

# Denver Initiative 300: Impacts on the Homeless and Society by Granting Unimpeded Access to Public Space

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Conducted by





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# Understanding Denver Initiative 300 and The Impacts to Public Space

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## EXECUTIVE SUMMARY

The Right to Survive: Initiative 300

On the May 2019 ballot, Denver voters will be asked to consider a proposed policy change to the city's municipal code entitled The Right to Survive Initiative.

*Shall the voters of the City and County of Denver adopt a measure that secures and enforces basic rights for all people within the jurisdiction of the City and County of Denver, including the right to rest and shelter oneself from the elements in a non-obstructive manner in outdoor public spaces; to eat, share accept or give free food in any public space where food is not prohibited; to occupy one's own legally parked motor vehicle, or occupy a legally parked motor vehicle belonging to another, with the owner's permission; and to have a right and expectation of privacy and safety of or in one's person and property?*

The proposal provides any and all accessible public lands under the jurisdiction of the City and County of Denver, owned or leased, to be made available for people to create and reside in unobtrusive shelter, indefinitely. Specific areas that fall clearly under the definition of the proposal include the 24/7 unrestricted camping use of all city parks, easements, medians, open space, Red Rocks Amphitheater, parkways, streams, sidewalks, 16th Street Mall and other.

### The proposal abolishes:

- Current laws enabling public law enforcement officers, other trained personnel and citizen volunteers to assist people experiencing homelessness, by categorizing such assistance as a civil rights offense.
- Any existing law in conflict with the new rights it establishes.

Proponents of the initiative argue under the current city code, individuals experiencing homelessness who choose to rest, sleep, congregate and eat, are being unnecessarily persecuted.

Opponents of the initiative maintain consequences of the initiative ---abolishing laws which govern access to all public outdoor space --- will cause public safety, public health and the quality of life on properties owned or leased by the City and County of Denver to deteriorate. Opponents also maintain people experiencing homelessness will not benefit from the policy changes created by passage of the initiative.

## KEY FINDINGS

Initiative 300 is a broad measure whereby supporters have asserted unimpeded use of public space for the purpose of erecting non-obstructive shelter, indefinitely, is a right to be extended to everybody including those experiencing homelessness. No city in the US has passed similar allowances. However, courts have ruled that cities cannot enforce certain laws that restrict access to public space if there is nowhere for individuals to go. Some of those cities experienced significant economic loss (downturn in tourism) and increased taxpayer costs resulting from growing public scrutiny to address the problem of large populations of unsheltered individuals.

The reasons for the court-mandated unimpeded access to public spaces in the case study cities do not exist in Denver. There are a sufficient number of beds/shelters available and those experiencing homelessness are not being criminalized for violating the "urban camping ban."



Data on successful exits from homelessness are clear; the longer people are unsheltered, the more challenging rehousing. Strategies to improve rapid rehousing, early intervention and supportive housing are the path forward as they mitigate the risks to the individual and society of long-term homelessness.

- The City and County of Denver spends \$50 million annually on services for the homeless.
- In addition to expenditures by the City, just the few organizations whose budgets could be determined, metro area charitable organizations spend over an additional \$90 million annually. For comparison, in 2017, CDOT spent \$89.6 million statewide on roadway expansion projects.
- The combination of City and charitable expenditures equates to approximately \$26,000 per homeless individual. For comparison the current spending per-pupil in Denver Public Schools is \$17,365.
- Snapshot of the population of people experiencing homelessness in the region from 2018 point-in-time survey.
  - In the Denver Metro area, there are approximately 5,300 people experiencing homelessness.
  - According to the 2018 point-in-time survey, there were 3,445 individuals experiencing homelessness in the city of Denver. That represents approximately 65% of the region total of 5,317 individuals throughout the 7-county metro area covering Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson counties.
  - In the City and County of Denver
    - 927 individuals were reported to have mental health issues
    - 238 individuals were fleeing a domestic abuse situation
    - 1006 individuals reported or showed an indication of substance abuse
    - 661 individuals were newly homeless
- Homelessness Not Criminalized: Although advocates for the initiative depict that current policy that bans unauthorized camping on public spaces owned or leased by the city “criminalizes” homelessness, Denver’s current ban is designed to connect people experiencing homelessness with services and housing. City records indicate that although law enforcement personnel have made nearly 18,000 contacts since the “urban camping ban” was enacted in 2013, only 32 citations (0.17% of those contacted) have been issued.



## REASONS FOR THIS ANALYSIS

*The Right to Survive Initiative* (formally known as Initiative 300) represents unprecedented, broad-sweeping policy reform. If passed, this measure will have an immense impact on Denver and the entire country. It is the most significant policy of its kind in the United States to date going further than those often-cited cities on the West Coast.

In cities such as Los Angeles and San Francisco, ordinances prohibiting “urban camping” and overnight sleeping in public spaces have not been enforced due to court rulings and separate policies to enable the use of public property. Reviewing the impact of urban camping in those cities will provide insight into the risks associated with even broader unimpeded use of public properties.

*The risk of getting this public policy decision wrong comes at a very high price.* The National Alliance to End Homelessness states that “once they (chronically homeless individuals) become homeless, regardless of what immediately caused them to lose their housing, it is difficult to get them back into housing and they can face long or repeated episodes of homelessness.” They add, “Outreach and engagement to help this population enter low-barrier shelters, and connect to housing, are important for safety and health.”<sup>[1]</sup>

For example, residents of San Francisco recently passed a referendum to double the city’s existing expenditure on services and housing for homeless individuals and for those on the brink. The new tax increase amounts to an additional \$40,000 per year per homeless individual<sup>[2]</sup>, the city’s total budget for homeless and housing support will total over \$650 million per year in public expenditures. Despite the large increases in spending, the rate of unsheltered and chronic homelessness has not subsided, and the city still fails to provide an adequate number of shelter beds to meet the current and growing needs.

