'Sullivan, *supra* note 25. O'Sullivan operates a soup kitchen that is located on the border of two commercial districts, one district (Broadway) where panhandlers have traditionally gone to solicit money and where *New Haven Cares* established itself, and the other district (Whaley Ave.) where panhandlers and *New Haven Cares* have not gone. According to O'Sullivan, more and more panhandlers are straying into the Whaley Ave. commercial district to solicit alms. Recently, the Whaley Ave. Special Services District asked *New Haven Cares* to begin selling vouchers in their district in order to combat this influx of panhandlers. *Id.*

larger investments into the idea as more vouchers would mean less panhandlers; however, for those who felt that vouchers would provide more of life's basic necessities to street people, the findings would discourage continued support, causing some of the voucher program's organizers and volunteers to abandon the idea. In fact, if vouchers inevitably cause panhandlers to stop panhandling, those who continue to support the idea would most likely become a monolithic group, primarily donor-oriented and unsympathetic to the needs of the panhandlers. Those sympathetic to the panhandlers' plight would return to giving cash when they realized that the vouchers drive panhandlers away. This might mean that programs like BC would cave in on themselves, no longer receiving the amount of support necessary for survival.

In spite of this, BC has been well-received by the community since its inception in 1991, as donors have purchased and distributed over \$300,000 worth of vouchers, almost 80% of which have been redeemed. However, in 1994, merchants demanded and the Mayor recommended new anti-panhandling legislation.¹²⁵ The citizens of Berkeley voted for a referendum ballot measure which banned panhandling near store entrances and ATM machines.¹²⁶ This referendum included increased funding for a variety of substance abuse and mental health treatment programs, as well as a \$40,000 grant for BC.¹²⁷ Even with the grant promised by the ballot measure, BC refused to take a position with respect to the referendum decision. Aliena Wells, the executive director, stated that she would obviously welcome the new grant money, but hinted that an anti-panhandling ordinance would be antithetical to BC's goals.¹²⁸ In addition,

125. See Janet Wells, *Berkeley Mayor Backs Plan to Ban Panhandling at ATMs*, S.F. CHRON., June 10, 1994, at D3.

126. The ordinance "bans lying or sitting on sidewalks within six feet of buildings in commercial districts between 7 a.m. and 10 p.m. It also prohibits begging within 10 feet of automatic banking machines, near storefronts and from people getting in or out of cars. The law would also prohibit begging in any manner that 'coerces, threatens or intimidates.'" Janet Wells, *Berkeley Voters Will Have Say on Panhandling*, S.F. CHRON., July 20, 1994, at A15.

127. Homeless advocates cited this increased funding for drop-in centers and treatment programs as an instance where services were traded for restrictions on undesired speech. *Id.*

128. Telephone Interview with Wells, *supra* note 77.

merchants who had supported BC expressed even stronger support for this new anti-panhandling ordinance.¹²⁹

By including vouchers as part of the ballot measure, one may infer that vouchers help get rid of panhandlers. The public overwhelmingly supported stronger policing measures to battle aggressive panhandling.¹³⁰ Informing people that vouchers actually help move panhandlers away from the downtown streets generates even more support for BC. The coalition supporting both stronger police measures and vouchers seems to be growing. Though many people subscribe to the "pro-criminalization theory" BC will lose some support because of its ties to the new ballot measure which symbolizes a movement towards harsher treatment of panhandlers.

C. Santa Cruz and Portland - Caring Less, Policing More

Many of the "Cares" programs that followed in Berkeley's footsteps have since shifted gears towards more vigorous policing and anti-panhandling programs to remove panhandlers from the streets. Support for voucher programs has dwindled and support for tougher anti-panhandling laws has grown as part of the public backlash against the panhandlers' invasion of downtown areas. While some programs still exist, they take a more active and aggressive role in attempting to move panhandlers out of downtown shopping areas.

Santa Cruz's three prong approach to panhandling - vouchers, interveners and an ordinance - developed after an initial limited

129. See Jennifer Warren, *A City Torn: Berkeley, Renowned for its Soft Heart, Is Divided by Proposal to Get Tough with Pushy Panhandlers*, L.A. TIMES, Mar. 13, 1994, at A3. Even Barbara Maiss, manager of Lawson's Stationery and one of BC's most active participants, seems to have lost faith in vouchers. Whereas in 1992, Maiss said, "If people want to help the homeless, they should give vouchers. A lot of people feel sorry for panhandlers. But the public needs to be educated," See Sullivan, *supra* note 101, in 1994 she said, "We are losing good, loyal customers because they are afraid, intimidated or just tired of being attacked five times between their car and our store. They'd rather go to a nice, clean mall with security guards. And who can blame them?" See Warren *supra*. Continued problems with aggressive panhandling intimidating customers and scaring them away from the downtown seem to have pushed Maiss in the direction of advocating the criminalization of panhandling.

130. See Warren, *supra* note 129.

experimentation with *Santa Cruz Cares*,¹³¹ the city's voucher program. The anti-panhandling ordinance¹³² and the host program,¹³³ which is similar to the Portland Guides, reflects the city's desire to be less tolerant of panhandlers. Vouchers, when advertised with these other solutions, seem to have the harsher goal of removing the panhandlers from the streets.

Real Change/Not Spare Change is the second prong of Portland's multi-faceted solution to the panhandling dilemma. Since its inception in 1991, the program has sold approximately 20,000 vouchers, and redeemed only 15% of them.¹³⁴ Rick Williams, one of the directors of the program, claims that the small number of vouchers redeemed reflects the small number of panhandlers that are truly begging for something other than alcohol or drugs.¹³⁵ Often a panhandler crumples up the voucher and throws it back at the donor, making his or her desires clear and educating the pedestrian about his or her needs.¹³⁶ Because four of the six redeemers in *Real Change/Not Spare Change* are connected to substance abuse, employment and education programs, redeeming a voucher in one of these places means entering a program, or at least leaving with a brochure about available homeless services. For most panhandlers, this provides an incentive against using vouchers.¹³⁷

The stated goal of the program is to remove cash from the streets

131. The Downtown Association, a representative group of merchants in the downtown Santa Cruz area, began the program in 1993 with twenty selling merchants and five redeemers. Its goal was to reduce the amount of cash given on the streets in an attempt to reduce the amount of drugs and alcohol purchased. Telephone Interview with Linda Steinau, *Santa Cruz Downtown Association* (Oct. 12, 1994).

132. The ordinance forbids panhandlers from blocking or invading a pedestrian's personal space and from using public benches and planters to ask for money. *Id.*

133. The "Downtown Hospitality Program" places four "hosts" in the downtown area. These hosts are similar in some ways to the interveners of Evanston and the guides of Portland. By informing pedestrians about vouchers and the dangers of giving cash, hosts educate the general public about *Santa Cruz Cares* and encourage them to purchase vouchers. *Id.*

134. Telephone Interview with Williams, *supra* note 50.

135. *Id.*

136. *Id.*

137. *Id.*

and connect the truly needy panhandler with the appropriate services.¹³⁸ However, selling only 8000 vouchers seems insufficient to accomplish such goals. In a city supported by a million dollar downtown improvement project, striving to put a mere \$2000 worth of vouchers on the streets to frustrate panhandlers seems embarrassingly insufficient. For example, \$2000 worth of vouchers split between all of Portland's panhandlers over one year is very little money. If one panhandler makes \$100 per week,¹³⁹ his earnings in one year would total \$5200. Thus, \$2000 worth of vouchers would be less than half of this one panhandler's total earnings. This amount is woefully inadequate to affect the amount of cash being received by the panhandlers in Portland.

