RESOLVED, That the American Bar Association urges Congress, the U.S. Postal Service and other appropriate federal entities to ensure the prompt delivery of and adequate customer access to the U.S. mail for people experiencing homelessness.
REPORT

I. Introduction

Throughout the nation, the United States Postal Service currently provides only one type of mail service to homeless individuals, “general delivery.” General delivery is limited to one location in each city --- typically the Main Post Office --- even though the homeless population is scattered throughout the city. Requiring people who are homeless to travel miles to pick up their mail during limited business hours is both unreasonable and unnecessary. Burdening homeless people with taking public transportation to and from the Main Post Office each day falsely presumes that homeless people have access to public transportation and the financial means to use such transportation. And for some disabled homeless people, this is not only a burden, but an impossibility. Yet the mail is often the primary means by which people experiencing homelessness can exercise their rights and responsibilities in finding better work, more permanent shelter, and making more positive contributions to society. Given the impracticability of general delivery, that the postal infrastructure already exists to provide more localized delivery, and the vital importance the mail plays in a person on the street’s survival and recovery, the American Bar Association believes that unnecessary obstacles to the prompt delivery and meaningful access to the mails are intolerable.

II. The Critical Importance Of U.S. Mail To All Citizens

The prompt delivery of the U.S. mail has played a vital role in the success of our nation and its people ever since its founding. The delivery of and customer access to the mail has promoted the social and economic health of our nation and facilitated the people’s exercise of free speech and access to the justice system. Our notions of due process rest squarely on notions of notice for which the U.S. mail is regarded as a principal means. Registration to vote, payment of taxes, notices of proceedings, receipt of benefits, personal and corporate legal and business transactions all rely on this cornerstone government service.

Postmasters General since Benjamin Franklin have progressively revolutionized the postal system, entrenching in our psyche a commitment and efficiency that we continue to associate with the service today. What began as deliveries on horseback between post offices (sometimes comprising nothing more than a forest hut or log cabin) evolved into a network capable of connecting the American people during the nation’s explosive growth and expansion westward from 1789 to 1861.

Up until 1863, these deliveries constituted general drop-off deliveries to central post offices; door-to-door delivery required an additional fee through a private service. In 1863, recognizing the benefits to the people and to commerce, Congress passed a law to make city door-to-door deliveries free, justifying the expense by setting the postage rate for the sender. By the close of the 19th century, people on the outskirts of town and in rural communities also enjoyed free delivery of the mail, provided they used an appropriate box to collect it.

Today, communities are more connected than ever through the regular mail system, express services, telephone, newspapers, television, facsimile, improved travel and even e-mail. Even
so, some American citizens are as effectively isolated as the early settlers and their need to remain connected through the mail is just as great as it was then.

III. The Special Importance Of U.S. Mail To Individuals Who Are Homeless

According to the federal government, there are more than 840,000 Americans experiencing homelessness in any given week, and upwards of 3.5 million in a given year. Of these people, 1.35 million are children, more than half of whom are under the age of six. Almost half of homeless adults work at least part-time, but their wages are insufficient to provide permanent shelter. For these persons, the mail plays a critical role in their struggle for freedom from their circumstances and to make a better life for them and their families. For domestic violence victims fleeing their troubled circumstances, the mail means keeping connected to the school district and their children in school, as well as keeping apprised of pending court dates and other legal documents on related proceedings. For homeless veterans, the mail is direct access to necessary benefits to seek medical care and keep properly nourished. The mail is the most significant means through which homeless Americans can exercise their rights of citizenship, remain connected to family and the business community, or carry out a search for housing assistance and more permanent shelter.

The U.S. Postal Service is aware of the vital role the mail plays in the lives of persons who do not have a fixed address, for which they have instituted a service called “general delivery.” Each region has a central post office where a person’s mail is held for up to 30 days. For many people without permanent housing, however, significant medical distress such as a physical or mental disability may have been the precipitating cause of their homelessness. These persons may not be able to travel significant distances without the assistance of public transportation, which is generally cost prohibitive, particularly as a regular routine. For example, persons residing in Deer Creek, Oklahoma, have to travel about 16 miles to the general delivery location in downtown Oklahoma City, for which no public transportation is available. Also, the central location designated for “general delivery” is a geographic compromise and may not be located where the best day labor or other work opportunities are located. Even then, then it is only open during certain hours which typically coincide with work hours. The U.S. Postal Service provides “general delivery” in a good faith attempt to address exceptional circumstances, including homelessness. However, for many people general delivery of this vital resource is too easily rendered as “no delivery.” Without alternative means for delivery, a significant number of citizens including veterans and victims of crime will be unable to access services critical to their recovery.

