

**TAKING
THE
COURT
TO
THE
STREETS**

**A NATIONAL CONFERENCE ON HOMELESS COURTS:
A COLLABORATIVE EFFORT TO ASSIST HOMELESS PEOPLE,
STRENGTHEN COMMUNITIES AND MAXIMIZE COURT RESOURCES**

**OCTOBER 8, 2004
JOAN B. KROC INSTITUTE FOR PEACE & JUSTICE
SAN DIEGO, CA**

PRESENTED BY

**THE AMERICAN BAR ASSOCIATION
COMMISSION ON HOMELESSNESS AND POVERTY**

WITH THE

**ABA JUDICIAL DIVISION
ABA COMMISSION ON DOMESTIC VIOLENCE
ABA GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION
ABA STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS
ABA STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL
ABA STANDING COMMITTEE ON SUBSTANCE ABUSE
ABA STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN
UNIVERSITY OF SAN DIEGO PRO BONO LEGAL ADVOCATES
JOAN B. KROC INSTITUTE FOR PEACE & JUSTICE**

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Homeless Court

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TABLE OF CONTENTS

About the ABA Commission on Homelessness & Poverty

Conference Agenda

Introduction

Homeless Court Program Descriptions

- Alameda County, CA 1
- Albuquerque, NM 9
- Fresno County, CA 19
- Kern County, CA 25
- Los Angeles, CA 35
- Orange County, CA 45
- Sacramento, CA 55
- Salt Lake City, UT 63
- San Bernardino, CA 73
- San Diego, CA 75
- Ventura County, CA 89

From the Judge's Perspective 97

From the Prosecutor's Perspective

- Kern County Deputy District Attorney 99
- San Diego City Attorney's Office 101

From the Defender's Perspective

"The Unique Problem Solving Homeless Courts" 105

From the Clerks' Perspective 111

From the Service Provider's Perspective

- PATH 113
- St. Vincent de Paul Village 115
- Vietnam Veterans of San Diego 119
- Stand Down 121
- Creating Community at Stand Down 125

From the Participant's Perspective 129

"Facing Justice, Reconciling the Past: One Man Moves Forward" 131

From the National Alliance to End Homelessness

"Homelessness and How to End It: Implementing a Plan" 133

From the National Coalition for the Homeless 143

From the National Coalition for Homeless Veterans

"Homeless Courts Rise as Institutions of Redemption" 145

From the National Law Center on Homelessness & Poverty

"The Law, Lawyers and Homeless Courts: Critical Partners in Preventing and Ending Homelessness" 151



Mission

The ABA Commission on Homelessness and Poverty, which consists of 13 members appointed by the ABA President, is charged with the following tasks: encouraging and assisting in the development of bar and law school *pro bono* programs which provide legal and other services to homeless and near homeless people; educating members of the bar and the public to legal and other problems of poor and homeless people and ways in which lawyers can assist in solving or ameliorating them; training lawyers in areas needed to provide *pro bono* legal assistance to homeless and near homeless people; working with all ABA entities on issues arising in their jurisdiction that affect poor and homeless people; and engaging in such further activities as may be necessary and proper for the fulfillment of these responsibilities, including working with state and federal executive branches and legislative bodies concerning matters relating to the poor and homeless.

Policy-Based Advocacy

The ABA has a history of supporting initiatives and legislation concerning homeless and impoverished people, including policy in support of an increase in the availability of affordable transitional and permanent housing, as well as policy in support of access to justice and legal aid for indigent people. The Commission collaborates with the ABA Governmental Affairs Office to monitor legislative activity on legal services for the poor, welfare and related benefits, low-income housing, the digital divide, predatory lending and other similar issues, and to respond as necessary. The Commission's latest action was lobbying Members of Congress to oppose cuts to the Section 8 program. The ABA also has policy in support of the creation of homeless courts.

Educational Programs

The Commission on Homelessness and Poverty hosts free CLE programs at the ABA Annual and Midyear Meetings. The Commission also sponsors training programs across the country at national conferences. Recent programs have addressed the following issues:

- Homeless Court
- Criminalization of Homelessness and Access to Justice
- Special Legal Problems of Runaway/Homeless Youth
- Education Rights of Homeless Children and Youth
- Community Reinvestment Act

Publications

- *Educating Children without Housing: A Primer on Legal Requirements and Implementation Strategies for Educators, Advocates and Policymakers* (2002)
- *The Homeless Court Program: Taking the Court to the Streets* (2002)
- *Representing the Poor and Homeless: Innovations in Advocacy* (2001)
- *NIMBY: A Primer for Lawyers and Advocates* (1999)

John J. Curtin, Jr. Justice Fund Legal Internship Program

The John J. Curtin, Jr. Justice Fund, a permanent endowment in the American Bar Association Fund for Justice and Education, was created to honor Jack Curtin, ABA President from 1990-91. In acknowledgment of his outstanding achievements, as well as the affection ABA members and staff have for Jack, his colleagues in the Association collected over \$100,000 within a year of his leaving office to establish the fund. Income from the Justice Fund provides stipends to law students advocating on behalf of homeless and impoverished people.

Conference Agenda

8:00 – 8:45 a.m.

Registration and Continental Breakfast

8:45 a.m.

Welcome and Opening Remarks

William H. Hoch, Chair, ABA Commission on Homelessness & Poverty

9:00 – 10:45 a.m.

Overview of the Homeless Court Program

Panelists will discuss the history of the Homeless Court Program and their role in creating and operating a collaborative court.

Moderator: Jonathan Freedman

- Kathleen Bailey, Court Operations Manager, Superior Court for San Diego County
- Steve Binder, Deputy Public Defender, San Diego County
- Stephen Confer, Program Manager, St. Vincent de Paul Village, San Diego
- Hon. Peter C. Deddeh, Judge, Superior Court for San Diego County
- Marcella Ordorica, Deputy City Attorney, San Diego
- Andre Simpson, Community Reintegration Director, Vietnam Veterans of San Diego

10:45 – 11:00 a.m.

Coffee Break

11:00 a.m. – 1:00 p.m.

Collaborating to Bring Order and Justice to Society

Panelists will discuss how the justice system collaborates with service providers and the community to assist homeless people with outstanding criminal warrants, as well as how the Homeless Court benefits the Court, the clients and the community.

Moderator: Steve Binder

- Hon. Gordon Baranco, Judge, Alameda County Superior Court
- Father Joe Carroll, St. Vincent de Paul Village, San Diego
- Cait Clarke, National Legal Aid and Defender Association
- Vikki Del Pellegrino, Deputy District Attorney, Kern County
- Hon. John E. Dobroth, Judge, Ventura Superior Court
- Hon. Victoria J. Grant, Judge, Bernalillo County Metropolitan Homeless Court, Albuquerque
- Dr. Jon Nachison, Founder/Director of Stand Down
- Al Pavich, CEO/President, Vietnam Veterans of San Diego
- Michael Purtell, Deputy Director, Poverello House

1:00 – 2:45 p.m.

Luncheon

- Hon. Bob Filner, California's 51st Congressional District
- John MacKanin
- Al Pavich
- Father Joe Carroll

3:00 – 5:00 p.m.

How to Create a Homeless Court in Your Community

Panelists will discuss where to start: guidelines and protocol; forms and agreements.

Moderator: Steve Binder

- Diane Bellas, Public Defender, Alameda County
- Vikki Del Pellegrino, Deputy District Attorney, Kern County
- Marcella Ordorica, Deputy City Attorney, San Diego
- Hon. H.A. "Skip" Staley, Judge, Bakersfield
- Nellie Parks, Court Operations Supervisor, Superior Court for San Diego County
- Hon. Leo Valentine, Jr., Judge, Superior Court for San Diego County
- Margaret Willis, Chief Development Officer, People Assisting the Homeless

Closing Remarks

INTRODUCTION

BRINGING IT ALL HOME

Welcome to the (inter)national Homeless Court conference presented by the American Bar Association Commission on Homelessness and Poverty. By simply attending this conference, you have expressed an interest and willingness to reach out to others, work to develop an innovative and expansive judicial system and seek to build a stronger and ordered community. You have found a way to say “yes” to others, to show faith in human potential and the power of change; to help the homeless participant working to break free from the chains of life on the streets, to transcend the traditional adversarial criminal justice system and reach out to a community of experts in service agencies who deal with the problems homelessness represents on a daily basis.

There are many ways to say “no” when someone is asked to form a Homeless Court Program. There are plenty of reasons to support saying “no”. It’s a risk, it’s different and there are no guarantees it will work. Somehow, somewhere, you found the way to “yes”. With every “yes”, each of you has a story to tell.

For me, the inspiration that led to the Homeless Court Program grew from the frustration and despair I felt when I first started as a defense attorney. Counseling homeless individuals in misdemeanor arraignment is an intense review of an individual’s case conveyance of the proposed plea agreement and option of going to trial.

Often times, misdemeanor arraignment was populated by two very different groups of defendants. One group included the growing homeless population in San Diego, then estimated at a staggering 5,000 persons (current estimates are 8,000 people living on the streets of San Diego). The other group contained middle class defendants. They were cited for things like dog off a leash and improper use of cable services. The middle class clients would often come with evidence of their middle class status. Pictures of their dog and letters saluting their contributions to little league were common. The implicit plea in their actions was “I’m middle class. I don’t deserve this. Please go after real criminals.”

When the homeless defendants appeared in court, I heard tales of hardship and renewal. Some people came to court telling me they recently found a place to live. Others came in talking about the CIA and FBI. Many carried their worldly belongings in bags. A number were malodorous. All struggled with problems the criminal justice system ignored. Invariably, the judge would sentence them, after taking a plea for an array of public nuisance offenses. They would be sentenced to fines they could not afford, along with other terms and conditions that frustrated their continued participation in society.