Portland enacted an ordinance which, while not mentioning panhandling, proscribes "offensive physical contact." The statute covers aggressive panhandling situations, banning actions which "cause or attempt to cause another person reasonably to apprehend that they will be subjected to any offensive physical contact either to their person or to personal property in their immediate possession."¹⁴⁰ In addition, the Portland Guides intervene with a tremendous number of potential donors, telling them to ignore panhandlers' pleas.¹⁴¹ Vouchers do not seem to be a factor. Against the backdrop of an ordinance and an anti-panhandling campaign, the program merely shrouds the true impetus behind Portland's response to panhandlers. Since 1991, only \$750 worth of vouchers have been redeemed, and if the program meets its 1995 goal, a mere \$300 more will be used by panhandlers during the coming year.¹⁴² Portland's voucher program at best has no effect on the city's panhandling situation. It enables Portland to misrepresent itself as a progressive city attempting to deal

138. ASSOCIATION FOR PORTLAND PROGRESS, REAL CHANGE, NOT SPARE CHANGE: SAYING NO TO PANHANDLERS (July 1993) (on file with author).

139. Panhandlers in New Haven reported earnings between \$50 and \$250 per week. Interviews with "regular" panhandlers, *infra* part III.C. Panhandlers in New York City can make up to \$200 per day. Dawidoff, *supra* note 4.

140. PORTLAND, OR., MUN. CODE § 14.24.040(a) (1987). *See also* Teir, *supra* note 5.

141. *See* ASSOCIATION FOR PORTLAND PROGRESS, YEARLY REPORT, *supra* note 49.

142. These figures were attained by applying the 15% redemption rate to total voucher sales. Telephone Interview with Williams, *supra* note 50.

humanely with panhandlers.¹⁴³ Thus, while such programs are sold out of both sides of the mouth, claiming to be both anti-panhandler and pro-homeless person, their true goals become apparent as they focus on removing panhandlers from the downtown area. Such voucher programs are no more than anti-panhandling campaigns disguised as more tolerant and progressive approaches.

D. Seattle and Chicago - Voucher Programs That Still "Care"

Some voucher programs still adhere to Berkeley's original model, hoping to ease tensions between merchants, donors and panhandlers without resorting to aggressive policing measures or anti-panhandling campaigns. These programs may still be in their developmental stages, destined to become more aggressive towards panhandlers and forget their progressive roots. However, presently their agendas indicate more compassion for the street beggar. If these programs continue to avoid aggressive campaigns against panhandlers, their compassionate response will represent a formidable position in the panhandling debate.

Chicago Shares began in January of 1993, stretching over five commercial districts in Central and North Chicago, with thirty-five participating merchants and additional supporting churches and community organizations.¹⁴⁴ Vouchers are worth fifty cents and

143. *Castro Cares*, a program based in the San Francisco area, became defunct after only one year of operations. It was replaced by an ordinance criminalizing a variety of conduct associated with street people. The program's stated goal, part of which was echoed by the new ordinance, was to move the alcoholic and drug abusing panhandlers out of the area while encouraging those who needed food and clothing to continue begging on the downtown streets. This second component of the program's goal has been abandoned since police have begun arresting panhandlers under the ordinance. Castro, like so many other communities, has adopted aggressive policing measures, preserving the anti-panhandling component of the old voucher program. Telephone Interview with Barry Hermanson, *supra* note 109. Castro's later adoption of an anti-panhandling ordinance seems to reveal the true motivation that could have underlain the initial development of the voucher program.

144. Telephone Interview with Anne Klocke, Executive Director, *Chicago Shares* (Oct. 24, 1994). When asked about the program's broader goal, Klocke responded, "Panhandlers should be fed and clothed so that they can focus on acquiring skills and getting a job. You can't worry about these things if you are hungry." Klocke did not hint that panhandling would be or has been reduced because of the vouchers, nor did she advocate removing panhandlers from the street. Rather, she focussed on enabling the panhandler to

merchants give change when a person does not use the full fifty cents.¹⁴⁵ Chicago's adaptation of Berkeley's system reflects a less paternalistic approach because Chicago panhandlers are trusted to receive change in cash. Panhandlers in New Haven expressed their disgust with the rule against giving change. They reported that they felt as if they were being treated like children, because they weren't trusted with nickels and dimes.¹⁴⁶ Chicago's willingness to produce vouchers in larger denominations and to allow panhandlers to receive change in cash shows an enhanced respect for the street beggar and a decreased desire to control this person's habits.

While Seattle has become famous for its strict anti-panhandling ordinances, *Caring Neighbors*, the city's voucher program, offers a stark contrast to such criminalization.¹⁴⁷ In 1987, Seattle enacted one of the nation's first aggressive panhandling laws, making it illegal to "aggressively beg or obstruct pedestrian and vehicular traffic."¹⁴⁸ The statute defined "aggressive" begging as "begging with the intent to intimidate another person into giving money or goods."¹⁴⁹ The Washington Supreme Court upheld the constitutionality of the

improve her own situation, taking care of her basic needs so that she could address things like employment and education. *Id.*

145. The larger denomination along with the stipulation that change is given suggests that panhandlers could easily take advantage of the system by purchasing low priced candy and receiving cash back. However, organizers assert that panhandlers are not abusing the system by continually receiving change from low priced purchases. Admittedly though, their assertions are based on anecdotal observations.

146. See interviews with "regular" panhandlers, *infra* part III.C. Some New Haven merchants reiterated support for the "No Change" rule, claiming that panhandlers would purchase five cent and ten cent candies. Interview with Burcher, *supra* note 115; Interview with Joe Steziak, Manager of GranCentral Supermarket, in New Haven, Conn. (Apr. 7, 1994). One merchant claimed that some of her customers already try to do this with Food Stamps. Interview with Waiva Wagner, *supra* note 115. Issuing credit to panhandlers who did not spend the entire voucher was not an option discussed with any of the merchants in New Haven; however, it is probable that writing up slips of paper to panhandlers for 5¢ and 10¢ would be too time consuming for the salespersons. Simply adapting to redeeming vouchers seemed to be hard enough for cashiers to handle with the large volume of customers that shop at the downtown stores.

147. See Teir, *supra* note 5.

148. SEATTLE, WASH., MUN. CODE § 12A.12.015B (1987).

149. *Id.*

ordinance,¹⁵⁰ which was subsequently amended by adding a prohibition against lying down on public sidewalks.¹⁵¹ Seattle's harsh ordinances were passed in response to a fear that aggressive panhandlers were scaring shoppers away from downtown stores, thus causing businesses to fail and damaging the economy.¹⁵²

However, echoing the goals of the Berkeley and Chicago programs, *Caring Neighbors* hoped to decrease the number of incidents of aggressive panhandling while enabling the community to "respond humanely" to the needs of street people.¹⁵³ The most striking sign of success came early in 1994 when the program was asked by merchants in the nearby University District and Roosevelt neighborhood to start up a sister program to deal with the influx of panhandlers into that area. With thirty additional participating merchants, the program doubled in size. One might conclude that vouchers have caused panhandlers to migrate to the University/Roosevelt area; however, the small amount of vouchers that were sold through the Capitol/First Hill merchants over the last year probably invalidates such a conclusion.¹⁵⁴ The conclusion that vouchers get rid of panhandlers is tenuous at best. Factors other than the vouchers might account for why areas of the city become

150. See *Seattle v. Webster*, 802 P.2d 1333 (Wash. 1990), *cert. denied*, 111 S.Ct. 1690 (1991).

151. See SEATTLE, WASH., MUN. CODE §15.48.040.

152. See Timothy Egan, *A Tougher Tack on Street People: Advocates for Homeless Troubled by Shifts in 3 Cities*, STAR TRIB., Dec. 18, 1993, at A4. Urinating, drinking alcohol, loitering and aggressive panhandling in public places were just some of the acts prohibited by new ordinances which were defended as a "backlash against failed public policies," not a backlash against the homeless. See SEATTLE, WASH., MUN. CODE §§ 15.48.040, 12A.12.015B (1987).

153. While vouchers may be used for food, hygiene products, laundry and metro tokens, approximately 75% of those redeemed are used for groceries and fast food. The program has placed over \$10,000 worth of vouchers on the street and redeemed 55% of them, recovering from a slow start in which only 1400 of the first 8000 vouchers sold were redeemed. Peyton Whitely, *Vouchers For Panhandlers Disappear - Few Coupons Redeemed in Capitol Hill Program*, SEATTLE TIMES, Nov. 9, 1992, at B3.