In contrast, the City & County of Denver currently spends \$50 million annually on housing for individuals experiencing homelessness and related services. However, the proposed initiative would only make it easier for the rate of chronic homelessness to grow. By criminalizing efforts to connect people to services that are perceived as harassment, this initiative only exaggerates the challenge of helping people return to permanent, stable living conditions.

There is also ample evidence demonstrating that those suffering from homelessness are more likely to slip into the category of chronic homelessness the longer they remain unsheltered. Experts in the field of working with homeless populations maintain that strategies for improving support for people experiencing homelessness are multifaceted.<sup>[3]</sup> Such strategies include, but are not limited to:

- Improvement in the implementation and utilization of Homeless Management Information System (HMIS) and coordinated entry to better support people entering the shelter system.
- Better integrated services and counseling to provide clear pathways for people to exit the shelter system into more permanent housing.
- Reconfigure shelter types and rules to better fit the needs of the existing homeless population.



## CASE STUDIES: LESSONS LEARNED

A review of Denver's current tourism industry and two case studies with effective unimpeded access demonstrate the potential loss of revenue to the Denver metro area, as well as statewide.

**Tourism Snapshot:** *The City of Denver* reported tourist expenditures of \$5.6 billion in 2017. Statewide tourism is an approximate \$19.7 billion industry. As evidenced, convention organizers will not host events in cities with perceived safety issues and or cities that lack quality experiences. If tourism declines a mere 1%, the direct loss in tourism spending will be \$197,000,000. Using the PI+ model developed by REMI, to run a simulation, just that 1% drop in tourism spending will cost over 2,300 jobs statewide and over \$360 million in total output.

**Sleepless in Seattle:** In a letter sent to the leaders of the convention and tourism organization Visit Seattle organizers of a large national convention criticized the street atmosphere surrounding the convention center after an advanced planning team was directly accosted and witnessed open drug use and other activities which caused them to fear for their safety. As a result, organizers chose not to host the convention in Seattle. The net loss: \$8.5 million in approximate expenditures to the local economy.<sup>[3]</sup> Findings from a six-month investigation into the issue by the Puget Sound Business Journal found that the area spends more than \$1 billion a year on the crisis of homelessness.<sup>[4]</sup> Citing two other reports, they concluded that a lack of coordination between groups and government serving the homeless was a major challenge, and the annual cost of providing a house and care to every person experiencing homeless in the region should only be 1/5 of total current cost.

**City by the Bay:** The number of visitors to San Francisco grew just 1.4% in 2017; down from 2.3% growth in 2016. While one of the city's major convention centers was under renovation, the most common complaint from tourists is the "condition on the street," per San Francisco Travel CEO Joe D'Alessandro.<sup>[5]</sup> An unnamed medical group chose to move their 15,000-attendee conference from San Francisco due to unsafe walking conditions on the city streets. The 5-day trade show would have contributed \$40 million in direct spending to the city.

In Los Angeles, Boise, Seattle and San Francisco court rulings have rendered city ordinances prohibiting urban camping and overnight sleeping obsolete. The courts have based their rulings on the fact these cities and others don't have sufficient shelter and/or beds to accommodate people experiencing homelessness. In Denver, and the surrounding Metro area findings differ.

**Sufficient Shelter and Beds:** Denver and the surrounding metro area does not suffer from a deficiency of available shelter and bedding for homeless populations. The seven (7) county area has an approximate homeless population of 5,300 with approximately 1.2 beds available for each person experiencing homelessness. By contrast, cities such as Los Angeles, Seattle and San Francisco do not have sufficient shelter and bedding for those experiencing homelessness.<sup>[6][7]</sup>

## WHAT DOES THE HOMELESS POPULATION LOOK LIKE IN DENVER?

People experience homelessness for a variety of reasons including mental health issues and physical disabilities; some by choice and others for transitional reasons such as women leaving an abusive relationship and/or suffering underemployment or employment loss.

Each year, the Metro Denver Homeless Initiative (MDHI) does a point-in-time survey, to estimate the size of the homeless population. MDHI is the Federal Department of Housing and Urban Development's designated Continuum of Care for the Denver region, which is the national network of HUD funded groups to receive funding for purpose of combatting homelessness. Their data is the only publicly available estimates on the scope of those experiencing homelessness. According to the 2018 point-in-time survey<sup>[7]</sup>, there were 3,445 individuals experiencing homelessness in the City of Denver. That represents roughly 65% of the regional totals as there were 5,317 homeless individuals throughout the 7-county metro area covering the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson.

Figure 1: Number of Persons in Homeless Situation by Household Type on January 29, 2018 [7]

HUD HOUSEHOLD TYPE		ES - EMERGENCY SHELTER	TH - TRANSITIONAL HOUSING	UNSHELTERED	SAFE HAVEN	TOTAL
	Household without children	2086	590	1212	22	3910
	Household with at least 1 adult and at least 1 child	486	823	93	0	1402
	Household with only children under 18	2	0	3	0	5
<b>Total</b>	<b>2574</b>	<b>1413</b>	<b>1308</b>	<b>22</b>	<b>5317</b>	

### The point-in-time survey includes those that are sheltered and those that are unsheltered:

**Sheltered:** An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangement (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals).