Clearly, the criminal justice system failed to bring order to society and perpetuated the pain and suffering of homeless people. I started attending the local bar association’s homeless subcommittee meetings. At one meeting, two Vietnam Veterans, Dr. Jon Nachison and Robert Van Keuren, addressed the civil attorneys asking for their assistance at an event they created

called “Stand Down.” They explained that Stand Down is a military term signaling the removal of exhausted combat soldiers from battle to provide them an opportunity to rest and recover in a place of relative safety and security. They emphasized the importance of creating a community that transformed the frustration and despair of homelessness to self-respect and opportunity for integration back into society. They built a three-day tent community with a cornucopia of services and applied this concept to 700 homeless veterans doing battle on the streets. They distributed an eight page exit survey, tallied by the Veteran Administration (VA), from the first Stand Down, wherein 116 of 500 homeless veterans stated their greatest need was to resolve outstanding bench warrants. This meeting and the Stand Down event are a “eureka” moment for the Homeless Court Program.

While I am not a veteran, I understand the travails of homeless people partly because of the plight of my hometown and its citizens. I was born and raised in Flint, Michigan, birthplace of General Motors and the great Sit-down Strike of 1937, which gave rise to the United Auto Workers. I am the oldest of three. The promise of my birth, in time and place, was that I, and those of our era, would fare better than our father’s generation. Ours was a time of prosperity. If the City of Flint had a slogan it was, “what’s good for General Motors is good for Flint and the country.” Framed and hanging in my office is a photo essay from the Flint Journal entitled, “I’d like to work in the shop.” This article pictures five high school graduates and their dreams for the future. Unfortunately, Flint is no longer called “Buick City” and General Motors has all but abandoned the city.

In junior high school, my teacher directed a field trip to the local Rescue Mission along the banks of the Flint River. Its full impact did not register at the time. Yet, this lesson and the decay of my hometown, taught me the battles for life’s success are many and worth the effort. Unfortunately for many people success is elusive. Many people struggle for success day after day, working full time, fighting medical problems (be they physical or mental health issues), facing numerous obstacles. The alternative is not pretty. Yet, they rise each morning and go at it again. Sadly, many homeless individuals are used to custody as the only option available to them. There are news stories of people committing crimes wanting to be arrested and sheltered in custody where they know they will be safe and fed. They have given up on themselves.

The HCP is a direct response to the voice of homeless veterans and their request for assistance with outstanding criminal warrants. Their response to the VA survey spoke to the need for a solution to resolve outstanding bench warrants. The next year the San Diego Superior Court set up a special court at Stand Down. The court resolved 4,895 cases between 1989 and 1992 for 942 homeless veterans. Because of the participant’s increased demand for the HCP, it has expanded from annual, to quarterly, and now, monthly sessions in San Diego and across the nation.

The HCP is structured to maximize the participant’s representation in court. The participant signs up for the HCP at his/her chosen homeless shelter/agency. The participant decides which shelter and what program activities best meets his/her needs in transition from the streets, through the program toward self-sufficiency.

The shelters deliver the list of participants who sign up for the HCP to the defense attorney, who then presents it to the court and prosecution. The HCP is structured to ensure all parties know an attorney represents each participant. The monthly HCP calendar is a series of synchronized steps, which ultimately culminate in the HCP hearing.

Homeless Court Program participants are already actively involved and vested in a program. They are afraid of losing the things they have accomplished individually. During one session, I counseled the participants at the defense table. I then moved to the other side of the room, to share their advocacy letters with the prosecution. Afterward, I looked up to find all of the people who had been sitting on my side of the room had moved to the prosecution side to listen to the negotiations. Our clients feared losing their home at the shelter. These participants saw a future and did not want to miss it. They might be living in a shelter, but at least they were no longer on the streets. They had plans and did not want them interrupted. The HCP session provided them an opportunity to come clean when their cases were resolved.

A week before the actual court hearing, the defense attorney arrives at a counseling session to meet with the participants, devoting time to one on one review of their case(s) and to discuss their accomplishments in program activities and prepare for court. The HCP does not force participants into shelters nor does it displace shelter services. In short, you do not have to establish a criminal record to access shelter services. Additionally, the defense attorney counsels participants, and they do not give up any constitutional rights when they sign up and enter the HCP. They may still mount legal challenges to the charges, through trial or motions, when appropriate.

When the participant stands before the HCP, he/she stands before the court as a human being. The court sees the participant as someone who has struggled through hard times and is making great effort to overcome hardship, be it problems with addiction, mental health, economic calamity, or a host of other issues. The court acknowledges each participant's accomplishments. It is with this understanding that the HCP states, "No one is going into custody." At the HCP, it is not uncommon for the court and participant to engage in conversation or for the judge and participant to shake hands at the conclusion of proceedings.

The HCP promotes access to court, meeting homeless defendants where they are in a program, reconciles their offenses with their progress, removes an obstacle represented by their criminal cases (a broad range of misdemeanor offenses), and gives voice to the participants. The HCP does not pretend to stand as the solution to homelessness. There are no promises of a home upon resolution of cases, of employment with a living wage, or universal health care. The Homeless Court does, however, remove legal barriers to employment, housing, public assistance and treatment.

"As lawyers, judges, and most importantly, as concerned citizens, we must ask ourselves the following questions: 'Will our legal system serve just us, or will the doors to our courtrooms be open to all, including the homeless? Will there be equal justice under the law for all of our citizens?' 'Is there "meaningful access to justice?'" said, California Supreme Court Justice Ming W. Chin, the key note speaker at the January 31, 2004 National Homeless Court Conference in Bakersfield. Justice Chin spoke earlier of his brush with homelessness when, as a child, his

family house burnt to the ground. He concluded, “As a judge, I am, of course, mindful of precedent and tradition. To be sure, a homeless court is not traditional, familiar or even perhaps comfortable, to those who have an intimate knowledge of the legal system. However, the fundamental tradition of our court system is to provide justice for all. Innovations such as the homeless courts may help to keep that tradition vital. Given the critical needs of the homeless, we should not overlook alternative, unprecedented solutions that may change our conventional views of the courts.”

Each of us has a story. Stories fill our lives. Art and literature give us stories that inspire us to look beyond ourselves, to see the world in a different way, in a new language or context. Charlie Chaplin gave us the Little Tramp, innocent and misunderstood on appearance is (literally) seen in the end of the movie City Lights as a person. In Les Miserable, Victor Hugo introduced Jean Val Jean, imprisoned for stealing a loaf of bread, is later given a second chance when the Monsignor hands him two silver candle sticks saying, “Go in peace. By the way my friend, when you come again...you can always come and go by the front door.” And finally, in The Wizard of Oz, an uncertain and vulnerable Dorothy calls out “There’s no place like home” and finds hope and dreams on the other side of the rainbow.” Each of us has a story. Some long to be understood, others want or need a second chance, all seek hope and opportunity.

When homeless people request help with criminal cases, they seek justice and respect. They want to take responsibility while looking for opportunity. While the continued problem homelessness represents is discouraging and frustrating, it is important to remember: it is the condition of homelessness that is undesirable, not the people.

The challenge and opportunity facing us today is to read the story and breathe life into our daily lives and commitment in delivering justice for all by bringing law to the streets, the court to shelters and homeless people back into society.

- Steve Binder

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
HOMELESS/CARING COURT PILOT PROJECT**

Established 2000 (East Bay Stand Down)

Homeless/Caring Court Description

Homeless individuals are cited for a variety of minor non-violent offenses, including public disturbance offenses (e.g. unauthorized removal of a shopping cart, disorderly conduct, public drunkenness, sleeping in public areas, urinating in public, and trespassing). Many homeless people fail to appear in Court and arrest warrants are issued for failures to appear, creating a new or an additional misdemeanor. The continuing accumulation of unresolved legal matters can create real barriers to the homeless person's ability to access critically needed services (e.g., public assistance or affordable housing), their ability to take steps to improve their homeless situation (e.g., obtain a driver's license, job training, or securing employment), and their social integration - continuing a cycle of despair.

The Homeless/Caring Court Pilot Project is planned to serve and reach homeless individuals within Alameda County who have outstanding fines, infractions, and selected misdemeanors. The special community based Homeless/Caring Court sessions will be conducted and designed to help the homeless individuals resolve many outstanding legal matters. These special court sessions are scheduled to be held bi-monthly at local homeless shelters and other community sites on Friday afternoons in October and December of 2004.

The Homeless/Caring Court will not adjudicate charges assigned to other specialty courts, which includes Juvenile Court, Drug Court, Family Court, or Domestic Violence Court. These provisions will not include cases involving Driving Under the Influence (DUI) or felonies. The Homeless/Caring Court will require voluntary self-referral by all of the defendants, and the defendants' personal presence is required at the Homeless/Caring Court session in order to be eligible. None of the defendants' participating in the Homeless/Caring Court will be incarcerated.

East Bay Stand Down Homeless Court Description

A former Superior Court judge, who is now retired, initiated the very first Homeless Court session at the 2000 East Bay Stand Down. Owing to the success of the Homeless Court session in 2000, special Homeless Court sessions were subsequently held bi-annually within Alameda County in 2002 and 2004 at the East Bay Stand Down events. The initial Homeless Court sessions involved the participation of five different court jurisdictions, leading some of the court jurisdictions to form their very own Homeless Courts within their home counties. Alameda County participates in this special session of the East Bay Stand Down Homeless Court to assist homeless, needy and displaced military veterans and their families with legal assistance, such as outstanding bench warrants, traffic infractions, misdemeanors, and fines. An initial intake is performed on each participant of the Stand Down that believes to have pending legal matters. The intake forms are then forwarded to the Superior Court and the names and birth dates of the

participants are run through the Court's computer databases, CORPUS and CASP. During the morning of this special Homeless Court session, each defendant meets with the Public Defender and has his/her case reviewed and heard before a Superior Court judge.

The East Bay Stand Down Homeless Court is held in a "tent courtroom" that helps make up the tent-city of the Stand Down. This year, the 2004 East Bay Stand Down Homeless Court was held on Saturday, August 14, 2004, an event that involved the participation of over fifteen volunteers of Superior Court staff to prepare and organize case files for 58 defendants. Alameda County received 114 cases and referred an additional 130 cases to other counties where defendants still had cases pending. The Court worked collaboratively with the District Attorney and the Public Defender before, during, and after the East Bay Stand Down Homeless Court session. The counties of San Francisco, Contra Costa, and Alameda collaborated to hold the special court session at the August 2004 Easy Bay Stand Down. This collaborative effort addressed more than 400 active and outstanding court cases for military veterans within the greater Bay Area.