154. Telephone Interview with Amelia Canaday, executive director of Caring Neighbors (Nov. 4, 1994). Between January 1994 and June 1994, \$1953 worth of vouchers had been purchased by neighborhood churches (distributed mostly to non-panhandling homeless people) and only \$321 had been sold to individuals. See CARING NEIGHBORS, FINANCIAL REPORT (June 1994) (on file with the author).

inundated with panhandlers. Anecdotal evidence about migrating panhandlers is not enough to support a finding of causality between voucher sales and panhandler migration.¹⁵⁵

Caring Neighbors developed in response to Seattle's panhandling ordinances, not in conjunction with them.¹⁵⁶ Unlike other voucher programs, Seattle's program actively attempts to counterbalance the development of such restrictions. Like *Chicago Shares*, *Caring Neighbors* focuses its energies on improving the panhandler and donor's situation, rather than adopting an approach which focuses solely upon making the donor feel more comfortable, and ignoring the welfare of the panhandler.

On their faces, it is difficult to distinguish between voucher programs that work against already existing panhandling prohibitions, those that develop in conjunction with ordinances, and those that are established instead of an anti-panhandling law. Both Chicago's and Seattle's programs actively seek to help the panhandler, placing them in stark contrast to programs in Portland and Santa Cruz which work along with ordinances to remove such panhandlers from the streets.

Categorizing programs into "more speech" and "policing" models helps to analyze their goals and effects. While the Berkeley model lends itself to varied and contradictory support, many offspring programs are more easily identified with different, more specific, political ideologies. *Santa Cruz Cares* seeks to get rid of street beggars, while *Caring Neighbors* hopes to feed and clothe them. Perhaps, by better identifying their goals, however, these programs have sacrificed the widespread and diverse support that initially promoted their efforts. Any factionalization of support that results from more accurate identification of a voucher program's goals could seriously jeopardize the future of that program.

155. This suggests that movement of panhandlers in other cities such as Berkeley and New Haven may be due to factors other than vouchers.

156. *Boulder Change*, a Colorado based program that began in March of 1993, organized in response to a recently developed anti-panhandling ordinance. Like others, this program billed itself as a way to stop "aggressive panhandling," while encouraging increased giving. See *Boulder Begins Vouchers to Cut Back Panhandling*, ORLANDO SENTINEL TRIB., Mar. 3 1993, at A14. Like *Castro Cares*, *West Side Cares* and many other start-up voucher programs, *Boulder Change* will most likely disband because of a lack of volunteer help. See *supra* note 109.

III. CASE STUDY: NEW HAVEN CARES VOUCHER PROGRAM

New Haven, Connecticut introduced the voucher idea to the east coast, and has since been followed by programs in Boston,¹⁵⁷ Miami,¹⁵⁸ Baltimore, Washington, D.C., and New York.¹⁵⁹ A study of New Haven's system was conducted to determine how well the program was satisfying its stated goals. Panhandlers, merchants,

157. *Coupons, Inc.* of Boston, Massachusetts. This program sells vouchers directly to the stores. This reduces monitoring costs significantly. *Coupons* represents a return to the traditional Berkeley model, garnering support from opposite ends of the political spectrum, from Boston's largest law firm, Ropes & Gray, to one of its most active homeless advocacy groups, Spare Change. While the quantity of support for the program is impressive, not much can be concluded from its first months of operations. Judging from its reliance on merchant purchases for voucher sales, Boston's interest in vouchers could translate into more aggressive measures to remove panhandlers from the streets. Telephone Interview with Zach Schulman, Treasurer, *Coupons, Inc.* (Nov. 15, 1994).

158. Miami's food coupon program is a bit more cumbersome for the panhandler than those of other cities. Vouchers cannot be directly exchanged for food or personal items; instead they must be exchanged at a specific location for grocery certificates, redeemable at local supermarkets (none of which are in the immediate downtown vicinity). See *News: Panhandlers May Get Vouchers Instead of Change in Miami* (CNN television broadcast, Dec. 7, 1993). Merchants in the Bayside Shopping District have been advocating a new idea suggested by city officials. Beggars would be required to get licenses that would allow them to ask for money on the streets. These permits would establish hours and locations where panhandling would be allowed. Officials did not explain what the criteria would be for distributing the permits. See Michael Williams, *Around the South Licensed Beggars? Miami Seeks Way to Control Tattered Band of Panhandlers*, ATLANTA J. & CONST., Dec. 11 1993, at A3.

159. *West Side Cares* attempted to breathe new life into the voucher concept by introducing it to one of the country's most progressive cities. New York City's controversial "right to shelter" has earned the city a reputation for being particularly inclined toward the plight of the street person. Actually, the opposite is true with respect to panhandlers, as the city has twice gone to court over anti-panhandling ordinances that were challenged by homeless advocates for violating constitutional rights. *Loper v. New York City Police Dept.*, 766 F.Supp. 1280 (S.D.N.Y. 1991) (overturning the ordinance); *Young v. New York City Transit Authority*, 903 F.2d 146 (2d Cir.), cert. denied, 498 U.S. 984 (1990). The voucher program began in the upper west side of Manhattan in October of 1993, attempting to address the very concerns that were brought forward in the panhandling cases. Involving twenty seller merchants and eight redeemers, the program stretched along Broadway from 106th Street to 126th Street. *West Side Cares*, unlike other programs, was organized by a local democratic club and funded entirely by the state legislature. Telephone Interview with Laura Friedman, Director, *West Side Cares* (Nov. 10, 1994). See also Mary B.W. Tabor, *Voucher Plan to Aid Beggars is Put in Place on West Side*, N.Y. TIMES, Dec. 20 1993, at B1.

donors, police officers, homeless advocates, social service providers and New Haven residents were interviewed to obtain their points of view on *New Haven Cares*. By examining these views, conclusions about the success or failure of the voucher idea as a solution to the panhandling problem can be drawn.¹⁶⁰

A. *New Haven Cares Develops and Progresses*

In 1991, complaints by merchants and customers increased as people felt increasingly threatened by a perceived increase in the number of beggars in the downtown area.¹⁶¹ Police tried to intervene, but could do little to the panhandlers without an ordinance proscribing their actions.¹⁶² Frequently, police played the role of mediators, attempting to assuage the tension among angry merchants, fearful residents, aggressive panhandlers and radical students.¹⁶³

New Haven Cares ("NHC") began as a neighborhood collective action to address this tension. The voucher program, which was modeled after Berkeley's, is the product of weekly neighborhood meetings in a local church. Residents, students, merchants, police officers, business professionals, Yale administrators and homeless advocates discussed the best ways to address the panhandling

160. Only a portion of the 150 page study is included in this article. The complete study presents the results of over seventy interviews of panhandlers, merchants, donors, police officers, Yale University administrators, representatives from the business sector and social service volunteers. See Robert M. Spector, *New Haven Cares: A Community's Response to Aggressive Panhandling* (May 1994) (unpublished manuscript; on file with author).

161. Interview with Chevalier, *supra* note 25; Interview with Lieberman, *supra* note 23; Interview with O'Sullivan, *supra* note 25. The public's fear of panhandlers in New Haven was misguided, according to Brandt Goldstein, who personally interviewed panhandlers around the Yale campus, and according to Yale police officers who report that panhandlers in New Haven are more often the victims of crime than the aggressors. See Goldstein, *supra* note 54; Interview with Davis, *supra* note 26.

162. If a panhandler was particularly aggressive, police could arrest him/her for disorderly conduct or breach of the peace. Interview with Morton, *supra* note 24. Panhandlers confirmed that they were arrested for one of two offenses, disorderly conduct or breach of the peace. Interviews with "regular" panhandlers, *infra* part.III.C.

163. *Id.*

issue.¹⁶⁴ They believed police could not simply arrest and jail panhandlers for standing on the street and asking for money.