With each expansion of its delivery service, the question of cost to the U.S. Postal Service has been considered and generally rejected. Questions of cost delayed but did not prevent the advent of free delivery in cities and rural communities. In fact, persons in rural towns for whom the U.S. Postal Service cannot or will not provide local delivery are entitled to a free post office box. Cost has also not been a barrier in providing free mail delivery to the incarcerated. The cost of delivering to remote communities in Alaska is certainly higher than for local post offices for people who are homeless, yet it was not deemed high enough to exempt the Postal Service from its mandate. The discrepancy in service is unjustified, particularly when homelessness is a

Comment [CLS1]: I would take this whole para out. Not once have they offered this exception to even the most egregious of cases.
temporary condition, and particularly when the discrepancy is carried out by an agency mandated not to discriminate among its customers.

Accordingly, the American Bar Association recognizes the vital role the U.S. mail plays in providing access to social, legal and business services and urges the U.S. Postal Service to remove actual and constructive barriers that people experiencing homelessness may face in the delivery of and access to their mail. In our connected society it is our homeless who are isolated and in greater need of the relief the mail facilitates. Providing local post office delivery to locations more convenient to the collective needs of a person or family experiencing homelessness would be one way of addressing this problem. Since its beginning, the U.S Postal Service has been marked with a rich tradition of innovation when it comes to meeting the needs of its customers. We encourage the Service to develop this or an alternative proposal that meets the need. We realize that this will require a commitment of time and resources. Accordingly, we call on Congress to authorize and properly fund any increase in overall operational cost this endeavor may require.

In developing a new protocol for these deliveries, we recommend that the U.S. Postal Service evaluate whether the proposal will provide a prompt and adequate level of access to customers experiencing homelessness, in keeping with the mission and tradition of the Service. By adequate access, we mean access that, at a minimum, would not require a significant expenditure of time or travel, and otherwise free from unreasonable delay.

IV. Why the ABA Should Act

The explicit mission of the American Bar Association includes fair access to and the administration of justice. The first two Goals of the ABA underscore the importance of improving and promoting meaningful access to the justice system “for all persons regardless of their economic or social condition.”

The United States mail represents a vital link in providing notice, serving documents, and otherwise engaging in the justice system. Therefore, the ABA has a vested concern in the appropriate delivery of and access to the U.S. mails, particularly if it is regulated differently for some people than others “based solely on their economic or social condition.” For many individuals who are homeless (many of whom have disabilities), the United States Post Office is not merely an option, but sole method of accessing the justice system. Restricting appropriate delivery of and access of the mails is, for these individuals, an effective denial of access to justice.

Lack of access to an effective means of communication can and does have a serious effect on individuals’ access to justice. The Misdemeanant Study, a study of misdemeanors and misdemeanor defendants in King County, Washington, showed that an individual’s failure to appear (FTA) for a pretrial hearing (after controlling for other factors) often has an adverse effect on individual defendants. The study found that FTA increases the likelihood of an individual defendant getting a sentence of jail time. The study found that FTAs also had an adverse effect on the length of the sentence. In other words, if the court is unable to communicate with an
individual and is charged with a misdemeanor, he or she is more likely to do jail time and more likely to have a longer sentence.¹

Lack of access to mail also has a direct impact on a person’s ability to receive or maintain critical government benefits that are necessary to get into stable housing. As the GAO recently reported to Congress in 2000:

Communication difficulties can hinder homeless people in applying for assistance from mainstream programs. The application process for many programs can involve multiple contacts— in person, on the telephone, or by mail— between the applicant and one or more program offices. Failure to respond to a request for information from a program or to meet certain deadlines can delay an applicant’s receipt of benefits. Like many other low-income people, homeless people may lack a telephone, but they are also more likely to lack a reliable mailing address. As a result, communicating with program offices can be difficult. For example, applicants for public housing are typically put on a waiting list until housing becomes available, which can be several months or years. When a homeless applicant reaches the top of the list, the housing authority maintaining the list may be unable to contact the applicant to offer housing. As a result, the homeless applicant may either be deleted from the list or moved to the bottom of it.

Communication problems can continue once a homeless person enrolls in a federal program. For example, without a dependable mailing address, a homeless family may have difficulty receiving, on a reliable and consistent basis, the cash benefits available through the Temporary Assistance for Needy Families program. Communication difficulties can also create obstacles to receiving consistent medical care, including care provided through federally supported programs such as Medicare, Medicaid, and the Community Health Center program. A homeless person without a telephone or mailing address may have difficulty making and keeping scheduled appointments and arranging for appropriate follow-up care.²

Because homeless individuals lack effective methods of communication, it is consistent with the mission of the ABA to urge the United States government to take all necessary steps to provide meaningful access to the U.S. mail. This is particularly true for pieces of mail that contain matters urgent to one's life (such as mail from doctors), liberty (such as mail from lawyers and courts) or what little property they own (such as bank statements, government benefits, or letters from a parent or child).

