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New Federal e-Discovery Rules

KCMB 2.0
A New Era for kcmba.org

Ward Family Legacy

president's message

By Charles W. German



Difficult Problems

Here's a problem set to consider. The problems involve issues of constitutional law, law enforcement and civil rights, mental illness, substance addiction and abuse, equal employment opportunities, fair housing laws, public benefits, health care and insurance, economic and downtown development, administration of the courts and the correctional systems, public safety concerns, and coordination of non-profit activities. The problems I refer to here are those that face the homeless people that wander our metropolitan area, especially downtown Kansas City, Missouri. One of our local judges estimates that there are more than 8,000 homeless people in our area. The problems faced and caused by the homeless population are difficult, complex, and hard even to address with a transient group. A lot of people are trying to find solutions for, or at least make positive progress on, the homelessness issues. I believe that KCMBBA can also contribute positively to efforts to address the homelessness problems in ways that further our mission to seek improvements in court administration and to increase access to justice and the courts. Lawyers around the country, and here in the Kansas City metropolitan area, have shown that the organized Bar can make a difference.

First, some background. This year is the 20th anniversary of the McKinney-Vento Homeless Assistance Act, 42 U. S. C. 11301 et seq. According to the statute, a person is considered homeless who "lacks a fixed, regular, and adequate night-time residence." The statute authorized twenty new federal programs directed at homelessness issues within the Department of Education, Health and Human Services, Housing and Urban Development, Labor, Veterans Affairs, General Services Administration, Federal Emergency Management Agency, and a new entity called the Interagency Council on Homelessness (www.ich.gov) which was created to coordinate the activities of the federal agencies.

The McKinney-Vento Act has been the source of federal programs for emergency shelter and supportive housing, emergency

food assistance, job training, transfer of vacant federal property for use to assist homeless persons, health care for homeless persons, outreach to homeless persons with mental illness, and assistance for homeless veterans. The Act also required states to remove barriers that prevent homeless children from attending public schools.

So, homelessness problems are under control, right? Wrong.

The National Law Center on Homelessness and Poverty (www.nlchp.org) was established in 1989. Based in Washington and governed by a board that includes lawyers, academics, social activists and formerly homeless people, the NLCHP works with a wide variety of groups around the country on homelessness issues. The mission of the NLCHP is to serve as the legal arm of the nationwide movement to end homelessness, and to that end the Center pursues impact litigation, policy advocacy and public education. In 2004, the Center and several pro bono partners—major law firms from around the country—formed the Lawyers Executive Advisory Partners, a national philanthropic effort of the legal community to help homeless and poor Americans achieve self-sufficiency. The Partners have done rewarding pro bono cases helping homeless victims of Hurricane Katrina, reaching a settlement in a New York case to protect educational rights of

homeless children, and researching new ways to use international human rights law to address homelessness in this country. The Center has noted recently that while the McKinney-Vento Act has brought about many success stories, homelessness is more prevalent today than it was in July 1987 when President Reagan signed the Act into law. The Center estimates that there are 3.5 million people, including 1.35 million children and 600,000 families, experiencing homelessness each year. And here in Kansas City, in 2007, we have a significant homeless population.

The homeless population is diverse. According to a 2005 U. S. Conference of Mayors survey of 27 cities (including Kansas City), the homeless population exhibits these demographics: 41% are single men and 14% are single women; 5% are unaccompanied children and 40% are families with children; 67% are single-parent families (at least half of which are fleeing domestic violence); 23% are mentally disabled and 30% are drug or alcohol dependent; and 10% are veterans. "Who is Homeless?" (www.nationalhomeless.org) Homelessness results from a complicated set of conditions that often require people to choose between food, shelter and other basic needs. Studies of homelessness problems identify the primary causes as eroding work opportunities in lower income levels, declines in available

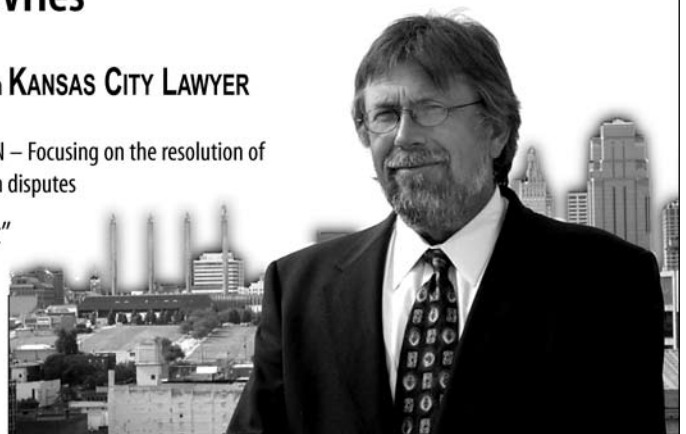
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public assistance programs, lack of affordable housing and the limited scale of housing assistance programs, lack of access to affordable health care, domestic violence, mental illness and addiction disorders. Id. (“Why Are People Homeless?”). And it is also known that even the public resources that are available are often out of reach for transient people—over 40% of the homeless are eligible for disability benefits but only 11% actually receive them; most of the homeless are eligible for food stamps but only 37% receive them; most homeless families are eligible for welfare benefits but only half receive them; and some 12% of homeless children are denied access to public schools.