In September of 1993, NHC began operations,¹⁶⁵ which stretched over three commercial districts in downtown New Haven¹⁶⁶ and received support from more than forty merchants.¹⁶⁷ Under the NHC voucher system, a person could not purchase alcohol, tobacco or lottery tickets, and could not receive change if the full value of the voucher was not redeemed.¹⁶⁸ NHC encouraged businesses, community organizations and churches to purchase vouchers and donate them to downtown service agencies.¹⁶⁹

As of April of 1995, more than 40,000 vouchers had been sold and 31,000 redeemed, just over a seventy-seven percent redemption rate.¹⁷⁰ Between April of 1994 and April of 1995, ninety-five percent of the sold vouchers were redeemed, echoing the experiences of other voucher programs whose redemption rates began to soar after the first six months of operations.¹⁷¹ On average, half of the vouchers sold are purchased by individuals in participating stores and the remaining are bought by churches and community organizations

164. Interview with O'Sullivan, *supra* note 24; Interview with Chevalier, *supra* note 24.

165. Over \$10,000 was donated to NHC to cover printing and other start-up costs. Among the largest contributors were Yale Law School, Yale University and the Community Foundation of New Haven. Interview with Lieberman, *supra* note 23.

166. The York District, Chapel District and Ninth Square District surround New Haven's Green, the center of downtown New Haven, adjacent to the Yale undergraduate campus.

167. Interview with Lieberman, *supra* note 22.

168. *Id.*

169. In October of 1993, Shawmut Bank took the lead and bought \$2,000 worth of vouchers. They were then distributed in monthly allotments over the next year to local churches, soup kitchens, drop-in centers, drug rehabilitation programs and shelters. David O'Sullivan, director of a local soup kitchen and the NHC board member who coordinated this distribution, said that the vouchers were to be saved for those homeless people with the most desperate needs. This usually meant giving vouchers to people who were unable to afford the three dollars emergency shelter charge. Interview with O'Sullivan, *supra* note 25.

170. Interview with George Djurasovic, Treasurer of New Haven Cares, in New Haven, Conn. (Apr. 10, 1995). Although numbers vary, approximately 60% of the vouchers redeemed are used for fast food, 25% for shelter, 10% for bus tokens, and less than 5% for groceries and personal hygiene products. *Id.*

171. *West Side Cares* and *Chicago Shares* had similar experiences.

that then distribute them to non-panhandling homeless people.¹⁷²

NHC expressed the same goal as *Chicago Shares*, *Caring Neighbors* and Berkeley Cares, which is to decrease the amount of "aggressive panhandling" by "creating more instances of giving." According to NHC organizers, aggressive panhandling will not be as prevalent where "the people who are panhandling are not being ignored as much. They will see that there are more people who really do care about their plight and want to help."¹⁷³

Statistics from the York District of Yale Police¹⁷⁴ for disorderly conduct and breach of the peace suggest that after six months of operations, NHC was actually accomplishing its goals of decreasing tension and aggressiveness among panhandlers. During the year before NHC's inception there were fifty-one interactions for breach of the peace and twenty-two interactions for disorderly conduct. In the six months after NHC's inception, there were only nine interactions for breach of the peace and two for disorderly conduct.¹⁷⁵ Because panhandlers generally work students, they tend to stay within a few blocks of the Yale campus.¹⁷⁶ The Yale Police Department deals with most of New Haven's panhandling related incidents.¹⁷⁷ Since New Haven has no anti-panhandling ordinance, the police arrest panhandlers under either the disorderly conduct statute¹⁷⁸ or the breach of the peace statute.¹⁷⁹ This makes it difficult to separate arrests for panhandling from arrests for disorderly conduct unrelated

172. Downtown churches are known as safe havens for many homeless people, housing soup kitchens and social service programs. Many users request additional help to enable them to afford the three dollars shelter charge. Churches seem to feel much more comfortable giving vouchers for shelter, reducing the uncertainty that goes along with giving cash. Interview with Reverend Sam Slie, Director of the Downtown Cooperative Ministry, in New Haven, Conn. (Apr. 26, 1994).

173. Interview with Lieberman, *supra* note 23.

174. The term "interaction" means that an officer must respond to an incident, but it does not mean that an arrest results. Interview with Morton, *supra* note 25.

175. These statistics do not necessarily refer only to interactions with panhandlers. Unless each report is read, one cannot determine whether an interaction for disorderly conduct involved a panhandler. Interview with Morton, *supra* note 25.

176. Interview with Davis, *supra* note 25.

177. *Id.*

178. CONN. REV. STAT. § 53a-182 (1992).

179. *Id.* § 53a-181.

to panhandling. The drop in interactions for the crimes under which aggressive panhandling could be prosecuted suggests a decrease in the prevalence of aggressive panhandling in the York district.¹⁸⁰

Since June of 1994, the Police Department's policies toward panhandlers have changed substantially. During the case study from February to May 1994, the police were arresting few panhandlers, however, since June 1994 they have been arresting all panhandlers found soliciting alms in the York or Chapel District. Prior to this change in policy, sixteen panhandlers were observed regularly begging for money on the streets. After the implementation of the new policy, only five panhandlers were observed regularly from October through November begging in the downtown area.¹⁸¹

Since this change in policy, panhandlers are being arrested and charged with disorderly conduct or breach of peace.¹⁸² Panhandlers insisted that no conduct existed to justify charging them under these statutes.¹⁸³ Whereas prior to the change in policing policies, panhandlers had to obstruct a pedestrian's way or threaten and intimidate a person through physical and/or verbal harassment in order to be arrested, subsequent to the change, a panhandler's mere requests for money on the streets warrants an arrest. The police confirmed that all panhandlers caught asking passersby for money in the downtown area would be arrested and charged with either disorderly conduct or breach of the peace.¹⁸⁴

The supervisor and the commanding officers of the Department changed the panhandling policy because they felt that a tougher stance was the only way to battle aggressive begging.¹⁸⁵ This remains unspoken by the police. While the absence of panhandlers in downtown New Haven is noticeable, little has been reported about the

180. Interview with Morton, *supra* note 25. During NHC's first year, the police praised it for helping to reduce a significant number of panhandling-related complaints from merchants and residents.

181. Interviews with "regular" panhandlers, *infra* part III.C.

182. Interview with Officer Bruce Sanderson (pseudonym) of the Yale Police Department, New Haven, Conn. (Nov. 30, 1994).

183. Interviews with "regular" panhandlers, *infra* part III.C.

184. Interview with Sanderson, *supra* note 182.

185. *Id.*

reasons for the change. If the community found out that the police were making so many panhandling-related arrests, many would protest.¹⁸⁶

Arresting people for disorderly conduct or breach of the peace when they are not conducting themselves in a manner covered by these statutes is illegal.¹⁸⁷ If this policy of "Arrest All Panhandlers" was legal, NHC would never have developed. This same police department that has implemented the aggressive policing policy was instrumental in developing NHC. The police supported the voucher program because they felt that the lack of a panhandling statute in Connecticut forced them to seek other alternatives to deal with panhandlers.¹⁸⁸ In addition, they felt pressure from the liberal students who had fought for panhandlers' First Amendment rights in the past when aggressive policing was used to remove panhandlers from the streets. For the moment, because most students are unaware of the new policing policy and those who do know about it have been unable to organize a collective protest, the police are able to move panhandlers off the streets aggressively and without student protest.¹⁸⁹

B. Panhandlers' Reactions to Increased Policing¹⁹⁰

Rob used to sit outside of Mory's Restaurant, on York Street in

186. Interview with Sanderson, *supra* note 182; Interview with Seth Rowe, Student Representative of New Haven Cares, in New Haven (Dec. 4, 1994).

187. In addition to the First Amendment concerns that any law against panhandling or the conduct which constitutes panhandling brings with it are due process concerns over the police's policy on arresting panhandlers.

188. Interview with Morton, *supra* note 24.

189. Interview with Rowe, *supra* note 186; Interview with Sanderson, *supra* note 182.

190. Twenty-three people who received vouchers were interviewed. Fourteen were "regular" panhandlers. They panhandled more than three times per week. Nine were "transient" panhandlers who received vouchers through occasional panhandling, and also through the churches and service organizations. The names (all pseudonyms) of the regulars are, Mary, Paul, Sheila, John, George, Jim, Fred, Janet, Lisa, Rob, Bill, Sam, Dave and Jamal. The names (all pseudonyms) of the transients are, Nancy, Lenny, Tony, Calvin, Larry, Al, Rick, Manny and Helen. All the interviews were conducted between February and May of 1994. Jamal, Fred, Rob, Lisa and Janet were interviewed again in October of 1994.