V. Summary

Mail is critical to people who are homeless and trying to get off the streets. It is vital to their access to certain benefits, as well as prospective housing and employment opportunities. During a period of homelessness, significant issues may arise concerning a parent’s ability to keep

¹ Murray, Christopher, Nayak Polissar and Bell, Merlyn. The Misdemeanant Study –Misdemeanors and Misdemeanor Defendants in King County Washington. Seattle: Regional Law and Justice Committee, 1998.
custody of a child, or make other provisions for one’s family. The fact of one’s lack of permanent shelter should not be the point on which their access to the justice system and the community at large may be effectively denied. The American Bar Association believes that the exercise of liberty and the pursuit of justice should not be dependent on a person’s address or the lack of one. We urge the U.S. Postmaster General and the Congress to consider the appropriate expansion of mail service to deliver to persons experiencing homelessness, for whom the mail may be their only hope for either liberty or justice.

Respectfully submitted,

William H. Hoch, Chair
Commission on Homelessness & Poverty

August 2005
1. **Summary of Recommendation(s).**

The recommendation urges the Congress, the U.S. Postal Service and other federal entities to ensure adequate customer access to, and the prompt delivery of, the U.S. mail for people experiencing homelessness.

2. **Approval by Submitting Entity.**

Approved by the Commission on Homelessness and Poverty on May 10, 2005.

3. **Has this or a similar recommendation been submitted to the House or Board previously?**

   No.

4. **What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?**

   The ABA has a history of supporting initiatives and legislation concerning homeless people and access to justice and services, including policy in support of an increase in the availability of affordable transitional and permanent housing (housing and community economic development, 1999 Annual Meeting; affordability and availability of housing, 1995 Annual Meeting; and funding for public housing, 1992 Annual Meeting), as well as policy in support of access to justice and legal aid for indigent people (homeless courts, 2003 Midyear Meeting; legal representation for indigent defendants, 1998 Annual Meeting; access to justice, 1995 Midyear Meeting; free legal representation to those at risk of becoming homeless, 1994 Annual Meeting; indigent defense services, 1991 Midyear Meeting; equal access to justice, 1990 Annual Meeting).

   This resolution would not have a direct effect on existing ABA policy and would complement the Association's commitment to justice for all.

5. **What urgency exists which requires action at this meeting of the House?**

People experiencing homelessness are in day to day struggles with proper care of themselves and their families and are vulnerable to the inherent dangers of homelessness. Furthermore, the obstacles they experience to vital resources such as the mail are inexcusable and should be remedied as soon as practicably possible.
6. **Status of Legislation.** (If applicable.)
   
   N/A

7. **Cost to the Association.** (Both direct and indirect costs.)
   
   There is no direct cost to the Association.

8. **Disclosure of Interest.** (If applicable.)
   
   N/A

9. **Referrals.**
   The recommendation has been referred to the following ABA entities:
   - Commission on Domestic Violence
   - Commission on Mental and Physical Disability Law
   - Forum on Affordable Housing
   - Government and Public Sector Lawyers Division
   - Section of Administrative Law and Regulatory Practice
   - Section of Individual Rights and Responsibilities
   - Section of Real Property, Probate and Trust Law
   - Senior Lawyers Division
   - Standing Committee on Legal Aid and Indigent Defendants
   - Standing Committee on Pro Bono and Public Service
   - Standing Committee on Substance Abuse
   - Steering Committee on the Unmet Legal Needs of Children
   - Young Lawyers Division

10. **Contact Person.** (Prior to the meeting.)

    William H. Hoch, Chair
    Crowe & Dunlevy
    1800 Mid-America Tower
    20 North Broadway
    Oklahoma City, Oklahoma 73102-8273
    Tel: (405) 239-6692
    Fax: (405) 272-5240
    E-mail: hochw@crowedunlevy.com

    Amy Horton-Newell, Staff Director
    American Bar Association
    Commission on Homelessness and Poverty
    740 15th Street, NW
    Washington, DC 20005
    Tel: (202) 662-1693
    Fax: (202) 638-3844
    E-mail: hortona@staff.abanet.org
11. **Contact Person.** (Who will present the report to the House.)

William H. Hoch, Chair
Crowe & Dunlevy
1800 Mid-America Tower
20 North Broadway
Oklahoma City, Oklahoma 73102-8273
Tel: (405) 239-6692
Fax: (405) 272-5240
E-mail: hochw@crowedunlevy.com