History

Through the financial support of several foundations, the Alameda County Homeless Continuum of Care Council, a collaboration of Alameda County cities, county government, service providers, consumers, and other interested parties, conducted a countywide homeless census in the spring of 2003. The Alameda County Homeless Continuum of Care Council released data reporting that the daily census of homeless individuals within Alameda County is approximately 6,215 people, with 28% of them being children in homeless families. Estimates from the recent Homeless People Count! indicate that 69% of the countywide homeless population lives in Berkeley and Oakland. Men who are military veterans are disproportionately represented among the homeless, with research indicating that 40% of homeless men have served in the armed forces as compared to 34% of the general adult male population. Representatives from the Superior Court attended several of the Homeless Continuum of Care Council community meetings and public reports and began their collaboration efforts through the organization. The magnitude of homeless individuals within Alameda County suggested that the Superior Court needed to expand its services from the homeless military veteran population to the overall homeless population within the county.

Official planning for the Alameda County Homeless/Caring Court began in 2002 when the idea of a pilot project was adopted as part of the Superior Court's overall Strategic Plan (4.3(d) explore the feasibility of establishing a homeless court pilot project and 4.3(e) explore the feasibility of continuing participation in the bi-annual Veteran's Stand Down). The Homeless/Caring Court has been organized under the Court's Community Focused Court Planning Committee, with the Honorable Gordon Baranco serving as Chair of the Committee, and James Brighton, Bureau Chief of the Planning and Research Bureau of the Superior Court, serving as Chief Staff to the Committee. The Honorable Gordon Baranco plans to serve as the sitting judge at the initial Homeless/Caring Court sessions in October and December of 2004.

Timeline

The Administrative Office of the Court's interest and support in promoting access to justice was the first step towards the implementation of a Homeless/Caring Court within Alameda County. Judge Gordon Baranco participated in an AOC sponsored statewide teleconference on homeless courts in November of 2003 that brought together several representatives from Homeless Courts statewide for the first time. The teleconference allowed several Homeless Court participants, experienced and beginners, to answer questions and discuss the possibility of implementing similar programs within their communities. Subsequent to the teleconference Judge Gordon Baranco began to actively pursue the possibility of implementing a Homeless Court within Alameda County by attending a session of the San Diego Homeless Court and the Second National Conference on Homeless Courts in Bakersfield.

On January 21, 2004, Judge Gordon Baranco, along with Suzan Verberk, a researcher from the Netherlands Judicial Council, attended the San Diego Homeless Court. On January 30, 2004, Judge Gordon Baranco attended the Second National Conference on Homeless Courts in Bakersfield and met with judges and service providers who have successfully established homeless courts in their communities. After his return, representatives from the Superior Court James Brighton and Armilla Staley, along with Judge Gordon Baranco, scheduled an introductory meeting on March 5, 2004, with representatives from the City of Oakland (Susan Shelton and Mike Church), and the City of Berkeley (Jane Micallef), to begin planning efforts for the Alameda County Homeless/Caring Court Pilot Project.

On March 31, 2004, Judge Baranco and Jim Brighton also met with members of the public and various community stakeholder groups (homeless shelter and service providers, the Public Defender, the District Attorney's Office, city and county officials and staff). The public meeting was hosted by the City of Oakland in order to share what has been learned about homeless courts in California, to address questions or concerns in the homeless service provider community, and to determine whether there was sufficient community support for establishing such a court in Alameda County.

On May 4, 2004, the Alameda County Homeless Continuum of Care Council endorsed participation in the Alameda County Homeless Court. On June 7th, representatives from the Homeless Continuum of Care Council announced that a Homeless Court coordinator, Kathie Barkow, had been selected to conduct outreach and assist with creating the pilot court. The Council solicited participants to form a homeless court work group for the purpose of having the first Homeless Court session on October 15 and the second session in mid-December. The Superior Court conducted a teleconference and meeting with the Homeless Court coordinator, and a homeless court work/pilot group of shelter and service providers was formed to agree on proposed eligibility criteria and standards. Meetings of the working group are scheduled throughout the months of August and September of 2004. The first session of the Homeless/Caring Court is scheduled to take place at a local homeless shelter in Oakland, with site visits to take place in August and September of 2004.

Core Elements

Collaboration between the Superior Court and homeless service provider agencies and shelters is critical to the success of the Homeless/Caring Court in Alameda County. The Superior Court's co-sponsor, the Alameda County Homeless Continuum of Care Council, has been a key element in assisting with the Court's understanding of the necessary involvement of the homeless service providers, and has acted as a liaison and an expert consultant to the planning efforts for the pilot project.

"With such enormous enthusiasm for this project among homeless service providers and the many jurisdictions of this county, Alameda County's Homeless Court Program is well poised to move ahead expeditiously with its pilot program. The background work completed by Judge Baranco and other Court representatives combined with the research and literature from other Homeless Court Programs catapulted our community to adopt a proven model and to incorporate the lessons learned by other communities into our project," stated Kathie Barkow, Resource and Planning Consultant for the Homeless Continuum of Care Council and Homeless Court pilot project coordinator.

A planning committee consisting of representatives from the key involved entities will plan the special court sessions. The planning committee will set eligibility criteria and deadlines for the submission of defendants' names. The homeless service providers will then forward a list of names to the Public Defender's Office. After the Public Defender screens all of the names, a list will be forwarded to the District Attorney for negotiated dispositions. The homeless service providers will be notified of the charges pending against their clients and whether or not they are eligible to participate in the Homeless Court. The Public Defender will then meet with each of the defendants and will explain the charges that the District Attorney offers. Existing court staff will prepare calendars and process the Homeless Court cases. The Honorable Gordon Baranco will preside over the initial special court sessions and other judicial officers will be recruited. Existing court staff (courtroom clerk and court attendant) will be recruited to provide support services needed to conduct the special court sessions.

Distinctions between the Traditional Court and Homeless Court

The pilot project involves the development and testing of a systemic approach to providing court services to the homeless population. Due to its unique characteristics, this population is difficult to serve through traditional court systems and processes. The Superior Court's participation in the Homeless/Caring Court creates a higher level of trust and comfort amongst the homeless population. The physical presence of the Court in a non traditional setting and courtroom will therefore help gain the trust of many of the Homeless/Caring Court participants and the homeless service providers. At the East Bay Stand Down, the Homeless Court was held in a tent in the middle of a dirt encampment for military troops, and the Homeless/Caring Court will be held at homeless shelters and/or drop in centers.

Objectives

Resolution of the Homeless/Caring Court cases helps the homeless individual, the courts, and local communities by: (1) removing potential barriers to social reintegration; (2) easing court case-processing backlogs; (3) reducing vagrancy; (4) savings in incarceration costs. Efforts are made to resolve multiple cases in one hearing and sentencing alternatives that substitute counseling, volunteer work, or participation in agency programs will be used in lieu of traditional fines, community service, or jail time. Defendants will be given credit for active involvement within shelters, enrolling in a substance abuse/self help program or other types of educational programs that may be available.

The objectives of the Alameda County Homeless/Caring Court Pilot Project are to:

- Standardize the sentencing criteria for common offenses and ensure consistent application of sentencing for all defendants;
- Standardize the documentation that verifies the defendant's completion of the alternative sentencing activities to the Court;
- Conduct outreach sessions at least bi-monthly, through collaboration with homeless shelters, veteran's affairs organizations, the Public Defender, the District Attorney, and community based organizations;
- Inform and educate potential participants of the program;
- Implement and operate a bi-monthly court hearing for at least 20 individuals each month;
- Develop alternative sentencing options for participants that are responsive to homelessness;
- Reduce the number of homeless individuals rendered ineligible for Social Security benefits because of out-dated warrants arising from minor violations of law;
- Reduce the number of hearings required to resolve cases; and,
- Dispose of cases within 60 days of hearing.

Process

The procedural steps and the approximate timeline for the implementation of the Homeless/Caring Court Pilot Project are as follows:

Milestone	Date
Recruit & Hire Temporary Staff Person	December 2003
Develop Homeless Court Policies and Procedures	December 2003 - January 2004
Develop Outreach Plan and Materials	February 2004
Initiate Outreach and Select Participants	June 2004 – August 2004
Plan 2004 East Bay Stand Down's special Homeless Court session for	July 2004 – August 2004

veterans	
2004 East Bay Stand-Down	August 14, 2004
Develop Homeless Court Eligibility Criteria	August 2004
Conduct site visits to possible Homeless/Caring Court locations at homeless shelters or other homeless provider venues	August 2004 – September 2004
Schedule and hold Homeless Court Work Group and Pilot Group meetings with homeless service providers	August 2004-October 2004
Conduct bi-monthly special Homeless/Caring Court hearings	October 15, 2004 December 17, 2004 (Tentative)
Complete the pilot project evaluation	January 2005

Budget Considerations

The state trial court system experienced significant budget cuts in FY 02-03 and FY 03-04 due to the state's serious fiscal crisis. Further budget reductions may be experienced in FY 04-05 if the state economy does not improve. The Superior Court of California, County of Alameda has been forced to take drastic actions to accommodate these budget reductions. These actions have included implementation of a court wide hiring freeze and a reduction in public service hours in clerk's offices and shortened courtroom hours in all court locations. Since many of the Court's programs and services are mandated, the budget reductions have had a substantive impact on the Court's ability to support programs and activities that are largely discretionary, regardless of the inherent value of those efforts. The partnership and contributions of community agencies and philanthropic organizations has been essential to the Court's ability to initiate and continue non-mandated functions and services.

In December 2003, the Foundation of the State Bar awarded a \$5,000 grant to our Court to establish a pilot project homeless court, and the Court has been determined to proceed with the implementation of the Homeless/Caring Court Pilot Project by October 2004. Grant funding from the Foundation of the State Bar has allowed the Court to move forward with the critical planning phases of the Homeless/Caring Court. Based upon the experience of other court systems implementing homeless courts, staff compensation will be a combination of compensatory time off, voluntary contributions of time, depending upon the days and times hearings are held. The Court will also provide court-related supplies and equipment needed to conduct the special court sessions. The need for or degree of court security services has yet to be

determined. The shelters must provide a secure environment for the Homeless/Caring Court sessions.