New Haven, asking people for change, and wishing everyone a nice day, even those who did not give. He had an impeccable memory for faces, remembering hours and even days later those who gave to him when that person passed him a second time. "Thanks again!" he would say with a big smile. Making less than most panhandlers (\$10 per day), Rob prides himself on being non-confrontational. "I don't stand out there, waving my hat at people. Sometimes I don't even ask. I just tell people to have a nice day."¹⁹¹ Rob does more than that. On one occasion, he intervened and prevented an attempted robbery.

Rob has recently moved to a less frequently patrolled location outside a pizza parlor. His quiet demeanor and courteous attitude have won the hearts of the restaurant's owners. They let him sit there and often feed him. In exchange for their kindness, Rob cleans up around the restaurant and keeps watch over their illegally parked cars, signaling them if the meter police approach.¹⁹²

The few other panhandlers left on the streets as of October of 1994 were in constant fear of the police.¹⁹³ There was a distinct change in the panhandlers' attitudes from the time of the initial study in May to the later interviews in October. Panhandlers were no longer sure about their rights. They had less stable incomes. They were angry at the increased policing, and saw it as an initiative to remove

191. Interview with Rob, "regular" panhandler, in New Haven, Conn. (Oct. 17, 1994).

192. Rob even uses his leverage to remove other panhandlers who take his spot. Rob had Fred removed one day after Fred insisted on staying in Rob's usual spot. Rob simply complained to the owners and the police came and arrested Fred. *Id.* Fred was visibly nervous because of the increased police presence since June of 1994. He was constantly looking around, fearing being arrested for the eleventh time since September. Fred said earlier that day that it was hypocritical for the police to arrest people after supporting the voucher program. Interview with Fred, "regular" panhandler, in New Haven, Conn. (Oct. 18, 1994).

193. Jamal roamed Broadway (a busy street bordering the Yale campus, where many undergraduates shop), rather than sit in one place, hoping to avoid any interaction with the police. Interview with Jamal, "regular" panhandler, in New Haven, Conn. (Oct. 20, 1994). Fred stopped panhandling in the York and Chapel Districts, choosing smaller streets with less pedestrian traffic because the police were more likely to avoid such streets. Interview with Fred, *supra* note 190. Lisa and Janet, who both sold flowers for money, were less afraid of the police as they were able to argue that selling flowers was better than panhandling. Interview with Lisa, "regular" panhandler, in New Haven, Conn. (Oct. 16, 1994).

them from the streets. While vouchers had become a part of their lives earlier in the year,¹⁹⁴ they were no longer a concern, as panhandlers had greater problems to consider. Most importantly, panhandlers had to become more aggressive, roam the streets, and approaching shoppers, rather than merely sitting in one place and addressing those who walked past; these panhandlers had less time to earn money, and had to be more aggressive and persistent to survive.¹⁹⁵

C. *The "Regulars" React to Vouchers - Spring 1994*

Fourteen interviews were conducted in the Spring of 1994 with those who panhandled three or four times each week. These interviews came less than a year after the inception of NHC in September of 1993. The questions in the interview focused on the panhandler's experience with vouchers, asking how much the panhandler knew about them, how many vouchers the panhandler received, where he or she spent the vouchers, and his or her opinions as to whether the vouchers were a good idea. The results of the interviews were similar; responses differed only with regard to the amount of vouchers and cash received on any given night.¹⁹⁶ Every

194. See *infra* part III.C.

195. Jamal continually approached people on the street with his hand outstretched, pleading for help; whereas before the change in policing, he would stand against the side of one of the convenient stores, quietly asking those who came out of the store for some change. See Interview with Jamal, *supra* note 193.

196. The methodology was the same for all 14 of the regulars interviewed. The author would case the area for panhandlers, observing them for a short period of time, and approaching when crowds on the sidewalk had dissipated. While their panhandling locations varied daily, each panhandler seemed to have one spot where he or she spent the majority of time. The panhandler was shown a voucher and asked whether it would be accepted. If the answer was "no," the panhandler was asked why. If the answer was "yes," another two dollars in vouchers was given to the panhandler along with a phony story that the interviewer was a reporter writing an article on the *New Haven Cares* program, to "try and see if the people are getting vouchers and if so, do they like them or would they prefer cash." Three or four standard questions were then asked (additional questions varied with each interview). "How many of these vouchers do you receive daily? weekly? How much cash do you receive in that time? Do you receive more total money (cash + vouchers) now that the program exists, or had you received more before? Describe the typical person who gives you vouchers. How easy is it to turn the vouchers over for cash if someone wanted to buy

panhandler had heard of the vouchers and knew what could be purchased with them. Eleven reported that they were happy to receive them, and two others initially asked for cash, although they did accept the vouchers.¹⁹⁷ All said that they received a steady income of vouchers each week. On average, the thirteen panhandlers received about one-quarter of their income in vouchers and three-quarters in cash.¹⁹⁸

About half of the panhandlers interviewed reported receiving more income (cash + vouchers) than they did before vouchers existed. A

cigarettes with them? Do any stores cash them in for you?"

To test this methodology, five of the regulars were interviewed again in October of 1994, this time offered cash instead of vouchers. By offering panhandlers cash it was hoped that any inaccuracies that could have resulted from giving vouchers to the interviewees during the previous spring would be identified. None were detected.

197. Sam was the only one who wanted nothing to do with the vouchers. He knew what they were for, but kept saying that they were no good to him. He appeared to be drunk every time he approached. He was different from every other panhandler interviewed. He never said thank you to people who gave him change, and inspected every coin he received skeptically. He did not hold a cup, nor did he ask for change for food. He said, "Spare some change?" or "Got any change I can have?" He leaned against the newspaper machine in front of a downtown shopping mall, and wore a tweed sports coat daily. He was the only white non-transient panhandler interviewed or observed during the two month study. (April 29, 1994).

198. Numbers ranged from a few dollars to \$35 to over \$60 in vouchers per week. Six panhandlers reported that they received half or more of their income in vouchers, while seven reported that they received one quarter or less in vouchers. John and Sheila worked together, making around \$15-\$20 in vouchers and \$7-\$10 in cash daily. For all of the panhandlers, "daily" income meant money received over a twenty-four hour period. Typically, they would panhandle for five hours during the day, take a break during dinner, and return to panhandle until the early hours of the morning. Mary received about \$35 in vouchers each week, along with an equal amount of cash. Paul could not give a weekly or daily figure, but said that he received an equal amount of cash and vouchers. George only received about \$3 in vouchers each week, substantially less than the amount of cash, although he could not say how much cash he usually earned because each week he would go out more or less often. Jim said that he received about \$2 each day in vouchers and \$9 or \$10 in cash. Fred said he got \$30-40 of vouchers each week and about the same in cash, totaling somewhere between \$60-80. Janet said that she earned no more than \$20 total in one night, \$5 of that being vouchers and the rest in cash. Lisa also said that she received about \$5 a day in vouchers, and close to another \$15 in cash. Rob reported to only get around \$3 per day in vouchers and another \$5 - \$8 in cash. Bill gave a weekly figure of \$10 in vouchers, saying that the amount of cash would vary greatly depending on the week. Dave estimated that he received around \$2 of vouchers per day and \$13 in cash. Jamal provided no figures but did indicate that he received at least twice as much cash as vouchers. (April-May 1994).

few reported receiving less income than in previous years, but they were not sure that the voucher program was responsible.¹⁹⁹ Those who did receive more income after the vouchers program was initiated reported that the reason for this increase was the fact that the same donors were giving more money vouchers than they had previously given in cash. They did not think that there had been an increase in the number of donors since the voucher program started.²⁰⁰ In response to the question concerning who gave out vouchers, more than half of the panhandlers said that students gave vouchers while residents and other customers gave cash.²⁰¹ This high percentage of student giving might be attributable to the fact that students comprise the majority of pedestrians walking in the downtown area. The difference could also be due to increased awareness of NHC at the University.

