

## **Title VI Claim -Transit Action Network claim against Johnson County Transit<sup>1</sup>, a department of Johnson County<sup>2</sup>, Kansas**

December 14, 2012

Transit Action Network (TAN) is a grassroots transit advocacy group working to expand and improve transit in the Kansas City region. Since we focus on the needs of riders we take service reductions and eliminations very seriously.

- We understand that Johnson County Transit (JCT) did not receive an FTA Title VI review of their plan for eliminations and reductions to service effective January 2013.
- We believe there are several process problems and missing information related to their Title VI analysis.
- Deficiencies in the analysis could have resulted in transit decisions made that affect both minority populations and low-income populations in JCT's service area.
- We believe the procedures and recommendations for this service reduction should be reviewed for compliance with Title VI of the Federal Civil Rights Act of 1964, conformance with FTA Circulars 4702.1A and 4702.1B, and Environmental Justice issues under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations."

Title VI is complicated and multi-faceted. TAN and the other signatories on the complaint form are filing this claim on behalf of riders and potential riders who feel the process and procedure to reduce service in Johnson County, Kansas has already harmed them but they lack the resources or expertise to prepare a claim.

**We are concerned that the logical and foreseeable consequences of JCT's service changes appear to be discriminatory.**

### **Part one:**

The basis of our **disparate impact** claim is that riders and potential riders were harmed by Johnson County's inadequate and exclusionary public participation process. We feel they did not conform with Title VI requirements of the Federal Civil Rights Act of 1964, therefore denying minorities and low-income individuals an opportunity to learn about and comment on the proposed service eliminations and reductions planned for January 2013.

The only public meetings regarding the proposed service changes were held at Sylvester Powell Community Center in Mission, Kansas on July 9, 2012 from 6:30 am to 8:30 am and July 11, 2012 for 4:30 pm to 6:30 pm. These were two-hour meetings with a PowerPoint presentation of the proposal and time for public comment. The apparent expectation was that interested parties attend and participate in the whole two hours.

Most riders would find it very difficult or impossible to attend the morning meeting and still get to work. The evening meeting concluded after the JCT buses stopped

running so riders could not get home using transit. See **Attachment One**  
***“Notice for Public Comment”***

Our understanding is that public engagement should be planned based on the composition of the population affected by the service changes, yet major service changes affecting minority populations living in the areas served by routes 669/I, 677/R, 546/D and 667/E had no opportunities to attend meetings.

Although JCT performed outreach to staff and officials in the Johnson County municipalities, its efforts were inadequate for the following reasons:

- we find no evidence of outreach to institutions or organizations to help reach out to the people most affected by the proposed service cuts,
- there were no public meetings held within the minority or low-income service areas that were going to be most severely impacted by the proposed service cuts,
- there was no LEP (Limited English Proficiency) outreach done although this was going to affect an increasingly large Hispanic population, both within and outside of Johnson County,
- JCT did not use locations, facilities or meeting times that are convenient and assessable to low-income or minority communities,
- transit-dependent people could not get home from the evening meeting using transit.

Although Johnson County Transit held two public meetings, posted information on the buses for current riders, and posted the meeting notices in the Kansas City Star newspaper, we don't believe they had sufficient contact with the minority or low-income individuals in their service area to conform with Title VI guidelines.

Please read our blog article and watch our video of the July 11 evening public meeting. Notice the lack of minority participation and listen to the comments from riders regarding minority and low-income riders, especially the lament that “they have been trying to get rid of us.” Unfortunately, that is the perception. Choosing to first eliminate routes serving minorities, based on the County Commission's priority list, and without meetings where this population could attend, reinforces this perception.

### **Save The JO – Video #3 Comments From the JCT Public Meeting**

<http://wp.me/pV5fE-15i>

#### **Injured parties:**

- James White is an African-American male who rides route 669/I along with other JCT routes that were proposed for elimination or severe reductions. James lives in Kansas City, Kansas (KCK) and depends on Johnson County bus routes. The only public meetings were held in Johnson County at times that made it impossible for James to attend. James has given us permission to represent his interests.

