

Report of the Special Committee on Homelessness to the 2024 Kansas Legislature

CHAIRPERSON: Representative Francis Averkamp

VICE-CHAIRPERSON: Senator Beverly Gossage

OTHER MEMBERS: Senators Brenda Dietrich, Rick Kloos, Carolyn McGinn, and Mary Ware; and Representatives Allison Houglan, Leah Howell, Susan Humphries, Timothy Johnson, and Heather Meyer

STUDY TOPIC

The Committee is directed to:

- Receive testimony regarding:
 - The needs of the public, businesses, law enforcement and other first responders, and state and local government regarding needs, concerns, and ideas to address homelessness;
 - The effectiveness of past and current homelessness-focused services in the state, including the discussion of promising practices; and
 - Other states' and local reform efforts to address homelessness, including effective and ineffective measures undertaken; and
- Consider legislation based on the findings of the Special Committee.

Special Committee on Homelessness

REPORT

Conclusions and Recommendations

The Special Committee on Homelessness discussion focused on testimony and panel discussions provided by various stakeholders addressing homelessness issues, including applicable court cases and legal restrictions; the individuals, living situations, demographics, and causes of homelessness; the effect of homelessness on various communities; and lessons learned from efforts to address homelessness in other cities and states. The Committee made observations based on the testimony received but makes no formal recommendations to the 2024 Legislature.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council (LCC) appointed the Special Committee on Homelessness (Committee), composed of 11 members.

The Committee was directed by the LCC to receive testimony regarding the needs of the public, businesses, law enforcement and other first responders, and state and local government regarding needs, concerns, and ideas to address homelessness; the effectiveness of past and current homelessness-focused services in the state, including the discussion of promising practices; and other states' and local reform efforts to address homelessness, including effective and ineffective measures undertaken. The Committee was asked to consider legislation based on its findings.

COMMITTEE ACTIVITIES

The Committee met on November 9, 2023, in the Statehouse. The Committee heard testimony on multiple topics related to addressing homelessness.

Legal Environment: Court Cases and Legal Restrictions

An Assistant Attorney General from the Office of the Attorney General provided testimony regarding several court cases that have explored the issue of homelessness. He explained that while “homeless” is not a protected legal class, the housing status of an individual has been addressed by courts when related to a legitimate government interest, such as public health, safety, sanitation, or aesthetics.

The Assistant Attorney General discussed the findings in the following cases:

- *Sacramento Homeless Union v. County of Sacramento*, 617 F. Supp 3d 1179 (USD CA, 2022), which held that states and municipalities are not required to provide housing, food, or sleeping materials;
- *Callahan v. Carey*, 12 N.Y.3d 496, 909 N.E.2d 1229 (2009), a New York City consent decree from 1981 established the city's obligation to provide shelter to all homeless people who needed it “by reason of physical, mental, or social dysfunction.” The homeless population's “right to shelter” has not been applied beyond New York City. Kansas does not have a constitutional provision or state law establishing a right to shelter;

- *Robinson v. California*, 370 US 660 (1962) and *Powell v. Texas*, 392 US 514 (1968), centered on the issue that the status of being homeless cannot be criminalized. In *Robinson*, the Supreme Court found that a person’s mere addiction to narcotics, when not engaged in illegal conduct involving narcotics, cannot be criminalized. In *Powell*, the Supreme Court split on whether a homeless man could be punished for public intoxication. Under the Eighth Amendment to the *U.S. Constitution*, criminal punishment for involuntary conduct or status is prohibited; and
- *Lyall v. City of Denver*, 319 FRD 558 (USD Colorado 2017), concerned the sweep of encampments of homeless people and search and seizure of personal property by a government entity without due process. The city agreed to a settlement that required a notice prior to sweeps and a system for reclaiming property. Additionally, the Fourth and Fourteenth Amendments to the *U.S. Constitution* protect against unreasonable searches and seizures and the seizing of property without due process, respectively.

The Assistant Attorney General also cited a variety of issues related to restrictions on zoned property, narrowly applied nuisance laws, and First Amendment restrictions on protected speech involving the solicitation of donations.