**Unsheltered:** An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

In Denver, roughly 17.6% were unsheltered, which equates to 609 people. Regionally, the percent shifted to 24.6% and just over 1,300 were unsheltered.

While the PIT survey may have different definitions for homeless individuals from other sources, it is also important to understand who is not included as homeless in the PIT survey.

**Persons residing in the following settings on the night of the count are prohibited from being included in the sheltered or unsheltered PIT count:**

- Persons counted in any location not listed on CoCs’ Housing Inventory Count (HIC) (e.g., staying in projects with beds/units not dedicated for persons who are homeless)
- Persons residing in permanent housing (PH) programs, including persons housed using HUD Veterans Affairs Supportive Housing (VASH) vouchers
- Persons temporarily staying with family or friend (i.e., “doubled-up” or “couch surfing”)
- Persons residing in housing they rent or own (i.e., permanent housing), including persons residing in rental housing with assistance from a RRH project on the night of the count
- Persons residing in institutions (e.g., jails, juvenile correction facilities, foster care, hospital beds, detox centers)

To understand the duration of time an individual has been experiencing homelessness the data is separated into three categories.

**Chronic homelessness:** Individuals who are (a) are homeless, (b) are living in a place not meant for human habitation, in a safe haven, or in an emergency shelter, (c) have been homeless and living in a place not meant for human habitation, a safe haven, or an emergency shelter continuously for at least 1 year or on at least four separate occasions in the last 3 years where the combined length of time homeless across those occasions is at least 12 months, and (d) have a disability.

**Newly homeless:** Individuals who have been homeless for less than one year and this was their first episode of homelessness.

**Other:** Anyone who does not fall under category of chronically homeless or newly homeless.

Figure 2: Table of 2018 Denver PIT Survey Duration of Homelessness

DENVER 2018 POINT-IN-TIME SURVEY							
	EMERGENCY SHELTER		TRANSITIONAL HOUSING		UNSHELTERED		TOTAL
	#	% of subpopulation	#	% of subpopulation	#	% of subpopulation	
Chronically Homeless	605	61%	22	2%	364	37%	991
Newly Homeless	381	58%	228	35%	52	8%	661
Other	834	47%	744	41%	193	11%	1793
<b>Total</b>	<b>1820</b>	<b>53%</b>	<b>994</b>	<b>29%</b>	<b>609</b>	<b>18%</b>	<b>3445</b>



While sharing the fact that they currently lack permanent housing, those experiencing homelessness have diverse circumstances. Here is some additional data from the 2018 point-in-time survey for just the city and county of Denver.

- 927 individuals were reported to have indications of mental health issues - 27.4% or 254 were unsheltered.
- 238 individuals were fleeing a domestic abuse situation - 16% or 38 were unsheltered
- 1006 individuals showed or reported indication of substance abuse - 29.3% were unsheltered
- There was a total of 661 people who were newly homeless in Denver, that is about 19.2% of the 2018 total homeless population. Newly homeless is defined as a person who has been experiencing homelessness for less than one year and this was their first episode of homelessness. 7.9% of the newly homeless were unsheltered.

## WHAT IS INITIATIVE 300, OR THE DENVER RIGHT TO SURVIVE INITIATIVE

The Right to Survive Initiative, states:

*Shall the voters of the City and County of Denver adopt a measure that secures and enforces basic rights for all people within the jurisdiction of the City and County of Denver, including the right to rest and shelter oneself from the elements in a non-obstructive manner in outdoor public spaces; to eat, share accept or give free food in any public space where food is not prohibited; to occupy one's own legally parked motor vehicle, or occupy a legally parked motor vehicle belonging to another, with the owner's permission; and to have a right and expectation of privacy and safety of or in one's person and property?*

Presently, no other city in the country has passed a comparable broad sweeping initiative to allow unimpeded access to public properties for people to reside indefinitely.

Los Angeles and Seattle have experienced policy changes (court mandated and ordinances) over time which have created enforcement challenges of pre-existing city laws to prohibit unrestricted urban camping. These cities have experienced significant increases of unsheltered and chronic homelessness and do not have adequate sheltering or resources in place to accommodate homeless populations.



## INITIATIVE 300 DEFINED

Initiative 300 adds Article IX, Right to Survive in Public Spaces, to Chapter 28, Human Rights, of the City of Denver's municipal code. It will grant rights all to rest in a non-obstructive manner in public space, and in a lawfully parked car, without the possibility of being asked to move, or without being arrested. It also allows people to eat, share and serve food in public spaces where food is not prohibited.

### Key Terms:

- "Public space" - any outdoor property that is owned or leased, in whole or in part, by the City and County of Denver and is accessible to the public, or any city property upon which there is an easement for public use.
- "Rest" - the state of not moving, and holding certain postures including but not limited to sitting, standing, leaning, kneeling, squatting, sleeping or lying down.
- "Non-obstructive manner" - means a manner that does not render passageway impassable or hazardous.
- "Motor Vehicle" includes vehicles defined in Colorado revised statutes including camper coach, trailer coach, or noncommercial or recreational vehicle.

### Rights Outlined:

- Right to rest in public-spaces in non-obstructive manner.
- Right to shelter oneself from elements in non-obstructive manner.
- Right to eat, share, accept or give food in any public space where food is not prohibited.
- Right to occupy your own vehicle, or a vehicle belonging to another with their permission, if legally parked.
- Right and expectation of safety and privacy of one's person and belongings when occupying public spaces.
- Right of City and County to enforce these new laws even if they conflict with state laws.