- Hazeline Clay, a potential JCT rider, is an African American woman, legally blind, who lives in Kansas City Missouri (KCMO). Hazeline has been trying to figure out how she can use the JCT system, specifically to reach medical providers in Johnson County. She feels very frustrated and would have liked to attend a meeting about what was happening with this system, and have the opportunity to address the severe service cuts proposed. Since JCT has significant service into Kansas City MO, including designated reverse commute service, and mid-day service, there should have been a public meeting available for Hazeline and similar constituents to be heard. Hazeline has given us permission to represent her interests.

Portions of both Kansas City, MO and Kansas City, KS are within the service area of Johnson County Transit, and have significant minority and low-income populations, yet no opportunities for public meetings are ever held in these locations. In addition northern Johnson County demographics have changed significantly in recent years to include greater minority and low-income populations<sup>3</sup>, and they have similarly been largely excluded from participation.

## **Part two:**

We are concerned about the overall impact of these changes on minorities and low-income populations. Although we are new to Title VI issues, we have identified several areas that concern us and we have provided our understanding of the situation to help in your analysis. **We want the FTA to review the whole JCT Title VI analysis for service changes effective January 2013.**

Johnson County Transit, as a department of Johnson County, has to comply with the direction of the Board of County Commissioners, their boss. The BOCC gave JCT a priority list for providing transit service. The county is losing federal and state funds but the largest funding reduction is related to expiring CMAQ funds related to pre-BRT routes that are to be branded as CONNEX. The Board has refused to replace these funds with new county money. However, they decided to keep the pre-BRT routes, and make them their number one priority. These routes are connected to a \$10.7 million TIGER grant, to provide infrastructure to make them a showcase route. The figures released in March 2012 in connection with proposed reductions showed ridership per trip on these routes was very low and sometimes less than the riders per trip on the routes proposed for elimination.

**See Attachment 2 TAN BOCC priorities matched with routes proposed for elimination for 2013**

**See Attachment 3 Proposed JCT service cuts for 2013.** 45% of the routes were proposed for elimination.

Significantly, unless the BOCC changes its mind regarding funding and priorities, these additional cuts are still in the offing for 2014.

Please read our blog and watch the interviews with Ed Eilert, Chairman of the BOCC, and Commissioner Ed Peterson

## **Save The JO – Videos #4 and #5 Interviews with Johnson County Commissioners**

<http://wp.me/pV5fE-172>

**We have identified the following specific issues.**

### **Issue 1- Mitigation**

JCT's significant mitigating actions reduced the cuts from those of original proposal. The transit agency has enough money in the upcoming budget that it didn't need to make draconian changes. However, there is no indication that final service changes resulting from their mitigating actions were re-analyzed on a route by route basis to be sure they conformed to acceptable service cuts under Title VI and don't still impose a disparate impact on minorities or a disproportionate burden on low-income populations. We don't see any service level percentage change calculations compared to the percentage of minorities or low-income populations.

### **Issue 2 - System-wide Analysis**

There is no indication that the major service cuts for minority and low-income routes were evaluated against the system wide service cuts to insure they conformed to acceptable service cuts under Title VI and don't still impose a disparate impact on minorities or a disproportionate burden on low-income populations. Again we don't see any percentage change calculations comparing service level changes on the minority or low-income routes to the service level changes on the whole system.

JCT's Title VI analysis only shows route-by-route information and their generalized options. Therefore, although JCT may feel their mitigation is an acceptable improvement over the original proposal, they haven't shown that the final changes are in conformance with Title VI requirements on a system wide basis.