The Executive Director and General Counsel of the International Municipal Lawyers Association provided further comments on legal decisions regarding homelessness, primarily focusing on U.S. Ninth Circuit cases. She noted *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019) held the City of Boise violated the Eighth Amendment by criminalizing involuntary homelessness, a finding that was also applied to *Johnson v. City of Grants Pass*, 72 F.4th 868 (9th Cir. 2023) when the City of Grants Pass enforced anti-camping and park exclusion ordinances. She noted the U.S. Supreme Court may grant a petition for *certiorari* in the *Johnson* case but, if not granted, those decisions would stand. She discussed other litigation that may modify anti-

camping restrictions, noting these cases currently do not apply specifically to Kansas municipal zoning regulations.

The City Attorney for the City of Topeka provided testimony regarding the City’s recent discussions on an anti-camping ordinance approved by the Topeka City Council in September.

Questions focused on other federal judicial circuits addressing the issue of anti-camping ordinances presented in the *Martin v. Boise* case. The representative of the International Municipal Lawyers Association stated the Ninth Circuit has yet to define “adequate shelter.”

Homelessness: The Individuals, Causes, Living Situations, and Demographics

A representative of AIM Strategies provided testimony regarding the successful efforts of the Downtown Topeka Safe and Clean Task Force in reducing incidents between individuals experiencing homelessness and businesses in downtown Topeka, including vandalism, disruption of business, and debris resulting from homeless individuals camping in the downtown plaza. The representative shared the goals of the Task Force.

In response to Committee members’ questions, the AIM Strategies representative described the Task Force’s work with mental health providers and especially the Real-Time Crime Initiative of the Topeka Police Department (TPD) to help connect homeless individuals to services and reduce homelessness issues faced by the downtown businesses. The conferee noted the goals of the Task Force did not address the effect relocating individuals experiencing homelessness from the downtown area had on other areas of Topeka.

Panel discussion. The Committee heard a panel discussion on the causes, living situations, and demographics of individuals experiencing homelessness, described below.

The former Executive Director of the Topeka Rescue Mission and current Chief Executive Officer (CEO) of Compassion Strategies shared three key factors in reaching people who are

homeless: building relationships, creating opportunities for individuals, and assuring continuity with a structured approach.

The Executive Director of Watered Gardens and Founder/CEO of True Charity in Joplin, Missouri, acknowledged the complex layers of homelessness. He noted the services provided by his organizations move homeless individuals from a dependency model to one that encourages personal responsibility.

A representative of United Community Services of Johnson County presented statistics regarding homelessness in Kansas and noted that 2,397 Kansans were experiencing homelessness on one night in 2022. The representative stated the reported number is an undercount of the homeless population in Kansas; this was a point agreed to by other panelists. She described the Continuums of Care in Kansas, coalitions serving different geographic areas, and provided point-in-time numbers on homelessness in Johnson County, which has experienced a significant rise in unsheltered persons without an increase in available beds to house them. The representative discussed the causes of homelessness and provided insight on what types of individuals experience homelessness, tracing the incremental pressures on vulnerable households that push them out of housing.

A TPD Major and co-lead of the Topeka Homeless Initiative described work with city employees and community partners to find a solution for the city's homelessness crisis and noted the TPD assumes the responsibility for connecting homeless individuals to behavioral health services and possible shelter.

A TPD Sergeant and supervisor of the Behavioral Health Unit Crisis Intervention Homelessness and Mental Health Team (Homeless Outreach Team) for the City of Topeka noted the Homeless Outreach Team is the first such program in the state. The Homeless Outreach Team members go into homeless camps to create relationships and build rapport with homeless individuals in an effort to connect them to appropriate resources.

A representative of Project 2 Restore described the organization's work with community

resources to provide a home, medical services, financial recovery, and counseling for the homeless population, especially focusing on those rescued from human trafficking. The Program Director recounted the story of one individual and the complex process of bringing her to physical, mental, and spiritual health.

The TPD Sergeant described the assistance provided to homeless individuals by the Homeless Outreach Team in obtaining a city identification card for homeless individuals. He stated having a city identification card facilitates obtaining a temporary state identification card, a Kansas driver's license, and a Social Security card, and opens doors for access to multiple resources for homeless individuals.