Evaluation

Conducting outreach, holding one court session every other month, disposing of each case within 60 days of a hearing; and reducing the number of homeless individuals requiring repeat court appearances, will be the signs of a successful Homeless/Caring Court for Alameda County. These events or outcomes will be measured by tracking cases through court calendars and the Court's three criminal justice calendaring and tracking systems: CORPUS, CASP, and AWS. The Alameda County Homeless/Caring Court hopes to identify and explore trends and needs to plan for the expansion to other parts of the County and other homeless sub populations, such as minors, ex-convicts, or persons that may have minor, non-violent felonies. The Court will also be measuring and documenting the recidivism rates of the Homeless/Caring Court participants.

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**STATE OF NEW MEXICO
BERNALILLO COUNTY METROPOLITAN HOMELESS COURT
ALBUQUERQUE, NEW MEXICO**

Established 2002

Homeless Court Description

The State of New Mexico Bernalillo County Metropolitan Court, in collaboration with the Bernalillo County Sheriff, District Attorney, volunteer private defense attorneys and community-based service providers identify individuals who have prepared or are preparing to break away from the homeless cycle. Once identified the Court works with the eligible participants to help eliminate the legal obstacles that complicate their re-entry into the community of law-abiding citizens.

The target population for the Metropolitan Homeless Court is homeless misdemeanor offenders with at least one outstanding misdemeanor warrant within the jurisdiction of the Court. Individuals are deemed ineligible if the referring offense(s) include domestic violence, driving while under the influence of drugs or alcohol, or if they have any pending felonies.

Homeless Court is designed to provide a safe non-threatening environment to access the court system by holding court at community centers rather than at the courthouse. This Albuquerque program is the first in New Mexico to be held in a community setting rather than a traditional courtroom.

Participants are referred from an appropriate treatment provider. Those with mental health and/or substance abuse problems must be actively involved and compliant with their treatment.

Upon acceptance referrals are assigned to the program coordinator and a volunteer private defense attorney. The defendants continue their participation with the provider in services such as housing assistance, counseling, substance abuse services, education and work skills development, medical care, and receive other community assistance.

The Homeless Court Judge meets with defendants at community-based court sessions and reviews their progress until program completion. Many of the cases are resolved in one session when the participant has demonstrated significant progress toward resolving their homelessness and collateral issues. Some are continued upon the recommendation of the Homeless Court team to provide additional support for stabilization and progress.

Sentencing is designed to recognize progress made by the offender rather than typical sentencing such as jail and fines. Successful participants leave Homeless Court with no outstanding Metropolitan Court warrants or other imposed obligations. This includes fines, fees, probation or other routine obligations.

Community and public safety are improved as law-abiding citizens are returned as productive members of our community. They do so with improved health, wellbeing, employment and the skills needed to remain so.

History

The Bernalillo County Metropolitan Court initiated the Homeless Court project in 2002 as a collaborative effort of the Court, law enforcement, the District Attorney's Office, volunteer private defense attorneys and community-based agencies providing services to homeless defendants and offenders with outstanding charges/warrants in the court.

The New Mexico Coalition to End Homelessness reports that it is estimated that there are as many as 3,000 homeless people in Albuquerque every night. The number of these becoming involved with law enforcement or the judicial system is unclear.

Many of the misdemeanor offenses committed by this population are those that if not for their homeless state would likely not occur or be considered a violation of the law, e.g., a person intoxicated in their own home would not be charged with being drunk in public. These are often referred to as "quality of life" offenses.

When criminal charges are initiated a homeless person often does not appear in court. This is often due to lack of funds to pay fines, costs and fees. It may be that all their worldly belongings are in the pack on their back and they are unwilling to leave it with someone else such as the courthouse guards. Without a home they may have been unable to bathe and do not wish to appear in court dirty or unkempt.

Consequently, when they fail to appear a warrant is issued. If they possess a driver's license it will be suspended as a result of the warrant. They will not be able to get it reinstated or to obtain a New Mexico Identity Card until the outstanding fines, costs and fees, plus a reinstatement fee are paid. Without either they will not be able to access general assistance such as food stamps, medical care, etc.

Seeking employment without a driver's license or identity card is a significant barrier. Defendants must also find a job they can get to without transportation or that does not require them to drive. Without employment income they remain homeless.

The defendants now face arrest at any time on the outstanding warrants. Aside from the impact on the individual, this often initiates a cycle of costly incarceration, multiple court appearances, officer overtime and repeated transport to the Metropolitan Detention Center.

The Bernalillo County Metropolitan Homeless Court began as a result of recognizing this dilemma, jail overcrowding and a large number of outstanding warrants in relation to charges associated with homelessness.

After meeting with San Diego Homeless Court staff, Presiding Criminal Judge Victoria Grant held the first Homeless Court in Albuquerque on June 5, 2002, with two participants. Initially

Court was held every three months with an average of five to ten persons in attendance. Since January 2004, agencies began to increasingly utilize the program and Court is now held bi-monthly with an average of twenty-five referrals per session.

Any agency in the community is welcome to participate with Homeless Court if they are providing services to the homeless that meet the criteria of the Court. This Court is extremely specific about its requirements. There are four basic requirements in order to be considered for Homeless Court. The participant must have at least one outstanding misdemeanor warrant with the Court. He/she must be referred by an appropriate agency and been active with that agency for no less than thirty days. Be compliant with the referring agency and have demonstrated a willingness to work with that agency or agencies to improve their situation, and finally, the agency must provide a detailed letter of the participant's progress, goals, and achievements prior to the scheduled court date.

Though shelters provide a crucial service, they are typically not one of the Homeless Court's main referral sources. There are several shelters in the community that do provide case management and other services; however, in most cases they are providing a safe place to sleep.

Like any new program challenges are on-going. Regular meeting with the Court staff and constant communication with community agencies have made the obstacles easier to resolve. Every Homeless Court brings new ideas on how to create a more efficient and effective Court.

A challenge faced by this Court in the past was lack of community exposure. Initially the Homeless Court Coordinator made an effort to visit as many agencies in the community that are affiliated with the homeless. This involved going to agencies, giving presentations, attending community network meetings, volunteering with community programs that provide meals and clothing to the homeless, and becoming active with the Homeless Advocacy Collation. In addition the Homeless Court Coordinator provided referral forms and flyers in both Spanish and English for the agencies to post at their facilities. A commitment to be available to both the referring agencies and potential participants was also made by this court. It is recommended that you make contact with one main person at each agency to work closely with for referrals and questions. It took over three months with weekly outings to access the large number of programs in the city. This included visiting the agencies/facilities and learning about the objectives and philosophies of each program.

Earning trust is done through follow through, communication, and commitment by all parties. This Court has provided the agencies and the participants with access to the Court as needed which has been a rarity in the past. The agencies and participants have a direct line to speak to a Homeless Court coordinator to check on charges and answer questions. This is one of the commitments that the Court has made to the community and it has shown great results. In addition if a homeless individual wants to go to Court in the traditional sense then he/she can be accompanied to Court to reduce fear and anxiety. It is always encouraged that charges are taken care of before they enter warrant status and having a Court representative accompany persons to court makes for a less fearful experience.

Many agencies were unaware that Homeless Court existed. Through the community outreach efforts of the program's coordinator providers have become more aware of the Homeless Court. There are more than forty different service providers in the Albuquerque area. A majority of the agencies serving the homeless are drop in centers and provide only specific services. Over twenty community agencies provide nutritional assistance and meals to the homeless and needy. Other agencies at least twelve assist with housing assistance some specializing in disabilities, mental health, elderly, and veterans. Several agencies also provide daily labor/daily pay and employment options. Nearly seventeen agencies in the community assist with legal issues/referrals. Over twelve agencies focus on health care and medical assistance. There are at least eight agencies that specialize in residential treatment with the majority being Christian based. These programs range from a five day detoxification program to year long live in programs. In addition there are programs for Native Americans, veterans, and the mentally ill, but these are few, as are youth programs. The community does its best to deal with the growing number of homeless and is always working on new ideas and programs to deal with the homelessness situation. One of the biggest obstacles has been funding for housing. Monies were granted for the upcoming year and more housing will be available in the near future.

While there are over forty agencies in the community serving the homeless population no one agency provides comprehensive services. This makes it difficult for the Courts to gain access of proof of participation when a homeless participant is using several different agencies to gain services. Agencies are working together; however, there exists a large turnover rate for staff in this field. This means that the homeless consumers are often being transferred to new staff and a break in service occurs. This makes it difficult to track progress and get accurate progress notes.

Finally, the court does not receive any funding for the program. In fact, Judge Grant implemented Homeless Court, and continues to operate it, with no funding. The Homeless Court could not exist without the efforts of a volunteer Judge, volunteer private defense counsel, the devotion of court and other agency personnel, and the community agencies serving the homeless population with dedication and hard work.

Core Elements

Core Elements of the Homeless Court are:

Judicial – The Homeless Court Judge provides leadership to the overall program in addition to her routine duties in case processing. While holding court in the community she provides encouragement, guidance, support and recognition of achievement to participants. For those who are not complying or making progress, she provides reinforcement for example and when necessary sanctions appropriate to the situation.

Legal – Defense counsel is provided by volunteer private attorneys who represent all participants in the program.

The District Attorneys office provides an A.D.A. to prosecute the case. When participants demonstrate progress and success the A.D.A. agrees to appropriate case outcomes.

Supervision – The coordinator of the program provides criminal background checks, coordination of status reports, monitors and checks on participants' activities.

Counseling – Participants are involved in community-based counseling services for substance abuse, mental health issues, housing and job development.

Objectives

Qualified homeless offender participants will successfully complete the program and 80 percent of those shall demonstrate absence of re-arrest for one year following completion.

Incidents of re-arrest, incarceration episodes and court appearances by program participants will be reduced by 80 percent for a year following program completion compared to non-participants and/or program terminations.

The court shall continue its leadership role in the community to better serve the homeless population, bring more awareness to the problem, and be a part of the solution.