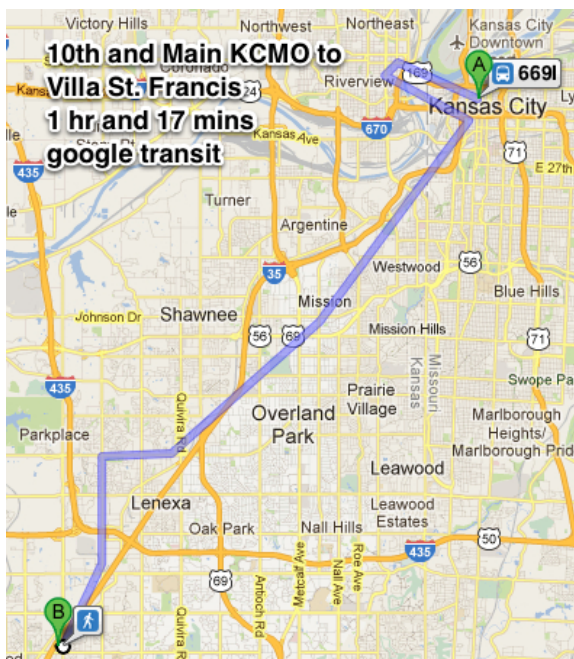
### **Issue 3 - Inferior Service to Minorities**

Title VI does not allow for discrimination in routing or scheduling. We feel the routes and schedules provided for minority and low-income populations are vastly inferior to the non-minority and middle to high-income populations. JCT continues to combine, reduce or re-route minority-serving routes in order to provide some minimal level of transit service for these populations, while continuing to provide attractive, frequent, direct service to non-minority populations. Routes 669/I and 677/R are classified as reverse commutes to Johnson County and their riders are predominately Hispanic and African-American. Both of these routes are being eliminated though they are to be incorporated into route 546/D, and although there are assertions that this is a good solution, the analytical information to support this position isn't presented.

#### Issue 4 - Reduction by Segmentation

Please evaluate the changes to Routes 546/D, 677/R and 669/I. Please start at mid-2011 to understand how the routes previously existed, look at the impact of the January 2012 changes and evaluate the scheduled January 2013 changes, which are presented as combining the routes.

Route 669/I is a reverse commute route from Downtown KCMO at the main transit center at 10<sup>th</sup> and Main to Olathe with only four trips daily trips -- two outbound in the morning and two inbound in the evening. We see this process as the elimination of the main reverse commute from Downtown KCMO, which was a successful route, by JCT standards, in 2011. The route was fairly direct in 2011. In Jan. 2012, the route was changed to absorb route 680/V, a reverse commute from Kansas City, Kansas to Villa St. Francis in Olathe. This change added an additional big loop to route 669/I over to KCK and back. This made the route convoluted and long.



In addition, in January 2012 the 10<sup>th</sup> and Main location on the 669/I was eliminated for the second outbound trip and the first inbound trip (see schedule below). This meant the only reverse commute on Route 669/I from 10<sup>th</sup> and Main was from 5:38 am until 6:26 pm, an exorbitant nearly 13-hour turnaround time, which resulted in a loss of ridership from this major transit transfer facility. Yet this change did not generate a Title VI analysis last year.

## Route 669I - Kansas City, KS-Olathe

Route Schedules

Go



### Route Map & Info

669I - KCK - Olathe - Weekday Southbound											
	10th & Main KCMO	5th & Minnesota KCKS	7th & Sandusky KCKS	16th & Central KCKS	Johnson County Offices 6000 Lamar	87th & Monrovia	87th & Lackman	109th & Lackman	Villa St. Francis	113th & Corporate	Johnson County Courthouse Kansas Ave & Santa Fe
AM	5:38	5:51	5:54	6:04	6:19	6:32	6:36	6:43	6:51	---	---
	---	6:52	6:55	7:05	7:22	7:38	7:42	7:51	---	7:58	8:12
669I - KCK - Olathe - Weekday Northbound											
	Johnson County Courthouse Kansas Ave & Santa Fe	Villa St. Francis	113th & Corporate	109th & Lackman	87th & Lackman	87th & Monrovia	Johnson County Offices 6000 Lamar	16th & Central KCKS	7th & Sandusky KCKS	5th & Minnesota KCKS	10th & Main KCMO
PM	---	4:03	4:11	4:16	4:23	4:28	4:45	5:00	5:10	5:13	---
	5:01	---	5:11	5:16	5:23	5:28	5:45	6:00	6:10	6:13	6:26

Route 677/R is another reverse commute route from Downtown KCMO to Olathe. It only has one outbound and one return to 10<sup>th</sup> and Main.