### Prohibition and Obligations:

- Unlawful for City or County to enforce any other law that might penalize or prohibit the rights in this new law.
- Unlawful for law enforcement, private security, or private businesses to violate these new rights.
- Unlawful to harass, terrorize, threaten or intimidate any person exercising rights secured by these new rights.



## Enforcement:

- Any law enforcement or government agent who detains, causes to move, or violates these new rights is guilty of a civil rights violation. This includes requesting identification without reasonable suspicion of a crime.
- Allows the City and County and its residents to enforce the laws of this initiative and be entitled to recover all costs of litigation.
- Restricts ability of City to create law that violates rights of current law but allows for potential future, more protective human rights laws, from state or federal government to overrule these new laws.

**Repeals:** All inconsistent provisions of prior laws adopted by the City and County of Denver are to be repealed.

The language of the proposed initiative is very clear in its intent to grant unobstructed access to eat, sleep and remain in public spaces throughout Denver. This analysis concludes that there could be significant unintended consequences, resulting from this initiative.

## INITIATIVE 300: EXAMPLES OF PUBLIC OUTDOOR SPACES IMPACTED

“Public Space” as broadly defined in the initiative is open in some cases to legal interpretation. It includes property “owned or leased, in whole or in part, by the City and County of Denver and is accessible to the public, OR any city property upon which there is an easement for public use.”

### Some areas that clearly fall under the definition include:

- Red Rocks and Summit Lake Park
- Entire Denver Mountain Park System
- Civic Center Park near State Capitol
- Cheeseman Park
- Sloan’s Lake Park
- City Park
- Commons Park
- Cherry Creek Park
- Parkways, medians, streams, sidewalks
- More than 220 additional city parks
- Sidewalks at Broncos Stadium at Mile High
- Sidewalks and easements surrounding Coors Field



**Other public areas that will require court interpretation to determine if they meet accessibility definition include grounds at:**

- Denver International Airport
- Denver Convention Center
- Denver Botanical Gardens
- Denver Center for Performing Arts
- Denver Zoo
- Denver Museum of Nature & History
- Denver Public Libraries
- Denver Art Museum

## INITIATIVE 300 INTERACTIONS WITH CURRENT LAW

Among several laws which restrict the use of public spaces, such as curfew laws or anti-trespassing laws, none are as debated as the 2012 law that restricts unauthorized camping (“urban camping”) within city limits. Some advocates for the initiative argue the “urban camping ban” criminalizes being homeless and forces people to consistently be on the move. A review of police records and available data related to the availability of homeless shelters and transitional housing indicates otherwise.

**Unauthorized Camping:** Current law is intended to balance the need for maintaining public safety and public health. While individuals experiencing homelessness face challenges in regaining permanent housing, no urban area in the United States has adopted policies as broad as the language contained in The Right to Survive Initiative.

**Curfew and trespassing laws restrict access to certain areas because adequate supervision is cost prohibitive 24/7. Existing restrictions pertain to all. Current law restricts access to:**

- Denver Mountain Park system, including Red Rocks and Summit Lake, from one-hour before sunrise to one-hour after sunset.
- Denver Botanical Gardens, Civic Center Park and any of the over 200 city parks for overnight use.

**Sit and Lie:** Currently, it is unlawful to knowingly sit or lie down on public space, other than benches and areas designated for sitting, in the Downtown Denver Business Improvement District from 7:00 a.m. to 9:00 p.m. The area covers a .8 square mile section of Denver northwest of Civic Center park and the capitol. This district includes some of the areas with the highest foot traffic, such areas as the 16<sup>th</sup> street mall.

**Curfews and Trespassing:** Parks and parkway medians are not currently accessible to the public between the hours of 11:00 p.m. to 5:00 a.m. with some exceptions. If the Right to Survive Initiative passes, any person will have access to remain and erect shelter in such outdoor spaces as the Denver Botanical Gardens so long as no passageways are obstructed.

**Distribution of Food:** Current law requires obtaining a permit from the city to serve food to more than 25 people on public land. The language of the initiative grants the right to consume food in areas where it is already permissible, and if passed will override any existing requirement to obtain a permit to serve more than 25 people.

**Support Services over Citations:** The unauthorized camping restriction contains explicit language requiring law enforcement to first take steps to connect individuals to helpful resources and shelters rather than issuing a citation. Officers must warn people verbally and in writing and give the opportunity to comply. Officers must also make a reasonable effort to offer and connect the individual to support services. Review of police records since the unauthorized camping law went into effect in 2013 reveal:

- Law enforcement has conducted over 11,700 “street checks” coming in contact with over 18,000 individuals
- 32 citations have been issued, 13 dismissed
- 62 individuals were sent to detox
- 519 people were arrested for prior warrants
- 82 people were arrested for some other violation
- 1.5 out of every 1,000 camping ban contacts issued a citation.

Figure 3: Data from Denver Police Enforcement of “Unauthorized Urban Camping Ban”

	Jun-Dec 2012	2013	2014	2015	2016	2017	JAN-SEP 2018	TOTAL
Total Street Checks for Unauthorized Camping	302	515	494	1,963	3,349	3,160	1,997	<b>11,780</b>
Number of People Contacted	664	972	807	2,623	5,055	4,647	3,195	<b>17,963</b>
Written Warnings for Unauthorized Camping	1	1	1	10	154	46	21	<b>234</b>
Citation or Arrest for Unauthorized Camping	0	0	15	2	9	5	1	<b>*32</b>
Arrested for Other Violations	8	7	7	4	38	13	5	<b>82</b>
Arrested for Prior Warrants	14	12	21	26	116	165	165	<b>519</b>
Sent to Detox	9	0	6	8	28	8	10	<b>69</b>

Source: Denver Police Department. \*13 of these citations were overturned because of violations of procedure.