Process

A participant needs to access an agency and relay to that agency/provider that he/she has a possible warrant on a misdemeanor case out of Bernalillo County Metropolitan Court. The participant must demonstrate a willingness to comply with both the requirements of the Court and the agency or agencies they are working with in order to qualify for Homeless Court.

The provider will then contact the probation officer by phone to ensure a warrant exists and then make a proper referral to the court with the participant's activity with their program. If the provider has just begun working with the individual the court case may be continued by the Judge at the time of the first setting to ensure compliance and commitment to change.

The Probation Officer and a Judicial Specialist receive the referral and place that individual on a list for the next court. The warrant(s) is pulled so the participant will not be arrested by the police if stopped for another matter. The Probation Officer will then do a complete criminal history investigation and a Department of Motor Vehicle review to ensure the participant is within the guidelines of the court and make contact with the referring agent. A file is then compiled on each referral which allows the Judge to have information on each participant before Court.

Approximately one month prior to the court date the updated letters from the agencies are requested and collected to place in the files for court. The letter from the agencies must include a detailed description of what the participant has been working on (at times more than one agency will send a letter on one participant) to ensure he/she is complying with Homeless Court's requirements. The court also begins pulling the case files and setting court dates. This includes sending out Hearing Notices to each defendant/agency and attorneys to ensure proper notice is given.

Two weeks prior to Homeless Court the Judge, Attorneys and Assistant District Attorneys receive the completed files for purposes of review and discussion about the upcoming court. Any additional information is requested at this time if needed to better serve the participant.

Court is held at one of the local community homeless agencies. The space provided is set up like an actual courtroom with the Judge having a place in front of the court. The Assistant District Attorneys and the Defense Attorneys are also provided with the tools they need as in a regular courtroom setting. This is done with the assistance of Courtroom Support Services and volunteers from the probation department.

The Judge will begin court with an introduction and positive feedback to the defendants and their providers on their participation with this court and with the agencies. Each participant's case is called and the case is either disposed of or continued to ensure the participant is complying with improving his/her situation. The cases are docketed and the participants can feel that they earned the trust of this court and a fair and proper sentence.

Budget Considerations

The Bernalillo County Metropolitan Homeless Court exists because of the hard work and dedication of the founding Judge, court staff and supportive volunteers who have continued to believe in this need and vision of the program. No monies have been dedicated since the program's inception to support it.

The court is currently seeking funds through a grant from the City of Albuquerque. This money would be used for program coordination and support services, (which includes dedicated support staff) supplies, and participation in the Annual Homeless Court Conference.

Evaluation

To date the court has maintained statistical program information as reported herein. A more formalized outcome evaluation is currently being developed in conjunction with an interested university..

HOMELESS COURT STATISTICAL INFORMATION

Total Cases Referred -	121	Total Participants -	81
Total New Violations -	17	Re-Arrest Rate -	21%

Lessons Learned

This court increased its numbers dramatically after media exposure and the addition of a probation officer who could access the community programs and provide an on-going consistent contact for providers and participants to access. The numbers grew from eight in one month to over fifty referrals for the next homeless court within a three month period. The drastic increase in numbers can be attributed to outreach in the community by the Homeless Court Coordinator. Prior to hiring a coordinator, it was nearly impossible to reach out to the community and be

active in promoting the Court. Once the agencies had a contact person and information about the Court they felt more comfortable referring. Most agencies were not inquiring about outstanding warrants or other legal matters as a basic question on their intake. Once Homeless Court became known, the question of legal issues/warrants became a common inquiry when accessing an agency.

The Court is only able to hear up to twenty-five cases per homeless court and even that number appeared overwhelming during the first at-capacity Homeless Court. Many lessons were learned on how to better organize and prepare for the Homeless Court and that more people would be needed in the future to ensure a more efficient and effective system.

Secondly it has become very clear that this Court cannot exist without the collaborative efforts of the community. To put into simply, the Court is one spoke on a wheel that is working to make a difference in the lives of the citizens of our community. There is a lot more that can be done through this Court and many more people can be served; however, our goal is to sustain the numbers we have for a while and earn the trust of the community before becoming more aggressive in our approach. Trust needs to be earned by this Court to show that we are sincere in our efforts to assist homeless persons in achieving their goals of safely accessing the legal system and resolving outstanding bench warrant without the fear of going to jail.

Trust is the key element in making Homeless Court work. It is well known that the homeless have a lack of trust with the legal system. Often the legal system does not take into account a person's present situation or limitations. This Court has made a commitment to provide sentences that reflect the participant's achievements and accomplishments. The Court does not sentence people to jail and takes into consideration their present situation when sentencing. In most cases the participant will leave the Court with no fines, fees, or other requirements which will prevent them from moving forward.

Trust must also extend to the referring agency and participant. Both the referring agency and participant must follow through with their obligations to the Court. The agency must maintain contact with the Homeless Court personal and make proper referrals, as well as, provide proper documentation of the activities of the participant. The participant must trust the agency enough to tell them of existing warrants and be trusted enough to follow through with the requirements of the program after the referral is made so they can access Homeless Court.

It is also imperative that the participants share their experiences with their peers. If someone has had a good outcome in dealing with their warrants because of Homeless Court they will share this with others who may intern attempt to access Homeless Court. Trust among homeless individuals who are dealing with similar issues is also a key factor in the success of this program

Success Stories

A participant at the February 18, 2004, Homeless Court shared a story regarding the successes she has had since working with a local homeless agency. The participant is the mother of five boys all under the age of twelve. They have been residing in shelters and on the streets until recently when they were able to gain housing and her husband was able to find employment.

She was pleased that the court had dismissed another obstacle for her to overcome so that she no longer has to fear going to jail, leaving her children, and can now gain identification for purposes of employment.

A July 21, 2004, participant explained to the Court that she had so many warrants out under her name that she could not give her name to any employers or access her CDL license. She was fearful of being placed in jail and losing her freedom. Since working with local agencies and working to improve her situation she is now able to apply again for her CDL license and return to driving to earn an income.

A July 21, 2004 participant came to Homeless Court with proof of completing a detoxification program in the area, finding temporary housing, and enrolling in a local Native American outpatient treatment program where he continues to maintain sobriety since March 2, 2004.

Awards /Recognition

The Homeless Court program has received recognition from its local print and electronic media outlets. This has consisted of articles and stories regarding the innovative program, those involved and the collaboration of the various parties.

This past April the Victim's Rights Collaborative awarded the Court a commemorative plaque recognizing its outstanding efforts to improve the public safety of the community. The award was presented for the Court's initiatives designed to help curtail Domestic Violence, DWI and misdemeanor violence through its innovative programs and services. The Homeless Court was one of the programs identified in presenting the award.

- February 10, 2004 - Press Release announced that while in attendance at the Second National Homeless Court Conference, Albuquerque's Bernalillo Metropolitan Court was recognized as one of the leaders in developing specialty courts for those experiencing homelessness.
- February 29, 2004 - "Homeless Court Makes for Smarter Approach", Albuquerque Journal Article, Metropolitan Court recognized for innovative programs such as Drug Court and Homeless Court.
- February 2004 - "Homeless Get Day in Court", Albuquerque Journal Article
- February 18, 2004 - Channel 4 News, Piece on Homeless Court interviews Judge Grant and other participants
- April 20, 2004 - Ceremonial Room - Metropolitan Court received an award from The Victim's Right Collaborative for innovative programs.

Future

The Court would like to be able to assist more homeless individuals with their charges which have proven to be mostly quality of life offenses related to being homeless. The court would like to expand its services and also move towards monthly sessions in order to achieve the above goal. This may include the need for a permanent attorney assigned through the Public Defender's Office.

The Metropolitan Homeless Court has begun working with agencies and advocates for homeless teens. This is a fast growing population of the homeless and need accessibility to our court on quality of life offenses that are under the Metropolitan Court's Jurisdiction.

To reach more homeless individuals through agencies and through the positive experiences that prior participants have received in our court. Outreach is one key to successful court.

This Court would like to access funding to assist in achieving the above goals and providing a more comprehensive and effective program.

Continued dedication and commitment to raising awareness and understanding regarding the issues of homelessness in our community.

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FRESNO COUNTY'S HOMELESS COURT PROGRAM

Stand Down Court Established 1994

Homeless Court Established 2002

Homeless Court Description

Fresno County's Homeless Court is a collaborative program designed to provide homeless defendants of Fresno County an opportunity to re-enter productive society. Homeless Court is premised upon the belief that homeless defendants are reluctant to participate in traditional court and that the inability to address outstanding legal issues prevents these individuals from being able to restore their driver's licenses, qualify for housing, and structure their lives with meaningful employment. Fresno County's Homeless Court is designed to remove these barriers to full participation in society. Homeless Court is convened at a homeless shelter that has earned the trust and respect of the defendants, a promise is made that no one will be incarcerated, adjudications result in imposition of community service, or a fine being converted to community service, warrants are recalled, and holds lifted.

History

Fresno based Veterans Crisis Program, under the direction of Bob Brown, brought the Stand Down Court model from San Diego to Fresno in 1994. The first Stand Down Court was held in Fresno at the Veterans of Foreign Wars Post 884 in September 1994. In 2000, Operation Stand Down and the Stand Down Court were moved to Poverello House, a homeless shelter. In 2002, Fresno County held its first Homeless Court at Poverello House (and, currently, convenes a Homeless Court calendar on a quarterly basis). Fresno County was the home to the first National Homeless Court Conference, held on January 31, 2003.

Core Elements

Fresno County's Homeless Court Program format is modeled after San Diego County's Homeless Court Program. Not unlike the game of Telephone: it (Homeless Court) is something different each time a new jurisdiction implements it. Procedurally, the Fresno County model follows the San Diego model with two major exceptions: the role of the Homeless Court Coordinator and the imposition of community service. The Homeless Court Coordinator's role is to act as a liaison between substance abuse program providers and the Superior Court, the District and City Attorneys, and the Public Defender. The Coordinator compiles the program providers' lists of interested individuals and forwards this list to the Public Defender and District and City Attorneys, communicates the eligibility list back to the program providers, provides interview and court dates to the program providers, and coordinates any transportation and logistical concerns that result from having all of these parties meet at a shelter instead of the courthouse. The second exception to the San Diego model is that Fresno County imposes a requirement of community service in lieu of giving a defendant credit for time "served" (i.e., participation) in his or her substance abuse rehabilitation program.