The United Community Services of Johnson County representative noted there are varying definitions of homelessness. The housing continuum includes instances in which an individual has no place to live that is intended for human habitation or no place an individual considers their own. School districts use a broader definition, one that considers a family to be homeless if living with another household or family. Medical debt was noted as a major driver leading to homelessness.

Several panelists stressed housing is not the total answer for homelessness, stating supports are also needed.

Effects of Homelessness on Communities

Panelists for this portion of the meeting provided the Committee with their insight and concerns on how homelessness affects their communities. The panelists included the two representatives of the TPD previously noted; the Assistant City Manager for the City of Lawrence; and representatives of several Lawrence businesses (the president of Weaver's Department Store, the owner of Bowersock Mills and Power Company, and the owner of Papa Keno's Pizzeria).

The Weaver's Department Store representative emphasized the need for safety in the Lawrence business district and a desire to develop and enforce policies addressing homelessness. He commented on offensive and threatening behaviors of homeless individuals that he has witnessed near

his business. He stated the Lawrence Police Department (LPD) has been ineffective in addressing homelessness in the community.

The Bowersock Mills and Power Company representative recounted the threats to employees by individuals living in homeless encampments and environmental concerns with trash, needles, and other debris in the Kansas River near the location where the business operates. She said additional housing will not address the issues of mental health or drug addiction that are prevalent among the homeless population. Although there were, at the time of the meeting, 65 vacant beds at the Lawrence Community Shelter, she noted various reasons homeless individuals do not want to stay there and will refuse the shelter that is provided. In response to Committee members' questions, she described meeting with representatives of the City, Bert Nash Community Mental Health Center, and other behavioral health providers to address her concerns, and noted a need for coordination rather than silos of service. She noted the LPD is overwhelmed and finds it difficult to apply the laws uniformly to the homeless population.

The Papa Keno's Pizzeria representative also noted the threats to staff by homeless individuals dealing with drug addictions or mental health issues. He explained the city has limited resources and solutions, but stressed a need in the community for accessible and comprehensive mental health care and substance abuse treatment focused on rehabilitation and support. He also expressed the need for a centralized database to identify needed services, track progress, and help allocate and distribute resources for individuals experiencing homelessness. He noted plans to convert a hotel into a substance use disorder treatment facility. The facility would accept insurance and private pay to start and may accept Medicare and Medicaid payments at a later date. He explained there is a desire to establish a scholarship program for people who are uninsured and homeless to access the services provided at the facility. The services would be provided by qualified and licensed providers, where appropriate.

The Assistant City Manager for the City of Lawrence noted Lawrence is building a homelessness response system. He explained

present services are not scaled to deal with the city's homeless population because other Kansas towns and cities are sending their homeless populations to Lawrence. He listed the negative effects on a variety of service providers from this increasing population and recommended legislation that would prohibit any agency receiving state funding from transporting people who are facing homelessness to another jurisdiction without ensuring services are available and connecting them to those services. He also recommended increasing state investment, leadership, and coordination in the development of services and facilities to prevent homelessness and enable recovery.

In response to Committee members' questions, the Lawrence Assistant City Manager stated, following the *Martin v. Boise* decision, the City of Lawrence adopted an ordinance allowing camping on city property if insufficient beds are available for individuals facing homelessness. He noted the lack of services, shelters, and housing makes it difficult to meet the needs of homeless individuals in the community, and budget constraints limit what the City can do. He stated the Lawrence City Commission and the Douglas County Commission have approved a joint resolution committing to working in coordination to end chronic homelessness in the area.

The Assistant City Manager detailed the funds committed by the Lawrence City Commission in its 2024 budget to address homelessness. Efforts to expand access to services for the homeless population include meetings with the TPD regarding its Homeless Outreach Program, reviews of best practices, and the creation of a multidisciplinary outreach team beginning in 2024 to encourage access to services and recovery. Other efforts by the City to address the needs of the homeless population include a behavioral health sales tax to fund mental health services and rehabilitation; a county-led creation of a crisis stabilization center and supportive housing, providing a one-stop shop for wraparound services; and the ongoing development of a pallet shelter village with 50 small sheltering cabins purchased by the City to be operated by the Lawrence Community Shelter with financial support from the City.