Only two of the fourteen were homeless and slept in the city's emergency shelters.²⁰² The rest claimed to be renting apartments in New Haven or just outside of the city.²⁰³ The regular panhandlers were an entirely separate group from the homeless in New Haven,

199. Paul had noticed no change in his income due to the vouchers and neither Janet, Dave nor Jamal were able to say whether there had been an increase or decrease in their incomes.

200. Fred thought that people gave more vouchers than they would give cash. Bill, John and Jim all gave similar explanations for the increase, saying that there were not necessarily more people giving, but that the same people were giving out more in vouchers (two or three vouchers) than they had previously given in cash (at most, one quarter). George expressed the opposite view, however, saying that he only got one voucher at a time and was often frustrated by the amount of time it took him to collect enough vouchers to buy something to eat.

201. Six of the panhandlers were not sure of who gave vouchers and who gave cash. Lisa claimed that the business professionals who worked in the downtown area and passed by her on their lunch hour preferred to give out cash, rarely handing out vouchers.

202. Mary and Janet both said that they regularly stayed at the Columbus House Shelter. The author was suspicious of Janet, however, because during her first interview she mentioned that Columbus House closed their doors at 7 p.m., so she usually panhandled until then in order to earn enough money to afford the \$3 charge. That night and other nights when she was observed, she panhandled until after 9 p.m.

203. The author was unsure about Dave's living situation because he did not specify; however, he appeared to be very sick and wore a hospital bracelet around his wrist. Dave said that he was diabetic and often suffered from seizures. His face and arms were covered with sores, his hands swollen and shaking and his voice hardly audible.

rarely going to the soup kitchens and drop-in centers in the downtown area.²⁰⁴ This is not to say that the panhandlers did not need food and clothing. They claimed to panhandle to satisfy a variety of needs, including money for rent and groceries.²⁰⁵

Interviews were conducted at different times to observe any changes in behavior from day to night.²⁰⁶ There was a noticeable change in behavior in only one of the panhandlers observed at night and during the day.²⁰⁷ A few of the panhandlers appeared to be drunk every time the author spoke with them, stumbling over their sentences and reeking of alcohol,²⁰⁸ while most appeared to be sober. In general, however, none of the panhandlers resembled the aggressive and dangerous individuals depicted by the media. None of them shouted, yelled, harassed or followed pedestrians on the street. None of them confronted people by walking up to them, preferring to lean against walls of the downtown stores. This group of regular panhandlers was far from aggressive and violent, exhibiting behavior

204. Interviews with "regular" panhandlers, in New Haven, Conn. (Apr. to May 1994). Over twenty homeless people were interviewed in soup kitchens, drop-in centers and shelters throughout the course of the study. All reported that panhandlers were a separate group of people that rarely came to the soup kitchens and shelters. Many of the homeless people interviewed spoke negatively about panhandlers, claiming that begging for money was dishonorable and demeaning. In addition, some homeless people criticized panhandlers for being dishonest, asking for money for food and then proceeding to use it for drugs. They felt that this dishonesty gave all homeless people a bad name. Interviews with homeless at "The Coffee House" and transients, in New Haven, Conn. (Apr. - May 1994).

205. Interview with Rob, in New Haven, Conn. (Apr. 27, 1994); Interview with John, in New Haven, Conn. (Apr. 22, 1994); Interview with Sheila, in New Haven, Conn. (Apr. 22, 1994).

206. The earliest interviews were conducted between 2 and 4 p.m., while the latest interviews were conducted between 8 and 10 p.m. Nine of the total fourteen panhandlers were observed both at night and during the day, while the remaining five were observed only during the day.

207. Janet appeared to be drunk when the author spoke to her at night. She would stumble over her words and tell stories that usually made little sense, while during the day she was more articulate and coherent.

208. Paul appeared to be under the influence of alcohol during the day and night. His behavior did not seem to depend on the time of day. Sam and Jamal were only observed during the daytime, and both appeared to be drunk during this time. Sam slurred his speech, smelled of alcohol and refused to accept the vouchers, exclaiming, "They are no good to me." Jamal, while appreciative of the vouchers, smelled strongly of alcohol and once admitted to the author that he had drunk some wine earlier in the day.

that was passive and non-confrontational. Whether or not it is in the community's interest to prohibit panhandling, panhandlers' behavior should be addressed more honestly, rather than randomly labeled as violent and aggressive.

D. Redeeming Vouchers - Is There a Black Market?

Almost all of the panhandlers reported spending their vouchers on food.²⁰⁹ One couple reported that after they spent their \$138 bimonthly General Assistance check on rent, they were only left with \$38 to cover the rest of their expenses. Vouchers fill the gap between checks and allow them to buy their food. Many panhandlers distrusted the food services offered at the local soup kitchens and preferred to buy their own food.²¹⁰

The last and most important question asked of the panhandlers was whether a black market for the vouchers exists.²¹¹ All of the panhandlers who accepted the vouchers said there was no black market for vouchers. Respondents contrasted vouchers with Food Stamps and described a strong secondary market in the latter case. They said it was easy to trade the stamps for cash.²¹² One respondent did relate trading cash for vouchers in an isolated instance.²¹³ Another

209. The author observed Dave using the \$2 worth of vouchers given to him during his interview. He bought a bag of chips and a 16-ounce bottle of Pepsi in the WaWa Food Market on York Street.

210. According to George, Rob and Fred, the people at the soup kitchen would take care of their own, saving the best food for the volunteers, who were also homeless. They all described an "in" and "out" mentality that seemed to revolve around how well a person knew the volunteers at the soup kitchen. This distrust may explain why some panhandlers dread eating at soup kitchens and prefer buying their own food.

211. Typical questions were "If someone wanted to buy cigarettes with these vouchers could they trade them with someone for cash?" and "How easy is it to get rid of vouchers and trade them for cash?"

212. John and Sheila referred to Food Stamps as an "inferior program" because people were selling the stamps and using the money to buy drugs. While the author was suspicious of their moral disdain for drug abusers, neither was ever witnessed appearing or sounding under the influence of drugs or alcohol.

213. Lisa said that she traded the vouchers once, with someone that she knew well and trusted was in a desperate situation. She explained, "It is very hard to turn the vouchers over for cash, not like food stamps at all; there is nobody running around trading the vouchers for cash like with food stamps. Once in a while another panhandler will try and trade me

panhandler claimed that people had tried repeatedly to trade them, but could not find anyone with whom to trade. Rob and Jim, though they had never traded vouchers, had received vouchers from other panhandlers who had no idea what they were.²¹⁴ Mary was the only panhandler who reported that she traded vouchers for cash on a semi-regular basis with other panhandlers that she knew. She said that these panhandlers wanted cash for drugs.²¹⁵

All of the panhandlers agreed that the stores were very strict and would not permit the system to be abused. None of the stores would exchange the vouchers for cash, nor would they permit a panhandler to receive change when using the vouchers. Many of the panhandlers in the study had repeatedly tried, with no success, to exchange vouchers for cash at some of the redeeming merchants.²¹⁶ These reports differ from those of merchants and service providers who insist that a black market exists.²¹⁷

Berkeley Cares has insisted that the lack of profit incentive is the

vouchers for cash, but that's all."

214. Neither Rob or Jim had ever seen vouchers sold or had ever been asked by another panhandler to buy vouchers. Bill and John, both veteran panhandlers of about six years, also claimed that vouchers were not being traded, saying that if there was a way to get rid of them, they would know about it.

215. Interview with Mary, regular panhandler, in New Haven, Conn. (Apr. 12, 1994).

216. One volunteer at a local soup kitchen claimed that a Store 24 employee traded the vouchers for cash. This was denied by panhandlers, who consistently explained that trading the vouchers on the streets was nearly impossible and that trading them with the redeeming stores was impossible. It appears that the volunteer's story was either inaccurate or represented an isolated incident.