Distinctions between the Traditional Court and Homeless Court

Homeless Court is, and needs to be, in most respects, indistinguishable from traditional court. There needs to be, and is, adequate representation, adherence to procedural guidelines, deference to law on substantive issues, and final adjudication. Yet within this structure, great flexibility can still be achieved. In traditional court, prosecution and defense will meet for the first time at a defendant's hearing; in Homeless Court, prosecution and defense meet prior to the hearing to confer and decide upon a course of action that acknowledges the efforts of the defendant to change his or her life. "In the interest of justice," the attorneys recommend and the court supports an alternative sentencing approach. This is only possible when a collaborative effort exists between the Superior Court, the District and City Attorneys' offices, the Public Defender's Office, and the provider programs to remove the barriers that keep a willing individual from participating in society.

Objectives

Homeless Courts are problem-solving courts designed to provide fuller access to justice for individuals who have traditionally been unable to participate in the justice system. Through the collaborative effort of the court, the district and city attorneys and the public defender, Homeless Court is able to remove for these individuals barriers to full participation in society.

Process

Fresno County's Homeless Court Program format is modeled after San Diego County's Homeless Court Program. Operation Stand Down was brought to Fresno County in 1992 by the Veterans Crisis Programs of Central California ("VCP"). Two years later, Operation Stand Down was expanded to include the Stand Down Court to address many of the legal concerns and barriers obstructing the return of homeless veterans to mainstream society.

In 2001, the Fresno County Access to Justice Committee ("AJC") presented a proposal to the Executive Committee of the Fresno County Superior Court for a Homeless Court. The AJC was composed of a representative each from VCP, the Public Defender's office, the District and City Attorneys' offices, the Office of the Sheriff, Central California Legal Services, and Poverello House, a local shelter provider. The AJC developed a process for a Homeless Court in Fresno County and each individual committee member committed his or her agency to participating in a Homeless Court. Having obtained complete buy-in to the idea by all parties who would need to participate, the Executive Committee of the Superior Court needed only to see the wisdom of the idea and allow the parties to put the calendar together.

In March 2002, the Executive Committee agreed to sponsor a Homeless Court Pilot Program starting in June, 2002, and, after a successful calendar in June, 2002, agreed to an extension of Homeless Court on a quarterly basis. The attorneys and judge involved in Homeless Court participate in addition to their regular work loads. The presence of a single individual committed to coordinating the efforts of the agencies involved in Homeless Court greatly reduces the burdens of interoffice communication and as well as scheduling with the attorneys.

Budget Considerations

Calendar is convened on Friday afternoon. All participation is voluntary; the judge, the court staff and attorneys ultimately bear the cost of the program by having to work additional hours to make up the time committed to Homeless Court.

Evaluation and Future

Homeless Court enjoys not only the support of the court, the court staff and participating attorneys, Homeless Court also enjoys the support of the community. It is envisioned that Homeless Court will continue to be a part of the Fresno County Superior Court's efforts to remove barriers and increase access to justice.

Lessons Learned

Community Service vs. Credit for Time Served

The development of the "rule of law" in the United States resulted in the separation of misdemeanor offenses from felony offenses and respective punishments for each type of offense. Attorneys and judges accept this as the structure in which they must work (regardless of their particular feelings about the gravity of any particular offense). The concept of Homeless Court, in its simplest form – a court with jurisdiction for all misdemeanor offenses and giving credit for time "served" in a program - asks these same individuals to suspend the imposition of penalties for crimes committed by a particular group of individuals (i.e., the homeless/individuals in programs). With complete agreement among attorneys and judge, this can occur. In the absence of complete agreement, a modified list of misdemeanors appropriate for Homeless Court must be developed or a modified type of sentence must be imposed. Each jurisdiction implementing Homeless Court must strike a collective balance between dispensing justice equitably and removing barriers that prevent the homeless from returning to mainstream society. In the traditional court setting, the judge does the balancing of interest. In the Homeless Court setting, the attorneys and the judges must collectively balance the interests of the individual and the interests of judicial structure.

Homeless Court ideologically wrestles with what are two sides of the same coin: not "punishing" certain members of the community - on one side - and removing barriers that prevent full participation in society - on the other. The Fresno County Homeless Court chose to impose community service as a sentence (and to convert fines to community service) in lieu of giving a defendant credit for time/participation in his or her substance abuse program (the San Diego model). The imposition of community service was felt to be more equitable to the larger community. Fresno County's decision to impose community service has resulted in an additional layer of administration for the Homeless Court Coordinator who now has the responsibility to monitor completion of community service and report this information back to the court.

Currently, discussion exists regarding a move away from this approach (the imposition of community service) to an approach that would give a defendant credit for time/participation in a

substance abuse program. After several calendars and a more complete understanding of the impact of Homeless Court, Fresno County looks at the above balancing in a different light (i.e., a credit for time served model is not inequitable to the larger community). Interestingly, contemplation of this move has raised the question of whether to limit the range of misdemeanor offenses eligible for Homeless Court for all defendants or to limit the range of eligible offenses on a case by case basis contingent upon the amount of time a defendant has participated in his or her substance abuse program.

Breadth of Selection of Misdemeanor Offenses

A delicate balance exists between maintaining judicial propriety (with respect to equal sentencing for those in rehabilitation programs and those not in programs) and removing barriers for homeless clients who have demonstrated a commitment to changing their lives. The District and City Attorneys' offices and the Public Defender's office continue to discuss the appropriateness of particular misdemeanor offenses for adjudication by Homeless Court. "Eligible Offenses" are offenses deemed suitable for Homeless Court and are the result of *agreement* between the Public Defender and the District and City Attorneys. The particular desire of any of these attorneys to exclude a specific offense results in that specific offense being excluded (without the need for the attorneys *to reach an agreement regarding exclusion*). For example, in Fresno County, while individuals with misdemeanors may be appropriate for Fresno County Homeless Court, individuals with misdemeanors and a felony offense are deemed, because of the presence of a felony, inappropriate for Homeless Court. As well, particular offenses, such as a settled DUI or VC14601.2, where only the fine is outstanding, render a client inappropriate for Homeless Court.

The extent of the agreement regarding misdemeanor inclusion reflects the variety of each attorney's buy-in to the idea of Homeless Court. If an attorney feels that one charge, such as public drunkenness, is appropriate, but another, a vehicle code violation, is not, Homeless Court may not achieve its goal of removing barriers; rather, it will, instead, remove only some barriers. While Homeless Court does not pretend to remove all barriers, a commitment to the idea of removing as many barriers as possible should drive misdemeanor selection discussions.

Substance Abuse Program Provider Reluctance

At the start of the program, while the court, the District and City attorneys, and the Public Defender were committed to starting the Homeless Court program, the substance abuse program providers were reluctant to do so. Many of the providers were as reluctant as their clients to believe that the court was reaching out to provide them with an opportunity to remove barriers to returning to productive lives. This bias is better understood when one appreciates that in Fresno County many providers agencies are staffed with employees who were formerly homeless. These individuals, prior to sobriety and employment, did not have recourse to a Homeless Court. At that time, as homeless individuals, they were reluctant to enter a courthouse as they were not willing to part with their worldly positions and were fearful of being incarcerated. They were overwhelmed by a system difficult to understand especially without the complications of mental illness, substance abuse or a combination of both. Several providers waited to see Homeless

Court survive a few calendars before agreeing to participate. They, however, are now zealous converts.

The presence of Poverello House, a program provider, during the development of the Homeless Court proposal, later helped to address and alleviate the concerns of many provider agencies. Poverello House was able to put “in plain English” what Homeless Court would mean to program clients. The Homeless Court Coordinator, a staff member of Poverello House, continues to address this reluctance and works to build trust and enthusiasm for the project as the Homeless Court program reaches out to new rehab providers.

Insurance Regarding the Imposition of Community Service

A question persists regarding liability for defendants performing Homeless Court ordered community service at their individual substance abuse programs. In traditional court, a defendant is ordered to perform community service and directed to the Volunteer Center. The Volunteer Center selects an appropriate placement for the defendant and the defendant pays a small fee to the Volunteer Center to cover insurance in the event of an injury. In the Homeless Court setting, an individual is sentenced directly by the court to perform community service at his or her program providers location (and, consequently, without a fee being paid the Volunteer Center does not provide liability coverage for that defendant). The question is whether adequate insurance exists (and, if so, where?) in the event of an injury.

Eligibility

While clients formally enrolled in a substance abuse program clearly fall within the intended scope of individuals eligible for Homeless Court, is an individual who has *completed* a formal substance abuse program still eligible? Substance abuse programs will often hire an individual who successfully completed their programs (because of the experience that individual is able to bring to the job). Should the court view these individuals as still “in a program” and, therefore, eligible for Homeless Court? Clearly, these individuals have demonstrated a commitment to changing their lives, but should Homeless Court extend to these individuals an opportunity it would not otherwise extend to one of their co-workers who did not participate in a rehab program?

Success Stories

Alicia D., a single mother of two young children, is a graduate of Spirit of Woman’s drug and alcohol rehabilitation program. Prior to entering Spirit of Woman’s program, Alicia was driving without her license while taking her children to school. Alicia was stopped and given a citation. The pressure Alicia felt as she tried to raise her children and provide for her family drove her to use crack during her darkest periods. Her crack addiction took over her life. She neglected her children, her self, and her court date. After she failed to show up for court, a warrant was issued for her and a hold was placed on her license. Alicia’s life continued to spiral out of control until she lost her apartment and was arrested (outstanding warrant) after being stopped for failing to stop at a stop sign while looking for an apartment. A county worker suggested she contact Spirit of Woman before the court decided to take her children away from her. Alicia enrolled in Spirit

of Woman's program in October 2003. Four months later, Alicia was on the February 2004 Homeless Court calendar. Homeless Court allowed Alicia to address the issue of her offense and warrant and to get her license reinstated. Today, Alicia is clean and sober, fully employed, and she and her family are well.