## WHERE ARE PEOPLE SUPPOSED TO GO?

The US Court of Appeals for the Ninth Circuit ruled on a lawsuit brought forward by a group of individuals in Boise, Idaho. The court found in favor of the homeless plaintiffs, citing the City could not force people off the street if there was no shelter space for them to relocate. This ruling is similar to earlier ones in Los Angeles which led officials to stop enforcing laws related to overnight sleeping in public spaces.

A recent report commissioned by the City and County of Denver entitled “Three-Year Shelter Expansion Plan” found “there are an adequate number of shelter beds to provide nightly shelter services for both the sheltered and unsheltered single adult population.”<sup>[8]</sup> An estimated 5,300 people experience homelessness in the Denver metro area, there are a reported 6,376 available beds.<sup>[6]</sup>

Continuing to create pathways for homeless individuals to improve their current situation must remain the focus. The potential unintended consequences of unrestricted access to the City and County’s public outdoor space are significant and far reaching.

Figure 4: People experiencing homelessness and number of available beds

	Denver Metro, CoC		Los Angeles Continuum of Care		Portland, Gresham/ Multnomah County CoC		San Francisco CoC	
<b>Total number of people experiencing homelessness</b>	<b>5,317 (2018 PIT)</b>		<b>49,955 (2018 PIT)</b>		<b>4,019 (2018 PIT)</b>		<b>7,499(2017 PIT)</b>	
% chronic homeless	1595	30%	13488	27%	1366	34%	1950	26%
% unsheltered	1329	25%	37466	75%	1688	42%	4724	63%
% newly homeless	1063	20%	9491	19%	n/a	29% (2017 PIT)	1875	25%
<b>Number of Beds (2018 HIC)</b>		As % of # of homeless		As % of # of homeless		As % of # of homeless		As % of # of homeless
Emergency shelter	2,853	54%	9,583	19%	2,329	58%	2,116	28%
Safe Haven	25	0%	98	0%	n/a	n/a	19	0%
Transitional Housing	1,921	36%	4,393	9%	587	15%	551	7%
Rapid Rehousing	1,331	25%	5,428	11%	1,883	47%	227	3%
Other Permanent Housing	246	5%	3,089	6%	n/a	n/a	n/a	n/a
<b>Subtotal Beds Available for Homeless</b>	6,376	120%	22,591	45%	4,799	119%	2,913	39%
*Permanent Supportive Housing	3,311		19,194		4,807		9,556	
<b># year-round beds available minus # of people experiencing homelessness</b>	<b>1,059</b>		<b>-27,364</b>		<b>622</b>		<b>-4,586</b>	

Source: Data comes from each region’s last available annual point-in-time housing survey and housing inventory county reported by HUD \*Individuals who are housed in Permanent Supportive Housing are not included in the point-in-time counts of homeless.



## WHAT ARE THE UNINTENDED CONSEQUENCES OF INITIATIVE 300?

The unintended consequences of The Right to Survive Initiative will have a serious impact on people suffering homelessness, the Denver Metro economy, public properties owned and leased by the City and County of Denver and the overall quality of life of residents and guests.

**Threat of increasing rates of chronic homelessness:** Unrestricted access to public outdoor space only makes it easier for someone to remain outside the network of housing and service providers trying to help. And the rate of exit to permanent housing falls dramatically as soon as someone falls into homelessness and utilizes the network of emergency shelters. While rapid rehousing and transitional housing have an exit rate of 77% and 31%, emergency shelter only has exit rate of 7%.<sup>[9]</sup>

**Intervention Deterrent:** The initiative fails people experiencing homelessness because it makes it a criminal offense to approach someone exercising new rights in way they deem threatening or harassing. Although reasons people experience homelessness are diverse, those trained in service to homeless populations believe in creating a pathway out of the current situation. The initiative may work against people and organizations trying to aid those experiencing homelessness by setting up barriers to offer services.

**Provides No Definition of Shelter:** Failing to clarify clearly define how secure or what a permanent structure constitutes means there will be questions regarding whether the initiative allows for tents, tarps, wood or metal structures. Other cities that accommodate such settings report serious health hazards for occupants, and residents, stemming from unsanitary and other undesirable conditions. It is anticipated future lawsuits will be required to settle what constitutes the definition of “shelter”.

**Economic Impact:** Chronic homelessness costs are substantial to those experiencing homelessness and are costly to society. Allowing people to remain outside of the network of services and shelters that are in-place makes the situation worse and creates higher economic costs to support growing chronic homeless populations. Cities with growing problems with use of public outdoor space in urban settings report threats to losses of tourism and conventions.

Abuse of New Rights such as camping in urban areas, Red Rocks and other public outdoor spaces diminishes the quality of life for all residents. The cost of maintaining the properties will either escalate or such properties will deteriorate due to overuse.

## WHAT IS THE PROPOSED COLORADO RIGHT TO REST ACT (HB19-1096)?

Like Initiative 300, The Right to Rest Act (HB19-1096) is a measure recently introduced in the Colorado General Assembly calling for a similar repeal of all laws statewide which restrict access to public outdoor space.