In January 2012, Route D stopped going to Downtown KCMO, which previously helped to provide more return trips.

All of these changes devastated reverse commute ridership from Downtown KCMO to Johnson County.

In 2013 JCT is eliminating Routes 669/I and 677/R by combining them with route 546/D. In the process, they are **totally eliminating the reverse commute routes from Downtown KCMO** and instead beginning the route in KCK.

- We are concerned that this is an example of segmenting, chipping away at service, in order to eliminate it. We believe this is a violation due to cumulative reductions, which may be acceptable individually, but may not be when the changes are added together.
- We suspect if Route 669/I or Route 677/R had been entirely eliminated last year it would have been a Title VI violation, but by eliminating them in this piecemeal fashion, it is not triggering any review.
- With these new changes the whole function of Route 669/I as the main reverse commute route from Downtown KCMO is being eliminated. The March 2012 riders per trip on 669/I was still better than the principal pre-CONNEX route (Metcalf/Shawnee Mission parkway, Route 556/856) number of riders per trip.
- In a two-year period, three separate reverse commute routes (680/V, 669/I, 677/R) from minority areas, one from KCK and two from KCMO, will be reduced to one route from KCK, without any significant review.

## Issue 5 - Service to Low-income Seniors

We are concerned about a **disproportionate burden** on the low-income population that uses Route 812/J, which falls under Environmental Justice issues under Executive Order 128998, “Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations”

According to the JCT Title VI analysis, this route is not a low-income route but we disagree.

- This route basically provides flex-service transit three days a week, 10 am to 2 pm, for two large senior residency apartment complexes, which are **Section 8 HUD housing** and most if not all of the residents qualify as low-income.
- We understand that nearly all of the Route 812/J riders, probably 95%, are from these two complexes, which are two of the actual time-points on the schedule.
- JCT did not use the readily available demographic information regarding these two apartment complexes, which is also common knowledge, to analyze this route.
- The agency only used data from the 2010 US Census Bureau and the American Community Survey to evaluate routes, regardless of having access to additional information.
- When we asked JCT if they used supporting documentation, such as rider surveys, we were told no.
- Route 812/J is a flex route in Overland Park Kansas. Overland Park is one of the most affluent cities in Johnson County, and Johnson County, in turn, is one of the richest counties in America<sup>2</sup>. As a result, the well-to-do people surrounding these two apartment complexes are drowning out these low-income residents statistically, and we believe not classifying the route as low-income is incorrect.

Although originally the route was scheduled for elimination in 2013, JCT decided to only eliminate one day of service per week. We agree changing from a 100% service cut to a 33% cut is a big improvement. However, a **33% decrease in service for a low-income population** with numerous elderly transit dependent people who depend on this route to **acquire basic needs such as fresh food, medicines and clothing** appears to be disproportionate compared to the other service cuts system wide. Major time points are grocery stores (Hy-Vee and Price Chopper) and Wal-Mart. The whole rationale for this route appears to be to serve this low-income population yet they were not classified as such so the 33% decrease was ignored for further analysis.



## Route 812J - JoFlex

Route Schedules

Go



### Route Map & Info

This Local Link route is only \$1 per ride.

Deviated fixed route service that operates in a designated zone. The service zone is roughly bounded by 75th St on the north, 95th St on the south, Quivira on the west, and Lamar on the east. Route J is a midday service that operates on **Monday, Wednesday, and Friday** only. To schedule a ride from anywhere within the service area, please call 913-362-3500, reservations must be made 24 hours in advance.