A Committee member described the Housing First treatment modality, noting it requires the individual facing homelessness to enter a treatment program and employment services to move into housing. The Committee member stated the panelists' comments indicate they were advocating for a Housing First program.

Another Committee member expressed the need to combine compassion with accountability.

Lessons from Other Cities and States

The Committee heard testimony from individuals representing local and other state programs and a local government representative who shared information about their programs and lessons learned. Their presentations were followed by a panel discussion and questions from Committee members.

A Former Senior Policy Advisor with the U.S. Department of Housing and Urban Development (HUD), also a representative of both the Hope Street Coalition in San Diego, California, and The LA Alliance for Human Rights in Los Angeles, California, reviewed homelessness policies and practices. He commented on his experience in Los Angeles and provided HUD data on the unsheltered population compared with the number of available beds from 2007 through 2020. He also provided data on the percentage of individuals self-reporting challenges with physical health, behavioral health, substance abuse, or all three by sheltered or unsheltered status. He questioned federal data and recommended developing local data and focusing on treatment, not housing. He concluded that present policies and practices have fostered a constituency of dependency, and current government programs emphasizing housing have not reduced the homeless population but have actually increased it. In response to a Committee member's question, the representative noted the goal is to offer incentives for individuals to treat their addictions. Alternative or specialty courts could offer treatment instead of jail to address crime caused by mental health challenges.

A representative of the Social Impact Studio, West East Design Group, outlined the Haven for Hope model, which treats the root causes of homelessness by offering comprehensive services on a 22-acre campus. He explained the two

options offered for those admitted to the program: the Transformation Campus, for intensive integrated residential treatment, and the Courtyard, which offers a variety of services with fewer restrictions to homeless individuals. The representative noted both options are evidence-based using best practices. Peer staff is utilized and a continuum of care beyond the campus is provided. He commented that the adverse effects of trauma are a root cause of homelessness for 54 percent of the homeless population. Haven for Hope's budget, on average, is composed of 60 percent federal, state, and local government funds and 40 percent private funds. The representative provided data on Haven of Hope's local impact on youth and family homelessness in the San Antonio, Texas, community. He noted Haven of Hope places all support services, including child care, in one location. The representative noted the importance of public-private partnerships.

The representative of Watered Gardens and True Charity in Joplin, Missouri, commented that the increases in housing offered to homeless individuals has seemed to make the situation worse by increasing attitudes of entitlement and dependency. The representative said the key to success in treating homelessness is to build long-term relationships with homeless individuals.

In response to a Committee member's question regarding a map showing the True Charity Network in Wichita, the representative explained an organization in Wichita is using the True Charity Network tools. Regarding best evidence practices used, research is done with many providers to collect information on successful programs that measure outcomes. Case management and therapeutic services are not provided by trained providers; instead, the representative stated competent, passionate members build personal relationships with the homeless individuals in the community. He noted personal relationships are powerful in providing incentives for change among homeless individuals.

A Shawnee County Commissioner commented on the homelessness issues facing his community, including homeless individuals camping in county parks and resorting to crime to acquire a place to sleep and eat. The Commissioner noted the county has looked at a variety of options to address these issues. The City of Topeka has passed an

ordinance that specifies who can camp and where camping can occur. The Shawnee County Commission passed a resolution that requires a 72-hour notice to homeless individuals to move from a campsite, with provisions for 90-day impounding of personal property left behind and the disposal of unclaimed property. The Commissioner stated the jail is 45 to 50 percent occupied by individuals with mental illness who do not belong there. Some of these individuals in jail are awaiting trial and wait long periods of time for a competency evaluation. The Commissioner suggested an additional behavioral health facility or state hospital in northeast Kansas.

A representative of Lawrence Family Promise described his program that, for more than 15 years, has served 1,700 families in Lawrence by matching homeless families with children with local families, primarily through approximately 2,000 volunteers. The program incentivizes people to save money by matching their savings upon graduation from the 90-day program. He noted 4 out of 5 families graduate to permanent housing and, out of those graduating, 80 percent remain permanently housed after 2 years. The program receives no government funding.

Following the presentations and questions, a Committee member expressed concern regarding some programs that seem to ignore qualified professional services. Another Committee member expressed gratitude for holistic programs that include a spiritual component.