## Bill Summary

The bill creates the “Colorado Right to Rest Act” which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.

*The bill prohibits discrimination based on housing status.*

*The bill creates an exemption of the basic right to rest for people experiencing homelessness for any county, city, municipality, or subdivision that can demonstrate that, for 3 consecutive months, the waiting lists for all local public housing authorities contain fewer than 50 people.*

*The bill allows the general assembly to appropriate money from the marijuana tax cash fund to the department of local affairs for the purpose of enabling governmental entities that do not meet the exemption requirement to reduce the housing waiting lists to fewer than 50 people for at least 6 months per year.*

*The bill allows any person whose rights have been violated to seek enforcement in a civil action.*

Given this is a statewide measure, its consequences may be even broader reaching than Initiative 300. HB-19-1096 seeks to address one of the largest issues surrounding the long-term fiscal consequences of chronically unsheltered individuals by specifying jurisdictional exemption. As long as there is not a backlog of more than 50 people for public housing, “any county, city, municipality, or subdivision” can be exempted from allowing unimpeded access. The measure puts the solution on permanent publicly funded housing, the full criteria and cost of which has not yet been tallied by Legislative Council.

## GETTING IT WRONG: A GROWING CHRONICALLY HOMELESS POPULATION

**An Economic Impact Case Study: The City of Los Angeles.** Cities with larger, chronically homeless populations that have historically had inadequate shelter opportunities are now faced with large budgetary costs related to expensive housing, medical and cleanup costs. Following a 2007 lawsuit brought by the ACLU, the city of Los Angeles settled with a group of homeless people by agreeing to build more units for homeless housing, and to not enforce its 1968 law prohibiting sleeping on the streets. In 2017, there are more than 22,500 more people experiencing homelessness in Los Angeles than there were total shelter beds. For this reason, Los Angeles is known to have large encampments of homeless people including those living in an area known as “Skid Row.”

The risks to surrounding businesses and residences of these large encampments in LA are clear. Public health official reports last year reveal outbreaks in Hepatitis A and Typhus originating and spreading through certain groups of the most at-risk homeless individuals. Costs to address these growing problems has escalated dramatically. In the past two years, a majority of LA voters approved two significant tax increases: a sales tax increase to fund a \$1.2 billion bond and a property tax increase to raise an \$3.55 billion over 10-years to address the elimination



of homelessness in their city.

**An Economic Impact Case Study: The City of Seattle.** From 2017 to 2018 the estimated number of individuals experiencing homelessness grew by 4%, from 11,643 to 12,112. The percent that were unsheltered grew from 47% to 52%. That is nearly three times the rate of unsheltered homeless individuals as Denver. In 2017, the Puget Sound Business Journal released an investigative report into the full impact and costs of the crisis of homelessness at that time.<sup>[4]</sup> They estimated the total cost to be over \$1 billion per year. This was an estimate that included such factors as health care, cost of real estate, law enforcement, support from the non-profit sector including the contributions from state, local and federal governments, and other government contributions not to non-profits. They found similar problems to what is occurring in other regions, including Denver, as the network of service providers are not in close communication and lack a central organizing function that would help eliminate inefficiencies. The authors also estimate the total annual cost of providing the average level of housing and care cited by Plymouth Housing Group, a local non-profit, to all those experiencing homelessness in King County would be just \$192 million per year. Now that does not include the up-front housing development costs, that in the Seattle housing market would be exceptionally high.

With such a high rate of unsheltered homeless individuals, the conditions on the streets for tourists has suffered. In an open letter to convention leaders in Seattle, the American Pharmacists Association stated that they would no longer be bringing their convention of 6,300 people to city. The early advance team found the conditions around the convention center to be unsafe for their attendees as they witnessed open drug use, defecation and verbal harassment. The convention would have brought roughly \$8.5 million to the local economy.

**An Economic Impact Case Study: The City of San Francisco.** This past fall (2018), a majority of voters in the City of San Francisco passed a tax increase on the city's largest companies to add an estimated \$250 to \$300 million to the city's budget; funds from which to be directed towards those experiencing homelessness.<sup>[2]</sup> San Francisco has an estimated population of 7,499 people experiencing homelessness and only 2,900 beds. The new tax increase adds an additional \$33,300 to \$40,000 per year, per person experiencing homelessness to the city's budget. The city was already spending approximately \$380 million per year in services related to homelessness, including support to those who were at risk of becoming homeless.

**The City and County of Denver** has a smaller chronically homeless population as well as adequate beds to accommodate people experiencing homelessness. The city reports to spend \$50 million annually on homeless services and housing.

Additionally, the seven-county Denver metro area Continuum of Care (CoC), the program in the region designated by HUD to carry out the mission of ending homelessness, received over \$25 million in grants from HUD. The two other CoC's in the state received another \$5 million. One of the largest shelters in the city, The Denver Rescue Mission, reports contributions of \$32 million half of which comes from individual donors. The Colorado Coalition for the Homeless which operates several homeless housing and service programs in Denver and statewide showed total expenditures of \$65 million in 2017.

Specific detail regarding the economic expanse of helping people experiencing homelessness, and determining exactly how many people are served, is challenging. There is some overlap in spending because different service providers receive some funding from the city and federal government, however the expenditures of these organizations tally more than \$170 million annually, with roughly \$130 million in non-redundant spending. A review of the data supports

the premise that expenses will only increase if the prevalence of unsheltered chronic homelessness is enabled via the Initiative 300's support for unimpeded access to public space.