812J - JoFlex					
Overland Towers	Santa Fe Towers	Matt Ross Community Center 81st & Marty	Wal-Mart Market 91st & Metcalf	Hy-Vee 91st & Metcalf	Price Chopper 87th & Antioch
10:00am	10:15am	10:20am	10:30am	10:35am	10:45am
11:15am	11:30am	11:35am	11:45am	11:50am	12:00pm
12:30pm	12:45pm	12:50pm	1:00pm	1:05pm	1:15pm
1:45pm	2:00pm	---	---	---	---

Please read our blog post and watch the video we made in August 2012 interviewing residents of Santa Fe Towers apartments in order to understand their transit dependent situation.

### Save The JO Video #7 – Seniors Speak Up

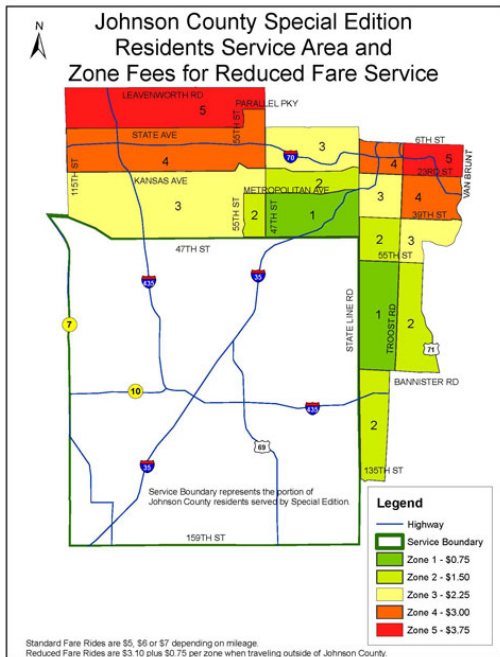
<http://wp.me/pV5fE-1bz>

## Issue 6 - Impact to Minorities with Disabilities

Minority populations with disabilities who live outside of Johnson County have next to no access to medical or shopping facilities located in Johnson County since there is no ADA complementary service even though JCT has operated transit service for 30 years. These service cuts will have a very negative impact on this population.

Since JCT is mainly a commuter service, they avoid having to provide any ADA complementary service. In Johnson County they provide a flex bus for disabled and low-income populations called the Special Edition<sup>1</sup> but it can't be used for minorities or low-income populations with disabilities who live within their service area but outside of Johnson County. The Special Edition service does provide transit for Johnson County residents into the minority areas in Wyandotte County, KS and Kansas City, MO (colored-in sections on the following map are outside of Johnson County) for medical trips, yet the minority populations in these other counties have no reverse access to Johnson County. Proposals to eliminate significant service would have a devastating impact on transit dependent populations. As a result, minorities and low-income populations with disabilities often have no access to jobs or medical services in Johnson County already. Hazeline, who is both a minority and disabled, has been impacted negatively by the lack of access to this service.





## Issue 7 - Priorities

TAN would obviously like to see the Johnson County Board of County Commissioners replace CMAQ and other funding that it is losing with new money. TAN wants to make sure that, short of providing additional money for transit, the County allocates its monetary resources to best meet the needs of the community in their service area. TAN feels that JCT is trying to make ends meet based on a very inappropriate set of priorities given to them by the commissioners. Since the Johnson County BOCC required JCT to use its priority list to cut service, a needs assessment to determine a fair allocation method to distribute the transit service resources should have been done, but it was not.

Service cuts are not being made based on needs or even ridership. The first priority is to protect the new CONNEX routes supported by the TIGER grant. The CONNEX routes have fewer riders per trip than routes originally proposed for elimination or severe cuts. The second priority is to maintain service to riders who live in non-minority areas of the county. The cuts being implemented in January 2013 are not protecting people, but instead, are protecting the county's newly federally funded transit infrastructure.