These are difficult problems.

The ABA has provided good leadership to bar associations on how lawyers can get involved in these issues in an effective way. Since 1991, the ABA’s Commission on Homelessness and Poverty has provided education, training, and coordination with other bar groups and governmental agencies trying to address the problems of homelessness. The Commission provides policy-based advocacy, works with Congress to develop and fund programs aimed at poverty and homelessness and to enact laws designed to protect and provide for those in need of assistance. The Commission is also involved in public education initiatives, and it publishes papers and conducts training sessions across the country to equip the legal community to advocate on behalf of homeless people. (www.abanet.org/homeless/home.html)

One of the programs sponsored by the ABA Commission is known as Homeless Courts, and these have been established in 25 metropolitan areas around the country. These courts help connect homeless litigants with available community resources. Homeless people often receive citations for public nuisance offenses and then fail to appear in court. For many of the homeless, the typical day is spent seeking food and the next shelter; appearing in court is not a high priority and most homeless people are not in a position

to fight the issues presented in a court case. Many of the homeless are fearful of being taken into custody. Unresolved legal issues can ultimately preclude homeless people from getting a job, housing, public assistance, and access to treatment programs. The Homeless Courts present these people with a way to clear their record and to connect them with relevant community services. For the agencies, these courts help move people back into connected communities. For the people, these courts present an opportunity to get a new start. And for communities, these courts engage homeless people in gainful activities and remove them from the streets where they are not wanted and subject to being arrested again. Criminalization of homelessness—whether it is called anti-pauperism, no public sleeping, or more traditional arrests for drunkenness or minor drug possession—has been shown many times to be an ineffective (and often unconstitutional) plan for dealing with the underlying problems.

In Kansas City, Missouri, the Municipal Court judges will tell you that they are already a Homeless Court or a Community Court, but that they do not currently have the resources available to connect the people who appear regularly in those courtrooms to available social services. The Municipal Court would like to have a Pretrial Services Office and a related Probation Office so that offenders, many of whom are homeless, are connected to social services providers and monitored through a diversion program, as opposed to the current system of sentencing the defendant to time served and releasing him or her back to the streets. This kind of Pretrial Services/Probation Office was one of many recommendations in the 2005 Municipal Court study conducted for the City of Kansas City. The court already has models in place for how a homelessness program could work—the Mental Health Court does much the same kind of intervention and diversion programming, the Domestic Violence Docket is similar, and the Drug Court is another workable structure (although

funding was recently cut on this docket). The Municipal Court judges will also tell you that they really do not know how their counterparts in Kansas and in other Missouri cities in our area deal with homelessness issues, as there is no comprehensive, metropolitan system in place to coordinate efforts or programs.

There are community resources and agencies in our area that deal on a daily basis with homelessness issues. A \$7 million federal HUD grant for homelessness programs was distributed earlier this year to a number of local agencies including SAVE, Inc., the Housing Authority, reStart, Rose Brooks Center, Sheffield Place, Truman Medical Center, Swope Health Services, KC Metropolitan Lutheran Ministries, Mid-America Assistance Coalition and various mental health organizations. The Mid-America Assistance Coalition is very active on these issues, and has been for years, providing case management training for a wide range of social service providers dealing with the homeless population and also sponsoring the Homeless Services Coalition of Greater Kansas City. (www.maaalink.org/hcm.htm)

Yet people who are involved in these activities around our metropolitan area will tell you that the system is stretched to its limits and beyond, and that the needs far exceed the available resources. They will also tell you that with the homeless population, it is very difficult to reach them in a persuasive and non-threatening manner to get them involved in some of these programs. They will tell you that bottlenecks exist throughout the network of social services providers, and across jurisdictional lines, that inhibit the homeless from access to services that they need and that could move them toward self-sufficiency and off the streets. And they will also tell you that the two largest mental institutions in this area are the Jackson County Jail and the Municipal Correctional Institution.

So, the homelessness problems are

continued on page 29

KCMBA Social Hour

September 20
5:30 p.m. - 7:30 p.m.

810 Zone
4686 Broadway, Kansas City, MO

Please come and join us at 810 Zone for Red Thursday—just in time to kick off the Chiefs' season before the home opener that weekend.

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KCMBA President's Message - Difficult Problems

continued from page 3

complicated, interwoven, and difficult to address in a comprehensive fashion that actually works. But where such problems exist, so do opportunities. Let me share with you two programs that have been on target in our area—Stand Down for Veterans, and Step Up for Women.

