

Homelessness Assistance Audit Series: City Policies Related to Homelessness



Objective

The objective of this audit was to determine if City ordinances align with City efforts to achieve desired outcomes for people experiencing homelessness.

Due to the complex nature of the topic, we plan to evaluate the City's homelessness assistance efforts in a series of audits. Future reports are planned to analyze coordination of the City's homelessness assistance efforts, how the City allocates resources to address homelessness, and the outcomes of these efforts. This report is the first in that series.

Background

The National Law Center on Homelessness and Poverty reviewed municipal codes in 187 cities to identify ordinances that relate to the criminalization of homelessness. According to this analysis, Austin has three such ordinances, as shown in the exhibit on the right. Violations of each ordinance are classified as a Class C misdemeanor and can result in a fine of up to \$500.

What We Found

Certain City ordinances may create barriers for people as they attempt to exit homelessness. Citing people for violating these ordinances also does not appear to be an effective means of connecting that individual to the services they need, nor is it an efficient use of City resources. Lastly, other U.S. cities have faced lawsuits challenging the enforcement of similar ordinances.

Austin City Ordinances Associated with Homelessness



Panhandling (§9.4.13)

- Bans certain actions such as making physical contact and using obscene or abusive language and gestures while soliciting
- Bans solicitation within 25 feet of an ATM/bank or at sidewalk cafes
- Bans solicitation in the downtown area from 7pm to 7am



Camping (§9.4.11)

- Bans camping in public areas of the City
- Defines camping as sorting personal belongings, using a tent/car as a living accommodation, and cooking
- Does not apply to permitted camping or cooking in a park



Sit/Lie (§9.4.14)

- Bans sitting or lying in parts of downtown
- Does not apply in situations such as a medical emergency, viewing a parade, waiting for public transit, or using a bench provided by a public agency or property owner

Ordinances may create barriers to exiting homelessness.

- Out of 18,000 citations written between fiscal years 2014 and 2016, people frequently did not appear in court, often leading to an arrest warrant.
- An active arrest warrant may disqualify a person from consideration for an apartment or job, or impact their ability to maintain those things.

Homelessness Assistance Audit Series: City Policies Related to Homelessness



What We Found, Continued

Ordinances are not an effective or efficient method for connecting people to services.

- The Downtown Austin Community Court (DACC) does not have the resources to provide case management services to everyone who may need it.
- Around 25% of frequently cited individuals in 2014 refused case management services.
- People who do not address their citations at DACC may not have the same opportunity to connect to case management services, since the Municipal Court does not offer these services. The Municipal Court handled about 3,600 citations related to these ordinances between fiscal years 2014 and 2016.¹

Ordinances increase the City's legal risk.

- Other U.S. cities have faced lawsuits related to their camping ordinances. The basic premise of the lawsuits are that when homeless shelters are full, people experiencing homelessness have no way to comply with the ordinance and it violates their constitutional rights.
- A 2015 Supreme Court ruling has been used to successfully challenge elements of panhandling ordinances in other cities. Austin's panhandling ordinance includes these elements.

What We Recommend

- The City Attorney should reassess the City's ordinances to determine the legal risk they pose to the City and report the results of this review to City Council.
- The City Manager should work with City Council to determine if the City's ordinances are still aligned with the City Council's vision for addressing the issue of homelessness, or whether they should be revised or repealed.
- If not repealed, the City Manager should implement changes to make the enforcement of the ordinances more effective and efficient.

¹ This number has been updated from previously published versions which stated there were about 6,300 citations during this period.