Awards/Recognition

Articles on Fresno County's Homeless Court Program have appeared in The Fresno Bee on June 8 and 11, 2002.

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KERN COUNTY'S HOMELESS COURT PROGRAMS

Stand Down Court Established 1998

Homeless Court Established 2003

Homeless Court Description

Kern County operates two homeless court programs: the Veteran's Stand Down Court and a general Homeless Court Program. Homeless court sessions in Kern County are held bi-monthly in a homeless shelter (general Homeless Court Program) and in a tent each October (Veteran's Stand Down Court). Qualifying misdemeanor offenses and traffic offenses are resolved, including issues relating to fines and warrants of arrest.

The main players include the Superior Court, offices of the District Attorney and the Public Defender, Greater Bakersfield Legal Assistance, Inc. (GBLA), local homeless shelters and social service agencies. Social Service agencies make written referrals to GBLA for qualified individuals. GBLA forwards these referrals to the Public Defender. The Public Defender screens out individuals who do not qualify (e.g. subject to a felony warrant of arrest) and obtains qualifying cases for those remaining. The Public Defender forwards the case list and copies of the referrals to the Court and District Attorney.

The judicial officer recalls warrants of arrest and orders the warrants to be held until the date of the hearing. The court creates the court calendar for the homeless court session. A judicial officer makes proposed rulings upon a printed calendar after reviewing both the cases and the referral letters. The judicial officer and attorneys from the offices of the District Attorney and Public Defender meet to discuss the referral letters and the proposed rulings. Changes to the proposed rulings are considered. Open cases are usually dismissed. Previously adjudicated cases with subsequent issues like fines and/or warrants are resolved with suspensions of fines, termination of probation and/or quashing of the held warrants of arrest. These actions are taken in return for the accomplishments that the defendants have already made in their recovery.

The actual court hearings are brief. In a matter of minutes, those appearing receive recognition for their efforts at recovery and their cases are cleared. At that point, with the legal barriers to recovery removed, they have the opportunity to continue their recovery by accessing medical care, housing benefits, food assistance, job training, driver's licenses and employment.

History

In 1998, Greater Bakersfield Legal Assistance, Inc. (GBLA) spearheaded the development of the annual Kern County's Veteran Stand Down Court. Walter Williams of GBLA built upon the success of the program in San Diego to provide a road map and the encouragement that such a project should be done and was needed. The initial court session in a tent in a county park drew only about ten participants. A bailiff's van, nearby with iron-gated windows, had apparently convinced a number of veterans that the real plan was a 'sting.' After that slow start, many more veterans elected to participate each subsequent year, accepting the concept that no one would be

taken into custody. Over one hundred fifty veterans have appeared in the Veteran Stand Down Court and over six hundred cases have been resolved.

In 2002, GBLA pushed for a general homeless court, modeled after the program in San Diego. Again, Walter Williams of GBLA recognized that the benefits for military veterans in the annual Veteran's Stand Down Courts were needed for the general homeless population. Legal barriers often stymied homeless persons succeeding in recovery. A trip to the courthouse to resolve these legal issues was avoided. There was no certainty that their return would be the same day or months later after a lengthy jail sentence. As a result, important services remained out of reach. These included assistance with food, housing, medical care, driver's licenses and employment.

GBLA convinced a judicial officer to observe a homeless court session in San Diego. Later, San Diego County Deputy Public Defender Steve Binder came to Bakersfield. He attended a meeting with the Kern County Superior Court Presiding Department at which Kern County decided to give the program a try. Acceptance of a pilot project approach was built with various agencies one by one (police, prosecution, local business community). Written agreements were not utilized.

The general homeless court program also started slowly. Only eight persons appeared at the first session. Again, the fear of a sting kept many away. The television reporting of the first session helped reduce the fears of a sting. As a result, the program grew rapidly. The planned quarterly sessions quickly switched to bi-monthly sessions. The session volume leveled off around twenty-five persons appearing (150 annually) and one hundred cases resolved (600 annually). Sessions rotate between the two main homeless shelters, the Bakersfield Homeless Center and the Bakersfield Rescue Mission.

The growth of the program and support from social service agencies was founded in the idea that persons in recovery were blocked by the burden of unresolved court cases. Even those succeeding in recovery lacked the resolve to go down to the courthouse to try to clear old cases, not knowing if the outcome would result in a costly fine or a lengthy jail sentence.

The program screened out persons with cases requiring jail. Participants could apply without fear of jail, show their accomplishments in recovery, and receive appropriate consideration for their success through the resolution of their cases. Social workers had a new tool to encourage recovery and the homeless succeeding in recovery had a new chance in reclaiming their lives.

Core Elements

Voluntary Program

Participation in the homeless court program is voluntary. Any accused that wants to dispute a charge or allegation can still appear in a traditional court and is no way restricted to the homeless court.

Cases Included

Cases that qualify for homeless court include all infractions and certain misdemeanor cases. Felonies are not addressed in homeless court. Misdemeanor cases must not involve unresolved issues of violence. Driving under the influence (DUI) cases would be considered to include issues of violence due to the potential of injury to others from that conduct. However, a DUI case could qualify if the outstanding issue was an unpaid fine. The same would apply to a misdemeanor charge of spousal abuse. An unresolved issue of guilt would prevent this case from qualifying, but it could qualify if the issue was an unpaid fine.

Proposed Court Case Rulings

A judicial officer determines a proposed ruling, based upon the quality of the defendant's efforts shown in the written referral, the nature of the issue in the case, and any other appropriate factors. The proposed rulings are discussed in conference with attorneys from the offices of the District Attorney and the Public Defender. The judicial officer may then modify the proposed rulings, may ask the prosecutor to investigate specific issues (e.g. payment of restitution) or ask the Public Defender to obtain additional information about the client. At the actual court hearing, the court will make the proposed rulings absent any new information that would cause a change in the ruling.

Why does the Defendant Deserve this Consideration?

Justification for the court's ruling comes, not from what the defendant is promising to do in the future, but what he or she has already done to obtain the referral to the program. This element is extremely important to the program. The concept of earning the benefits becomes a tool of the social worker, an incentive for the defendant and an appropriate justification for the court, the prosecutor and the community.

What does the Court do with the Defendant and the Case after the Court Hearing?

The defendant has 'earned' the sentence with the upfront work. The future success in recovery by the defendant is left to the defendant and the social service agencies. Our homeless court program is different that some other therapeutic courts, such as some drug court models. Our program lacks a hands-on approach that attempts to take control of a defendant's life. The court accepts the premise of the program that the defendant has achieved a level of success in recovery, has earned the benefits of the program and is now ready to take advantage of the removal of the legal barriers.

No One Goes to Jail

Persons whose cases would include a jail sentence or a remand into custody are excluded from the homeless court program. If the court were to remand a defendant, the program would suffer greatly. New recruits for the program would be difficult, if not impossible, to find. The tool of the social worker would be lost. These homeless would remain denied access to housing

assistance, food assistance, job training, employment and driver's licenses due to their legal issues.

There are thousands and thousands of un-served warrants of arrest in Kern County. That is a problem requiring a solution. The homeless court program is not the solution. If arrests were made in the homeless court program, no one would participate, no arrests would be made and there would be no stories of success.

Distinctions between the Traditional Court and Homeless Court

Homeless court is a problem-solving, therapeutic court that is non-adversarial in nature. The defense and prosecution present proposed resolutions to the court in a conference setting. The defendant is not present. While the legal issue in each case is considered, along with the written referral from the social service agency, the conference is clearly not an evidentiary hearing.

The main focus becomes: What will produce the best result for those who, if the referrals so indicate, deserve consideration with their legal issues so that they may continue their successful recovery?

Objectives

The objective is to remove appropriate legal barriers to recovery for those who have earned this consideration by their successful efforts in recovery. Legal barriers resulting from felonies and all crimes of violence would not be appropriate for consideration in this program.

Process

Veteran Stand Down Court

Homeless Veterans Stand Down Court is held annually in October. This court is a part of the Veterans Stand Down. The Veterans Stand Down is a weekend event in which homeless veterans are encouraged to come to a local park and live in tents for the weekend. Many agencies, both public and private, offer services to these veterans.

Our court holds a session on site in a tent on Friday afternoon. Veterans with pending misdemeanors (not involving issues of violence) and traffic matters will qualify to have these cases heard in this court. No case will qualify if the veteran would be taken into custody. No one is taken into custody. The court has computers on site and prints out any Kern County qualifying court case dockets for each requesting veteran.

Minor matters are conditionally dismissed and fines are conditionally suspended with a requirement for volunteer hours to be performed at the Stand Down that same weekend. In a very small number of cases, further court hearings may be required and future court dates are set in a traditional court. On the following Monday the court receives confirmation that the court ordered hours were completed from the military officials in charge of the volunteer service program. The conditional dismissals and fine suspensions become permanent at that point.

Additionally, veterans may have matters outside the County of Kern. For those veterans, letters are prepared indicating that the veteran has qualified for assistance at the Veterans Stand Down. They also indicate that Kern County would ask the 'other' court to give this consideration in adjudicating any matters they might have with the veteran. A prosecutor, an attorney for the veteran and the judicial officer, sign this letter.

As each veteran appears before the court, the judicial officer recognizes their service to the country, an appreciation for the obstacles they are facing, and makes appropriate court orders. The judicial officer also encourages the veterans to take advantage of the cleared cases in their struggle to regain their lives.

(General) Homeless Court

Social Service Agencies may contact Greater Bakersfield Legal Assistance, Inc. (GBLA) to obtain necessary forms so that they may refer clients to this homeless court. This court meets bi-monthly during the noon hour, alternating between the two homeless shelters in Bakersfield. Pending misdemeanors (not involving issues of violence) and traffic matters will qualify for consideration. Misdemeanors with unresolved issues concerning violence and all felony offenses will not qualify. For example, a non-adjudicated misdemeanor domestic violence case would not qualify, yet that same case would qualify if the issue was an unpaid court fine.

For the individual to qualify, a requirement of thirty days in a residential program or forty-five days in an outpatient program must be met, along with a referral from the social service agency. The referral would be appropriate if the client is believed to be ready to take advantage of the cleared legal matters. The referral includes information indicating the minimum qualifications (thirty days in-patient or forty-five days out-patient treatment) plus other accomplishments such as AA classes, programs completed, days of sobriety, etc.