Although TAN is very much in favor of the CONNEX service and the beautiful infrastructure that is being added to create a showcase bus rapid transit route in the Metcalf / Shawnee Mission Parkway corridor, we are more concerned that priorities should deal with the needs of people before infrastructure projects. This insensitivity to the needs of the riders was exhibited this summer when there was a big groundbreaking ceremony for the new TIGER-funded Mission Transit Center at the same time JCT was proposing to cut 45% of its other routes, including all of

the minority and low-income routes, to help pay for service on routes with extremely small ridership numbers but big dollars for amenities.

Mid-America Regional Council, our MPO, produced a video that included JCT groundbreaking ceremonies on July 18, 2012, just after the service cut public meetings of July 9<sup>th</sup> and 11<sup>th</sup>. The video also covers groundbreaking ceremonies for transit centers being constructed by Kansas City Area Transportation Authority in Kansas City, KS. The relevant clips for the JCT groundbreaking in Mission Kansas are the video clips by officials of The JO bus, Mission Kansas, and Overland Park. Everyone is very exuberant about the new transit center while at the same time planning to severely cut service to minorities and low-income people in order to have funds to operate this route.

<http://www.marc.org/TIGER/video.asp> **TIGER Episode 6: Breaking Ground, Uniting Communities**

## **Issue 8 - Invisible Service in Minority Areas**

TAN acknowledges that ridership is not significant on the minority and low-income routes. However, TAN feels the service levels on these routes are inferior to the non-minority routes therefore minimizing access and usability for people. Frequency, span of service and the convoluted nature of routes are significant problems. In addition, JCT does not comply with its own Title VI program and put bus stop signs at every time point and/or every half-mile. For instance TAN advocates have been requesting bus stop signs for years. Currently in Wyandotte County we are not aware of any bus stop signs, not even for the stop at the University of Kansas Medical Center, a major hospital in the area. Outside of Johnson County and a few locations in KCMO, JCT service is basically invisible on the streets except when their buses are actually present. This lack of visibility contributes to the low ridership numbers in these minority and low-income areas.

## **Issue 9 - Generally Insufficient Service**

Although Transit Action Network would like Johnson County to have a full service transit system, we are concerned that the county's resources are not being distributed in a non-discriminatory manner to provide service throughout the service area, both into and out of Johnson County. Johnson County has done a great job attracting economic development and creating jobs, yet a very small percentage of those jobs are accessible by transit. This is reflected in both the 2011 and 2012 Brookings Institution reports<sup>4</sup> on job access by transit. In 2011 the KC region was 90<sup>th</sup> of 100 and in 2012 it was 94<sup>th</sup> of 100 in its ability to provide access to jobs by transit. Johnson County is the main reason for the low ranking since it has a large portion of the jobs yet the commuter service has not adjusted to the new realities of suburban job location. Most of the transit is still focused on moving non-minority, middle and upper-income individuals into Downtown KCMO where only 14% of the region's jobs exist. In addition, even Johnson County's minority and low-income population has increased significantly and the commuter

service has not adjusted to address the needs of these residents, let alone the greater service area.

## **In Conclusion**

We feel it is in the best interest of the community that the FTA review Johnson County Transit's service changes effective January 2013.

=====

**1 Johnson County Transit** in 2012, before the January, 2013 service reductions, operates 20 routes in the Kansas City region, primarily in Johnson County, Kansas but also extending into four adjacent counties: Wyandotte, Miami, and Douglas counties in Kansas and Jackson County in Missouri. JCT originally proposed to eliminate 9 of these 20 routes or 45% of the routes for 2013.

They also have Special Edition, which is a shared ride program providing curb-to-curb transportation for eligible registered residents of Johnson County. Although no changes were proposed to Special Edition it has eligibility requirements that severely restrict the ability to use the service considering Johnson County still doesn't have any ADA complementary routes after 30 years of service. To be eligible you must be a Johnson County resident and meet age, disability or income requirements. As a result minorities in the service area who are seniors, low-income, or individuals with disabilities but live outside of Johnson County have no access to the county if they can't use regular service.