Stand Down was developed by two Vietnam veterans in 1988 and was first held in San Diego. Today there are nearly 100 Stand Down programs throughout the nation each year. More than 100,000 veterans have participated in these programs, in which they receive a broad range of necessities like food, clothing, medical attention, legal and mental health assistance job counseling and referral. In Kansas City, this two-day event occurs in June and the KCMBA Municipal Courts Committee and Art Fillmore coordinate the legal services component which involves disposing of outstanding city warrants and charges in exchange for community service.

On June 13 of this year, the Association for

Women Lawyers (AWL) presented its second Step Up for Women program at the Kansas City Municipal Court. All of the court judges and staff, attorneys from the prosecutor's office and 34 volunteer defense lawyers gathered to provide legal work for women in metropolitan shelter and aid centers. More than 120 women came to court and most were able to clear warrants, close old probation files, and resolve outstanding tickets in exchange for providing community service hours to the centers and shelters that referred them to the program.

These kinds of programs are win-win-win: the courts clear cases, the service providers free up space, and the participants often get a realistic chance of getting back on their feet. Congratulations and thank you to all of the volunteers!

So where else does KCMBA fit into the picture, as our metropolitan community grapples with homelessness problems? That question requires serious study. We have put together an informal study group and parts of this group have met three times over the summer to brainstorm and discuss ways in

which the organized Bar might contribute more to the solutions to these difficult problems. We must understand the details and nuances of the homelessness issues here in our area, including best practices and available resources. We need to expand our current study group to include people experienced in dealing with homelessness issues. We can think in terms of a multi-jurisdictional, inter-disciplinary umbrella clearinghouse to develop strategies and programs; we can seek out advocacy issues for presentation to local, regional and state governmental bodies; we can think in terms of pro bono opportunities for our members; we can think of ways in which the organized bar can be helpful to the Municipal Courts in the metropolitan area as they develop ways to deal with the homeless dockets. And there is much more to learn. We will continue to seek a better understanding of the issues, and we will attempt to develop thoughtful proposals for the bar association that present realistic chances of making a difference.

Difficult problems. Want to be involved? Call me.

YLS President's Message

continued from page 22

starting with I-70 between Kansas City and St. Louis. They could audit the performance of teachers and students in public schools. They could also audit each and every government program to make sure that the money allocated to the program is being spent for the purpose it was intended for. They could also become watchdogs and give a report to the constituents of every congressman as to how their elected official voted on certain issues. Wouldn't it be great if you had a summary of every candidate's voting record at your fingertips? Wouldn't it also be great if people were wise enough to use these voting records as the basis for votes rather than voting for the person who produces the best commercials? Of course, these ideas would only employ about half of the current agents; the rest of them would have to get a real job like the rest of us.

Now, on to some of my more radical ideas. Stop the space program. Today. After more than 40 years of the space program, we now know that human life cannot exist on the moon, Mars, or any of the other rocks floating around us. OK. I get it. Let's move on. For all the money that has been poured into this program, we only have two worthwhile things to

show for it—cell phones and weather satellites. The true benefit of both of these innovations is debatable. There seem to be cell towers everywhere, but I still keep dropping calls at 119th and Metcalf (only six blocks from the Sprint campus). Also, despite all the satellites which show the cold fronts in Montana, the red dots over Alabama, the blue arrows pointing toward Connecticut, and all the other bells and whistles on the Doppler radar, no one can accurately predict whether it is going to rain tomorrow! Even if worthwhile, I can't agree that these innovations have been worth the cost in both money and human lives. The money from space exploration and the talented individuals working in this program might be better used for exploring alternatives to fossil fuels. Global warming is real ... because Al Gore said so. After all, this guy was smart enough to create the internet giving us e-mail, text messaging, and many other ways to avoid talking to each other. Yet another invention whose true benefit is debatable.

Lastly, the war in Iraq will be a major issue in this campaign. Supporters of the war say that America is the best country in the World and as such it has a responsibility to find and alleviate human suffering throughout the

world. We are liberators in Iraq, they say. I agree with the fundamental premise that if America is the best country in the world it probably has a responsibility to take on the cause of stamping out human suffering wherever it might be. My argument would be to first start at home. We should not be working on alleviating human suffering in Iraq until there are no homeless and starving people in America. Also, if we ever solve our own problems, our next project should be Africa or some of the other countries where food and basic healthcare are considered luxuries. The problems in Iraq and several other Middle Eastern countries are generations old and may never be solved regardless of how much money we throw at the problem. On the other hand, according to Sally Struthers, we could feed a child in Africa for the cost of one cup of coffee a day. Just think about how many kids you could feed with the cost of a cup of Starbucks coffee. Even better, think of how many kids we could feed if we took all the money we are spending on liberating Iraq.

To all of the candidates—good luck. To the one who adopts the platform above, you have my vote. Now, let the Saturday Night Live skits begin...