Figure 5: Summary of Several Entities Dedicated to Serving the Homeless | Denver Region

Annual Reported Expenditure	
City and County of Denver	\$50,000,000
Metro Denver Continuum of Care (CoC)	\$25,279,492
Denver Rescue Mission	\$31,702,097
Colorado Coalition for the Homeless	\$66,152,335 (50% is overlap of federal and local govt grants)
Family Promise of Greater Denver	\$446,997 (30% from government)
	\$1,132,447 in value from volunteers <sup>[10]</sup>
Homeless services associated with churches not required to disclose funding	
Salvation Army - Crossroads Center	House 500 people per night
St. Francis Center	724 daily guests (2015) 41% of all revenue came from government grants <sup>[11]</sup>
Samaritan House	Supply 25% of shelter housing to families in Denver



## PATHWAYS TO HOUSING: THREE-YEAR SHELTER EXPANSION PLAN

The Human Services Department for the City and County of Denver engaged social services system transformation expert Mandy Chapman Semple in 2018 to provide strategic recommendations for sheltering and rehousing people experiencing homelessness in the Denver area. The report, entitled *The Three-Year Shelter Expansion Plan*, renders a roadmap of changes city and the community of service providers can make to dramatically give people experiencing homelessness the opportunity to return to permanent housing.

**Importantly, the report does not recommend allowing people to remain unhoused on the street. An important observation of not only the Three-Year Shelter Plan report but also of many other reports that aim to help the homeless is the lack of any suggestion to allow more people to remain unhoused on the streets.**

The Three-year Shelter Expansion Plan offers 20 specific steps that can be taken “to produce effective sheltering and rehousing system in Denver.” The report finds the City and County of Denver currently has a sufficient quantity of beds available. It also recommends an aggressive focus on the proper configuration and management of the system of housing and services to ensure become most effective helping people.

**Note: Discussion of a particular solution from the report is does not represent a specific endorsement. Presentation of recommendations from the study offered in tandem with the unintended consequences of Initiative 300 is meant to offer considerations to:**

- Better serve people experiencing homelessness in the Denver Metro region.
- Protect Denver’s economic climate by enabling law enforcement to maintain and protect public property.
- Ensure the rights of all to enjoy public spaces in the City and County of Denver.

**Clearly define vision and organize bold, unified leadership:** “If the collective impact outcome is a rapid, successful exit from homelessness, then all activities and investments should be aligned and scaled to achieve that result. Today, investments and activities across funders and providers are disconnected and driven by individual interests rather than a clear collective outcome.”

Data will be a “central driver” and therefore there needs to “be a position that synthesizes data from across city departments and external partners (primarily Denver’s Road Home and HMIS) to monitor and account for collective progress and impact.”

### **Accelerate Implementation and mandate wide-spread use of the new HMIS System**

Homeless Management Information System (HMIS) is a local information technology system required to be implemented by HUD through each region’s Continuum of Care (CoC). It is supposed to be the central database used across service providers to accurately collect data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness. The Metro Denver Homeless Initiative (MDHI) serves as the region’s CoC; it is currently transitioning the software used as the HMIS.

### **Retool Coordinated Entry to Provide Front Door Triage and Transparency**

“Coordinated entry should serve to direct people to appropriate shelter environments and clearly articulate a path out of shelter.”



## **Mandate use of coordinated entry as the sole referral source for all homeless rehousing options and unit preference**

Coordinated entry is the only way to ensure every rehousing option is used to its fullest potential and to achieve an actual reduction in homelessness. It is also the only way to ensure the chronically homeless, medically frail, disabled, and senior populations can exit the shelter system.

## **Supplement existing supportive housing services to serve the most complex and vulnerable individuals and ensure future units are appropriately serviced**

Denver currently lacks robust services attached to existing supportive services. Services either need to be increased to accompany housing services or roving integrated care teams could be created to assist specific high-need individuals.

## **Rapidly expand homeless rehousing options via “Housing an Inclusive Denver” and The Affordable Housing Fund**

As many as 750-1100 units of supportive housing or targeted affordable housing will be created for individuals and families experiencing homelessness. The Affordable Housing Fund could double this number.

New affordable housing units and the activities to fill them, should be more directly connected to the shelter system and the shelter system should have more responsibility to help individuals navigate an exit from homelessness.

## **Amplify impact of the housing plan and bond initiative to prevent and divert families at-risk of homelessness**

A substantial number of units are to be designated for households at 30% of Area Medium Income (AMI) within the housing strategy for new affordable housing. By giving preference to families more at-risk of homelessness for these units, the family shelter system can improve its ability to ensure at-risk and homeless families are rapidly rehoused.

In addition to system-wide and operational improvements, the report provides suggested improvements to shelter system for adults, families and unaccompanied youth and young adults 16-24. Although Denver has an adequate number of beds available to accommodate all homeless individuals, there impediments to design that do not allow the most efficient utilization.

### **Suggested improvements include:**

- Change shelter policies to make it easier for those experiencing homelessness while working to access the shelter based on their unique work schedules, store belongings and continue low barrier non-programmatic requirements.
- Take an interim step to outfit outlying shelters to provide long-term 24/7 residential sheltering for individuals who require the most care, such as seniors, medically frail, and mobility impaired.
- Reconfigure certain shelters to allow for couples to stay together and to accommodate pets. If impediments are significant enough then the feasibility of new more tailored shelters should be studied.
- Case management within shelters should be repurposed to focus specifically on triage and diversion and income and rehousing to best serve the individuals entering the shelter.