In 2012, Johnson County Transit operates more than 50 fixed route vehicles in peak service and is located in a UZA of more than 200,000 people.

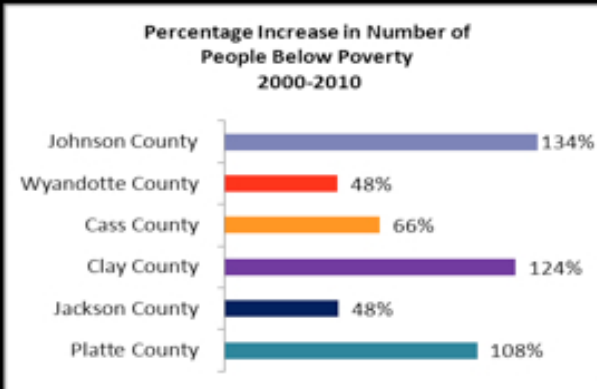
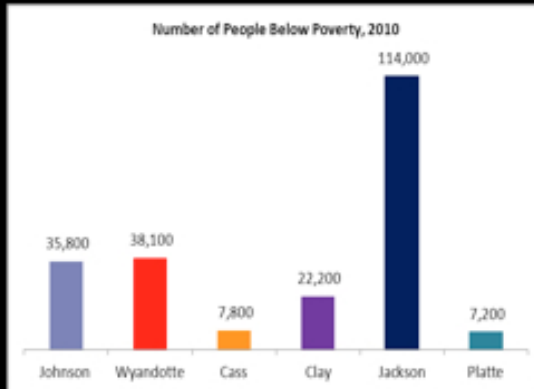
**2 Johnson County** is a county located in northeast Kansas. The county is largely suburban and part of the Kansas City metropolitan area, containing many of its affluent southwestern suburbs. As of the 2010 census, the county population was 544,179. The county has the highest median household and highest per-capita income in Kansas and is among the most affluent counties in the United States, with the 19th highest median household income in 2000 and the 46th highest per-capita income in 2005.

In 2010, Money magazine, in its list of the 100 Best Cities in the United States in which to live, ranked Overland Park 7th (ranked 6th in 2006 and 9th in 2008) and Shawnee 17th (ranked 39th in 2008). In 2008 the same magazine also ranked Olathe 11th. Source: Wikipedia

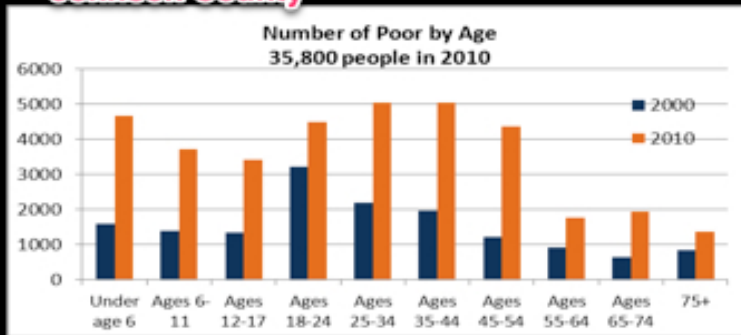
**3. Growth in minority and low-income populations.** Johnson County's population grew by 93,000 residents between 2000 and 2010. 52% of that growth was attributed to racial and ethnic minorities. Both the Hispanic and African American populations doubled in that time frame in addition to the number of persons self-identifying as 2 or more races. The Asian population increased 78%.

Based on the 2010 census, of those under the age of 18 years, 1 in 4 are from a diverse background while for those 18 years or older, 1 in 6 is diverse.

## Johnson County and KC Metro Poverty



### Johnson County



Source: United Community Services of Johnson County

#### 4. Brookings Institution reports

<http://www.brookings.edu/research/papers/2012/07/11-transit-jobs-tomer>

<http://www.brookings.edu/research/reports/2011/05/12-jobs-and-transit>