Update on Homelessness Programs and Resources

A Kansas Legislative Research Department (KLRD) research analyst provided an overview of the state's homeless programs: Kansas Housing Resources Corporation; the Emergency Solutions Grant (ESG) and its applications in Topeka, Wichita, and Johnson County; the Continuum of Care Program; the Housing Trust Fund; other programs administered by the Kansas Department for Aging and Disability Services (KDADS); and federal initiatives. Homelessness initiatives in other states and data from the 2022 Annual Homelessness Assessment Report to Congress were provided. The data indicated homelessness increased in 27 states and decreased in 23 states and the District of Columbia. Drawing from state data, the KLRD research analyst noted 4 states

accounted for more than 50 percent of the total of all people experiencing homelessness: California, New York, Florida, and Washington. An overview of statutes in states with the highest and lowest rates of unsheltered homeless population was provided.

The KLRD research analyst provided additional written-only information: a KDADS memorandum on housing services; a memorandum and fact sheets from the Kansas State Department of Education on the McKinney-Vento Act and American Rescue Plan Act funds for homeless children and youth; information from the Kansas Statewide Homeless Coalition with support from other entities on best practices and effective approaches to address housing insecurity and end homelessness; and comments on the effect of mental illness on homelessness from Representative Timothy Johnson.

Additional Program Testimony

A representative of the Manhattan Emergency Shelter, Inc., shared her experiences sheltering homeless individuals and families. The representative stated providing shelter is the first line of defense in dealing with homelessness. The shelter works with local government, community agencies, law enforcement, and the courts, and together they provide the continuum of care in the community. She noted the Drug Court in Manhattan refers individuals to the emergency shelter, which works with the court to ensure the treatment plans are followed.

In response to a questions from Committee members, the representative described how the community members and businesses help meet the needs of the emergency shelter. She noted there is no budget for food, but those needs are met by the community. She stated efforts are underway to have a rehabilitation facility, a detoxification facility, and an inpatient psychiatric facility in Manhattan. HUD Rapid Rehousing funds are used to move individuals and families quickly into homes. When no beds are available, help is sought from churches and the local community center to assist with housing, on a case-by-case basis. The representative noted the support received from the faith-based community and her efforts in building relationships with anyone who can help the shelter. The representative stated policies to address homelessness need to be made at the local level.

Written testimony was received after adjournment from a representative of the Cross-Lines Community Outreach in Wyandotte County.

CONCLUSIONS AND RECOMMENDATIONS

The Committee made no formal recommendations to the 2024 Legislature, but the Chairperson asked Committee members to comment on key points they had garnered from the presentations and panel discussions.

The Committee members' observations included the following:

- Mental illness is a one of the primary drivers for homelessness;
- Offering only housing for the homeless is inadequate, when about two-thirds of individuals facing homelessness need substance use disorder treatment or mental health services;
- The State can help fund drug, alcohol, and mental health treatment and facilitate access to photo identification cards for individuals facing homelessness, but the local communities need to work together to make the policy decisions that will work for their communities to address homelessness. Local control is the key to tailoring effective homeless programs;
- Putting money into the Local Ad Valorem Tax Reduction Fund and allowing local governments to use those funds for mental health and substance abuse treatment or lowering property taxes could help assist local governments in addressing homelessness;
- Public-private partnerships are able to provide comprehensive, rather than siloed, services;
- Safety is an important factor to consider when individuals facing homelessness are present near commercial locations and in homeless encampments, and those locations where children reside should be monitored closely;
- To address mental health and substance use issues, shelter, housing, and wrap-around services must be provided;
- Affordable housing must always be a consideration in meeting the needs of homeless families;
- Shelters are the first line of defense in addressing homelessness, and the State should consider what it can do to support the shelters;
- An effective police department is critical in addressing homelessness. Property rights need to be respected, and equal application of the law must be recognized;
- Expanding Medicaid could aid in increasing access to mental health and substance use services in the state;
- Conferees were helpful in humanizing the discussion of homelessness issues;
- Public agencies need to find ways to simplify processes to help churches, faith-based programs, and nonprofit initiatives already in place to address homelessness; and
- There is a need to develop both short-term and long-term goals to address homelessness.