- Redesign current daily shelter transportation services to support connection of residential shelter environments and with critical housing navigation, health services and social connections.
- Add an additional 200 to 350 permanent pay-by-night beds for working individuals.
- Eliminate arbitrary limits on lengths of stay at shelters, particularly for families with no existing support for rehousing.
- Implement additional robust diversion practices to support keeping families out of shelters and motels and in their own units or doubled up environments
- Replace motel vouchers with a set of master-leased apartments.
- Invest in rapid rehousing given its effectiveness in producing housing stabilization.
- Better connect families with mainstream systems such as TANF, Medicaid, and child welfare.
- Prioritize youth and young adults for rehousing services within the current system and create roving specialized service teams.

## PERMANENT SUPPORTIVE HOUSING

Permanent supportive housing is a term used to define a growing effort to intervene with those experiencing chronic homelessness by providing low barrier access to housing and voluntary support services. Advocates argue and have shown that the public cost of permanent supportive housing is less than the combination of services, uncompensated care, run-ins with law enforcement, and clean up associated with the most vulnerable and mentally or physically handicapped chronically homeless individuals.

Different efforts led by the State of Colorado's Housing Division within the Department of Local Affairs, the City and County of Denver and many within the network of supporting the homeless in Colorado are already making significant strides in increasing this model of intervention. In 2018 there were 3,311 beds designated as permanent supportive housing in the 7-county Denver Continuum of Care region. In 2009 there were 1,961. People in permanent supportive housing are not considered homeless in the official point-in-time survey count.

In 2016 the City and County of Denver launched an innovative program to increase the number of additional supportive housing units and reduce the city's costs as it related to overall interactions with the individuals receiving this new housing. Termed the Social Impact Bonds program, it established a contract with 8-private investors that agreed provide \$8.6 million in up-front capital to establish housing for over 250 individuals. In return, the city would pay an annual revenue stream only if the program achieved its goal of providing stable housing thereby lowering the cities previous costs of services. The Urban Institute and other local partners are to evaluate the performance and determine the success of the program. Early reports are promising and could prove to be a model worthy of expanding.<sup>[12]</sup>

While these programs may save the city money currently, they are still very costly and present a range of incentive problems. Given the target recipient is typically designated as chronically homeless, this sort of solution could become more financially problematic if the population of the chronically homeless only increases. As much as these programs may be needed for current people suffering, to avoid the long-term costs, prevention from having anyone fall to the extreme should be a top priority.



## TRANSPARENCY, DATA AND METRICS

If improvements are to be made, a starting point needs to be greater transparency into the data on the issue to define steps to be taken, and outcomes tracked. This sentiment was raised in by the City of Denver Auditor (2015) and is one of the central findings of several recent reports.

In April 2018, Focus Strategies published Metro Denver Homeless Initiative System Performance Assessment that addressed the homelessness in the Denver Metro area.

The assessment provided detailed analysis on the available data from multiple resources. While citing much of the same data in this report, Focus Strategies suggested that the high percentages of missing and unknown data significantly impacted the interpretation of the data results.

Clearly, having a more integrated and coordinated homelessness data system is urgent and would make a great difference helping stem problems leading to chronic homelessness. Integrated data will also give the general public adequate insight into how the needs of those experience homelessness are met.

**Performance measures should also be included to evaluate the effectiveness of homeless programs. Some of the recommended performance measures include:**

- Survey data quality
- Bed/unit utilization
- Entries from homelessness
- Length of stay
- Exit to permanent housing
- Cost per permanent housing exit
- Returns to homelessness
- Length of time homeless

Data is also a central theme to a national effort to end chronic and veteran homelessness. Community Solutions, a Washington D.C. based non-profit social services organization with a presence in Denver, published a report discussing key takeaways and successes of their Built for Zero initiative in March 2018.<sup>[13]</sup>

**The report stated:**

*Data-driven iteration and reflection are essential to progress, and in fact, they may be the most critical tools in each community's work to end homelessness. What matters most in our view is to ensure that the housing and homelessness sector has the infrastructure it needs to test new ideas in various contexts, measure the outcomes, and apply the best lessons quickly in the service of definable end states that improve people's lives. We hope this report will help others develop and improve that infrastructure.*

While data alone is not the solution, given the complexity and high stakes, having better insight into the issue is imperative.



## CONCLUSION

The primary goal of many seeking to serve people experiencing homelessness is to provide a pathway of housing, counseling, and other services which enable individuals, couples and families to become rehoused. If passed by Denver voters in May 2019, The Right to Survive Initiative will grant unrestricted 24/7 access to public outdoor spaces and would be the most broad-sweeping public policy of its kind. It has significant unintended consequences for those experiencing homelessness, and creates serious economic, safety and quality of life issues for all Denver residents and guests.

The initiative does not offer those experiencing homelessness additional services. The initiative also increases barriers to those seeking to provide opportunities to people experiencing homelessness. The initiative will hamstring police officers, other trained professionals, and private citizens in offering aid to those experiencing homelessness by making offers of assistance a potential criminal offense.

The initiative creates economic challenges by increasing the need for city services to maintain public areas, threatening tourism, and by escalating city budgets to maintain properties and provide services for what will be a growing chronic homeless population.

Effective steps to alleviate the challenges of sheltering leading to rehousing have been studied. Such measures should be considered valuable solutions for addressing homelessness and as a means of preserving the quality of life for all city residents and visitors.



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