217. Joe Steziak, manager of the only supermarket participating in NHC, claimed that his normal customers were the ones using vouchers, not the panhandlers. This statement was difficult to verify, as were allegations of panhandlers that this supermarket often trades food stamps for cash at a discount. The supermarket redeems only \$40 per month, about 10% of total voucher redemptions. According to Whitney Woodward, former director of *Berkeley Cares*, many merchants make the mistake of assuming that a person who redeems a voucher should look like a homeless person. In fact, many voucher recipients are employed and receive the vouchers at soup kitchens, not on the street. Interview with Woodward, *supra* note 43. In addition, most panhandlers are not homeless and do not dress in the stereotypical worn and tattered clothing of a homeless person. Rob, Jamal and Janet often panhandled in clean clothes and appeared to have recently showered. Perhaps Steziak's error was based on his ignorance of these facts.

reason why a black market for the vouchers would never develop.²¹⁸ This argument falls apart when a substantial amount of vouchers are injected into the system. Once a panhandler has received \$100 in vouchers for one week, she has the equivalent of a \$100 worth of Food Stamps, which theoretically could be traded in a secondary market. Following BC's argument about profit motive, black markets would appear when enough vouchers were given out on the streets to ensure that a middle person could profit from their resale.

A larger obstacle to the development of a black market in New Haven is the stigma attached to NHC vouchers. The public's perception is that only homeless people use vouchers.²¹⁹ Food stamps are received and used by a larger and more diverse population,²²⁰ enabling an intermediary to purchase the stamps and distribute them to a variety of customers. Vouchers would not be easily transferred because no one would be willing to "purchase" the vouchers from the intermediary.²²¹ A black market depends on the ability of the intermediary to resell the voucher.

Some recipients attempted to purchase bus tokens with the vouchers so they could resell the tokens.²²² Bus tokens are easily

218. Telephone Interview with Woodward, *supra* note 43.

219. This was learned from interviews with merchants, donors, panhandlers and soup kitchen volunteers.

220. While vouchers are only received by panhandlers and homeless people, food stamps are given to lower income families and individuals. Colin Bessonette, *Q&A on the News*, ATL. J. & CONST., June 4, 1995, at 2A; Susan Mayer and Christopher Jencks, *War on Poverty: No Apologies, Please*, N.Y. TIMES, Nov. 9, 1995 at A29; *Alms for the Affluent*, N.Y. TIMES, Apr. 9, 1995, at A34.

221. Panhandlers found it difficult to trade the vouchers amongst themselves. While homeless people who do not panhandle and need vouchers for food and shelter would be more than willing to accept them, they have no money to trade for the vouchers.

222. Allegations suggested that homeless people were using \$3 blocks of vouchers that they received from the churches to purchase bus tokens, later selling the tokens for cash. However, the number of redeemed vouchers seems inadequate to justify such a market. Connecticut Transit redeems approximately \$40 per month, a number which has not varied much since the program began. Telephone Interview with Steve Warren, Manager of Connecticut Transit (May 1, 1994). The churches did not start purchasing vouchers and distributing them for shelter until April of 1994. There has been no increase in token redemptions since then. Interview with Lieberman, *supra* note 22.

Connecticut Transit is supposed to monitor the number of vouchers that they redeem, refusing to redeem large blocks of vouchers or to redeem vouchers repeatedly for the

sold to other people. The typical resale involves a street person convincing someone waiting to purchase bus tokens that he has mistakenly purchased too many and would like to sell some of them. While not every traveler will buy the tokens, some will.²²³

One cannot fathom the same scenario with vouchers. Those who know about vouchers would also know why someone would be trying to sell them. Those who do not know about vouchers would not buy them from panhandlers because the vouchers would seem like worthless pieces of paper. In order to transfer vouchers successfully, the seller would have to find a buyer that was informed of the value of vouchers and was willing to trade them and commit fraud. There are huge transaction costs involved in finding members of the community who know enough about the value of vouchers and would not attach any moral significance to the alcohol and tobacco restriction placed on the vouchers. The fact that street people in New Haven were already resorting to purchasing tokens and reselling them at a loss indicates that reselling the vouchers was not possible.

E. Conclusions - Panhandlers Appreciate Vouchers

The regular panhandlers preferred cash, but appreciated the vouchers, too. Some indicated that vouchers, while not stopping drug addicts from doing drugs, did provide them with food and other necessities.²²⁴ One interviewee gave an interesting twist to the criticism that the voucher program is paternalistic and insulting to the

same person. Telephone interview with Dean Bonnano, Assistant Manager of Connecticut Transit (May 5, 1994). The author tested this system out by attempting to purchase \$10 rolls of bus tokens with vouchers. Even after trying to convince the New Haven manager of Connecticut Transit that the tokens were to be given out at a homeless shelter, the representative from Connecticut Transit refused to redeem the block of vouchers.

223. The bus company developed a policy which limited the number of tokens that an individual could purchase with vouchers in order to combat attempts to resell blocks of tokens. Telephone interview with Warren, *supra*.

224. As John explained, "You may not be stopping them from using the drugs, but at least you are putting some food in their stomachs. Everyone needs to eat." John also explained that the vouchers served him like a savings account. He would often wake up on Saturday morning without any money, having spent it all on alcohol. With vouchers in his pocket, he would be forced to go and eat a decent meal, rather than waste more money on alcohol. Interview with John, *supra* note 204.

panhandlers. He suggested that the program legitimized their existence and made them proud of panhandling.²²⁵ He explained that the voucher program sent a message to the public that panhandling in order to survive was not only acceptable, but that the community should support these panhandlers by providing them with food and shelter.²²⁶

The non-panhandling recipients who received the vouchers from the soup kitchens and used them for laundry or shelter also approved of NHC.²²⁷ This group of people looked at vouchers from a different perspective than the regular panhandlers. For them, vouchers enabled them to satisfy the emergency needs, but offered no long term aid.²²⁸ Unlike many of the regular panhandlers, this group used the soup kitchens and service providers in New Haven. For most of the transients, vouchers given out by pedestrians on the streets did not affect their lives, as they panhandled so infrequently that they received few vouchers from the streets. This group was better served by the vouchers purchased by churches and corporations. While vouchers have helped them satisfy their needs, cash would serve them equally well. If, however, the existence of vouchers has encouraged larger donations from local churches and businesses that prefer to donate the limited-use currency, the transients have been better served by vouchers than cash.

IV. CONCLUSION: VOUCHERS PROVIDE THE HUMAN SOLUTION

Consider the following quote from a San Diego newspaper:

Instead of looking away when a panhandler asks
for money, look into his or her face and think

225. *Id.*

226. *Id.*

227. Interviews with homeless, *supra* note 204.

228. Larry received vouchers from the director of the soup kitchen in exchange for cleaning up after meals, and regularly used them for shelter. Rick, currently homeless and unemployed, had received vouchers from the neighborhood churches and used them to do his laundry. Al occasionally panhandled to pay the bills when his disability check ran out before the end of the month, using the cash and vouchers that he received to buy food.

about what you see. If you think the person may be an alcoholic or drug addict, you're probably right. If you're afraid you're being conned with a story about running out of gas or missing the bus, you probably are. Look into the face of a panhandler and consider whether giving him a quarter or a dollar will help solve his problems or make them worse.²²⁹

The sentiment towards street people seems to have transformed from compassion to disdain.²³⁰ "I look around and I see a city in shambles," said Senator Pat Murray. "I see people in the streets with cups next to me, as I come up to stop signs, begging for money."²³¹ Beggars, like broken windows, have become a sign of urban decay and city dwellers no longer want this sign to remain on their streets.²³²

New Yorkers want these men to get out of their faces. They want them away from the doorways of their supermarkets. They want them to get out of the 24-hour banking lobbies and away from the ATMs. They want to leave a restaurant without having to maneuver past the permanent beggar with the plastic cup, crooning his guilt-tripping tune, snarling at the refusal of money. They want these men to stop urinating on their stoops. They want subways that are free of lice-infested men demanding donations. They want to walk to a playground with their children and find the benches free of scathing vagrants, belting themselves sick with Thunderbird or crack,

229. See Gogek, *supra* note 71.

230. See *supra* notes 2-4, 81-82.

231. Linda Wheeler, *Panhandlers Tap Deep Pockets of Resentment*, WASH. POST May 9, 1993, at B1.

232. See generally Hamill, *supra* note 2; see also Wilson & Kelling, *supra* note 4.

hocking lungers toward the sandpit.²³³

Discussions about panhandlers have led to larger statements about drug abuse and homelessness.²³⁴ Beggars are becoming symbols for everything that is dishonest, abusive, and destructive about homelessness. New police measures and ordinances seek to remove the "unsightly" figures from the public eye, without addressing the larger issues of homelessness and addiction. These measures seem to be strongly supported by the public.²³⁵ Even Berkeley, the progressive initiator of the voucher movement, has been struck by a public backlash that demanded an anti-panhandling ordinance.

One First Amendment argument which has been advanced by lawyers is that soliciting alms constitutes speech. Pedestrians learn about the plight of the homeless person through confrontations with panhandlers.²³⁶ However, if panhandlers are not homeless, the freedom of speech arguments that support the panhandler's right to solicit alms become moot. One might argue that the accuracy of the assumptions made by donors when they give to panhandlers does not matter, as long as a message about homelessness is conveyed.²³⁷ However, attributing content to panhandlers' speech which is both inaccurate and misleading is a weak basis for an argument against criminalization. Attempting to fit the solicitation of alms into a free speech framework weakens the argument against criminalization by passing over the most powerful arguments against anti-panhandling laws.

One such argument is that criminalization increases the likelihood

233. Hamill, *supra* note 2.

234. See generally Abbott, *supra* note 3; Dawidoff, *supra* note 4; Slipp, *supra* note 5, at 588.

235. Warren, *supra* note 129; McIntire, *supra*, note 110; Kevin Fagan, *Berkeley Finding Vouchers Work: Program to Help Homeless Being Used More and More*, S.F. CHRON., Nov. 24, 1994, at A21; Clarence Johnson, *S.F. Voters Pass ATM No-No Zone: Proposition J Intended to Keep Beggars at Bay*, S.F. CHRON., June 8, 1994, at A23.

236. Young v. New York City Transit Authority, *supra* note 159.

237. By assuming that all panhandlers are homeless, the public erroneously concludes that all homeless people are deceitful. This false assumption severely damages the public's image of homelessness and reduces the amount of help that the community is willing to provide to homeless people.

that panhandlers will resort to crime and more violent behavior in order to get money on the streets. When advocates for tougher laws argue for criminalization of panhandling they often cite panhandlers' drug abusing habits and violent behavior as reasons.²³⁸ Assuming *arguendo* that all panhandlers are drug addicts, that they earn between \$300 and \$500 per week, and that they use this money for drugs, prohibiting them from earning this money could have profound effects on the safety of downtown areas. After a panhandler is arrested, he stays in jail for anywhere between a few hours and a few days, only to be thrown back out onto the streets.²³⁹ Nothing has been solved or improved because of the arrest. Once out on the streets again, the panhandler might be desperate for something to satisfy his addiction. He might move to another area to panhandle. After being arrested a second time, he is even more desperate for drugs or alcohol. The chances of this individual engaging in threatening, intimidating or disruptive behavior increase as the arrests continue. Homeless advocates argue that sweeping panhandlers off the streets hides and ignores urban problems such as rising crime rates, unemployment and homelessness.²⁴⁰ Advocates argue that officials are attacking the wrong group, blaming problems of homelessness, crime, drug addiction and street violence on panhandlers, when these problems are actually attributable to a much larger and more diverse population.²⁴¹ While this position has merit, a more compelling argument against anti-panhandling statutes could be that they lead to an increase in violent crime and disruptive behavior by frustrating the panhandler and displacing his income without offering any income or employment support. This interrupts the delicate balance between panhandlers who

238. Dawidoff, *supra* note 4; Herscher, *Berkeley Council OKs Curbs on Panhandling But Foes May Take Issue to Voters Again*, S.F. CHRON, Dec. 9, 1994, at A23.

239. Interview with Davis, *supra* note 26; Interviews with regular panhandlers, *supra* note 204.

240. Interview with Maria Foscarinis, Director, *National Law Center on Homelessness and Poverty*, (CNN television broadcast, May 16, 1992); *Laws Aren't the Answer to Panhandling Problem*, USA TODAY, June 4, 1993, at 10A.

241. *Id.* Maria Hinojosa, ALL THINGS CONSIDERED, "VIOLENCE AGAINST HOMELESS ON THE RISE" (Mar. 16, 1994) (NPR Radio Transcript No. 1423-10); Clarence Johnson, *Proposition M: Cleaning the Streets by Sweeping Squatters into Jail*, S.F. CHRON., Oct. 23, 1994, at 18.

need money and pedestrians who are willing to give. Because laws will not remove panhandlers from the streets, they merely exacerbate an already difficult situation as panhandlers return to the downtown area, more desperate for money.²⁴²

Lessons should be learned from cities already imposing substantial restrictions on begging. Memphis, Tennessee enacted an anti-panhandling ordinance last year, and since that time its problems with aggressive panhandlers have worsened.²⁴³

According to the downtown police, "They're getting more aggressive than they have in the past. I'm getting reports of them coming up and grabbing people, hitting on windows... You lock 'em up and they get right back out."²⁴⁴ Once arrested, panhandlers return to the streets, more angry and more aggressive. Their increased aggressiveness is more likely a matter of economics, rather than a reaction to less tolerance. If a panhandler previously had eight or nine hours per day to earn his money, he will have to resort to more intimidating tactics to make that same money in one hour. Criminalizing begging merely places the beggar in a more desperate situation, especially if that person is addicted to drugs or alcohol.

Regardless of public sentiment towards panhandlers, criminalizing begging and/or aggressively telling pedestrians not to give to panhandlers are not long term solutions. The roots of the panhandlers' problems still exist. Drug addiction, unemployment, underemployment, hunger and homelessness are the larger issues that loom behind the panhandlers' pleas. These issues cannot be swept away with an ordinance, and they will not disappear when panhandlers are arrested. While voucher programs do little to address such problems, they open a forum for discussion, bringing together people

242. One editorial suggests that laws worsen the problem by shifting attention away from the economic and political conditions that push many people into homeless poverty. Citing laws in Dallas and Seattle that impose a \$500 fine on beggars, the author claims that criminalizing panhandling makes life for those who must survive on the streets much more difficult, thus making the streets more unsafe. See *Laws Aren't the Answer to Panhandling Problem*, *supra* note 240.

243. See *Panhandling Cleanup?* COMMERCIAL APPEAL, Dec. 10, 1994, at 8A; Callahan, *supra* note 26, at 1CE.

244. *Id.* Violating the panhandling ordinance is a misdemeanor carrying a maximum \$50 fine plus \$61 in court costs. *Id.*

with very different ideologies and asking them to suggest solutions for the bigger problems. Perhaps Portland's multi-faceted approach which provides employment services as well as vouchers should serve as the model. However, without any provisions for drug treatment, the other segments of the program will have little effect on the majority of panhandlers. Any macro-level approach to the problems of street people must include a drug rehabilitation component in order to be effective.

The proposed solutions to the panhandling problem, however, do not provide macro solutions. Rather, they focus on the individual panhandler, providing micro-level solutions that address the individual panhandler without addressing the underlying problems that have contributed to this person's present situation. On the micro-level, vouchers offer a more humane response to individual need. Rather than walking past a panhandler in disgust, or throwing a quarter hoping to avoid eye contact, vouchers ask the donor and the panhandler to interact. "Do you take vouchers? Do you know where to use them?" These are simple questions, yet they start a conversation.

Problems such as homelessness and drug abuse cannot be solved without creating connections between divergent segments of society. Solving the panhandling problem is no different. Actions that constitute physical or verbal harassment are already criminalized by state statutes. Initiating additional bans on begging sends a message of distrust and disdain to the panhandler. While vouchers also carry a paternalism that is not always appreciated, they show that efforts are being made by the "haves" to recognize the existence of and assist the "have-nots." These efforts are indispensable in order to lay the groundwork for the development of long term, comprehensive solutions. Vouchers, when compared to anti-panhandling ordinances and programs, convey some dignity to the recipients by recognizing their existence rather than attempting to sweep them off the streets. This recognition carries with it a spirit of cooperation that is necessary for addressing the larger problems that underlie the panhandler's situation and plague the entire street population.