The written referrals go first to GBLA, then to the Office of the Kern County Public Defender. The Public Defender locates all qualifying cases for each individual. Persons who would or should be arrested are excluded by the Public Defender. The Public Defender will provide any excluded person alternatives concerning how they might address their legal issues.

An attorney from the Public Defender will meet at one or two shelter locations with the referred persons who have qualifying cases. Those who fail to meet with this attorney are excluded absent unusual circumstances. The list of persons referred with qualifying cases who have met with this attorney is then emailed to the District Attorney and the court along with the written referrals.

The court staff pulls each case, encloses any outstanding fine information, and includes a Department of Motor Vehicle (DMV) printout. Each case is calendared for hearing at the next homeless court session. Warrants of arrest are recalled by the judicial officer for the homeless court and held until that hearing. The warrants will be released for those who do not appear at the homeless court session.

After a judicial officer reviews the cases and the social service referrals, he or she will note an indicated resolution for each case on a court calendar. This judicial officer then meets with an attorney from the office of the District Attorney and Public Defender. Each has a copy of the indicated rulings and social service referrals for each referred person. All cases and indicated rulings are discussed and appropriate changes are made.

The calendar is then copied again for each of two courtroom clerks who will attend the homeless court session. With this approach, the courtroom clerks have the expected rulings for each case recorded in advance. During the court session they need only to confirm that the rulings are made and to note any deviations that might occur. Actual court entries are usually made within one to two weeks of the court sessions.

Some persons may have cases from outside the County of Kern. For those persons, letters are prepared indicating that the referred person has qualified for assistance in the Kern County Homeless Court Program. The letters also indicate that Kern County would ask the 'other' court to give this consideration in adjudicating any matters they might have with this person. A prosecutor, an attorney for the referred person and a judge, all sign this letter.

The State Department of Child Services (child financial support) will usually have staff present at each homeless court session. They are willing to consider the accomplishments and history of the referred persons to address issues such as adjusting arrearages, current support amounts and holds on driver's licenses.

Budget Considerations

Participating agencies perform the work necessary out of existing budgets. One exception is Greater Bakersfield Legal Assistance, Inc. (GBLA). They have specifically budgeted personnel for the start-up and operation of the homeless court programs. Our program continues to serve the homeless population because motivated individuals do the required work as an extra task in addition to their regularly assigned tasks.

Real costs have included compensatory time off for courtroom clerks working through a lunch hour. (1.5 hours for each of two courtroom clerks – six times a year). Supervisors in our Traffic and Misdemeanor Criminal Division often do the actual work in pulling cases for court calendars in addition to their assigned supervisory tasks.

The judicial officer and attorneys hold court and conferences during the noon hour. The Public Defender puts in some evening hours to pull all of the cases for the referred persons. Compensatory time off or overtime has not been allocated or sought for these efforts.

Evaluation

This is an area that is lacking in our program. Minimal efforts have been made to establish contact with local colleges for assistance in obtaining a statistical evaluation through the follow-up of individuals going through the program. Anecdotal stories abound, but lack the persuasion of a more formalized approach to an evaluation. We have maintained specific identifying

information on participants (name, DOB, court date, referral letters, court calendars with cases numbers and charges). As indicated above, meaningful budgeting has not occurred for the operational aspects of the program, let alone for analysis and evaluation.

Lessons Learned

Go to San Diego Deputy Public Defender Steve Binder, duplicate San Diego's program and adjust as needed for your locality. This worked extremely well for our court.

Legal barriers will keep a person who has been successful in recovery from achieving true success if they are not addressed. The removal of the legal barriers to recovery does not go every homeless person, but only to those who have earned it in advance. Even those succeeding in recovery will not risk a trip to a traditional courthouse to address legal barriers if they don't know whether they will be home the same day or six months later. Communicating this is important in the effort to obtain support for a homeless court program. It is difficult for anyone to oppose the program once they learn the qualification requirements and the real benefits to all who participate: the homeless individual, service providers, the Court and the Community.

Expect initial response by the homeless population to be muted due to the concerns of a sting. Media coverage of early homeless court sessions may help reduce these concerns.

The homeless court program is a great tool for social workers. It provides incentive to those attempting recovery. Those who qualify and receive the benefits of the program are the best role models for those yet to succeed in their recovery effort. They are also the best spokespersons for the program.

Success Stories

Patricia

Court was about to begin in the shelter in November of 2002. As she rose to speak to the homeless court audience, Patricia beamed with pride. She spoke to those who were about to appear in court and also to those curious to see if the homeless court could help them. Patricia told the audience that she had been homeless until just recently. She related that she had ignored a few traffic tickets for so long that she faced arrest if an officer were to stop her on the streets.

She told how she had worked at her recovery and then appeared in (the first) homeless court in August of 2002 to clear her misdemeanor traffic tickets. She stated that she can, and now will, take the test to have her driver's license re-issued. Her pride was evident as she told the audience that she now has earned certification to be an elderly care provider and is saving money for an apartment.

Sandra

Sandra was the mother of four children and she was homeless. An unpaid traffic ticket that she could not pay had haunted her. Sandra explained that she lived in constant fear of being pulled

over by the police because of her ticket. “I didn’t know what to do because I thought I had a warrant out for my arrest,” she explained. Sandra had her ticket cleared in the homeless court in November of 2002. “I don’t have to be scared to do anything anymore,” she said. “I was always watching my back and always wondering what would happen if I got stopped by the police. I would have lost everything.” With the clearing of her ticket, Sandra sought and obtained employment in a local restaurant.

Darryl

Darryl was a successful truck driver and a married father of three young children. Alcohol took over Darryl’s life. In quick succession, Darryl lost his wife, contact with his kids, his driver’s license and his job. Spiraling downward for two years, he wound up homeless after bouncing from relative to relative until even they would have him no more. Homeless, Darryl started to rebuild his life. His first goal was reached when he achieved sobriety. That was followed by his appearance in homeless court in May of 2003 where he cleared his outstanding court fines and warrants. With his success at sobriety, relatives helped with expensive DUI traffic schools he needed to complete to win back his driver’s license.

In January of 2004, Darryl proudly told a homeless court conference audience in Bakersfield that he had recently completed the DUI traffic school, would be issued a driver’s license and be re-hired by his employer. He was repaying his family for the cost of the DUI traffic school. He also shared news of his renewed contact with his children. He explained that it was a long difficult road back and that his legal barriers had seemed insurmountable. He said that he would not have been able to accomplish all he had without homeless court.

Awards/Recognition

The Bakersfield Homeless Court Program was honored to be chosen to host a Homeless Court Conference in January of 2004. Presenters included Hon. Ming W. Chin, Supreme Justice, Hon. Victoria Grant, Homeless Court Judge, Albuquerque, NM, Hon. Nicole Parra, California Assembly Member, 30th District, Steve Binder, San Diego Deputy Public Defender, Andre Simpson Veterans Village of San Diego, Vikki Del Pelligrino, Dep. District Attorney, County of Kern, Tina Rasnow, Superior Court of California, Margaret Willis, People Assisting the Homeless (PATH) and many others.

The Kern County judiciary has received recognition resulting from the strength of the local program from the California State Senate (2003), California State Assembly (2004), the Kern County Board of Supervisors (2004), the Office of the Bakersfield Mayor (2004), Kern County Veteran’s Stand Down (2000), and the Greater Bakersfield Chamber of Commerce – 2002 Individual Humanitarian Ward.

Future

Evaluations

As mentioned above, an effort must be made to evaluate the general homeless court program by following up on those who have completed their homeless court appearance. California State University, Bakersfield and Bakersfield College would be excellent prospects for a partnering approach in this area.

Jurisdictional Issues

Homeless people travel and have cases throughout the State of California and beyond. Kern County is fortunate in that the homeless court held in Bakersfield can and does handle infractions and misdemeanors from throughout the County of Kern. This includes cities far from Bakersfield, such as Ridgecrest (110 miles) and Taft (45 miles).

However, we cannot handle cases from outside the County of Kern. We would like to see the State of California and/or the American Bar Association establish a specific referral form that could be used in jurisdictions outside of that of the homeless court. We currently use a form developed by the homeless court community. The form works well when taken to other counties' homeless courts, less so when taken to other counties' traditional courts. The existence of an officially recognized form would help the homeless individuals when they have out of county minor cases heard in another county outside of the homeless court setting.

We would support an inquiry to determine if constitutional changes could be made to allow homeless court judicial officers from one California County to hear qualifying cases from other California counties. This might include fines on misdemeanors and all aspects of infractions.

Driver's License Assistance

We are developing a special program to directly assist homeless people obtain California driver's licenses. Local Department of Motor Vehicle personnel are working with us to establish procedures that would allow a shelter caseworker to learn the precise obstacles a given client needs to address to qualify for the issuance of a driver's license. These clients qualify to participate in this effort by obtaining an offer of employment that is contingent upon them obtaining a driver's license.

It is expected that the caseworker will make referrals to the court and District Attorney. On a monthly basis, the District Attorney would move the court to take the actions necessary on our county's court cases that remove the obstacles to the issuance of a driver's license. Pro bono attorneys would assist by writing letters (attaching the caseworker referrals) on behalf of their homeless client to jurisdictions beyond our home county. This would include those within and outside of California.

The State Department of Child Support Services, through its local office, is also working with us to establish a procedure for them to accept these referrals. In appropriate situations, they would release their holds on the homeless clients' driver's licenses.

Funding Stream

A specific funding stream for the operation of the homeless courts would allow us to reach out to many more homeless people who would qualify for our homeless court program. Many of these are in residential substance abuse treatment facilities. Success with sobriety can be limited when those in recovery feel unable to access other services such as housing, medical care, driver's licenses due to outstanding warrants and/or large fines. Currently, we are not able to reach out to all of these persons. Our program is not presently large enough to handle any significant increase in referrals.

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THE LOS ANGELES HOMELESS COURT

Established 2000

Homeless Court Description

The Los Angeles Homeless Court program is a project of the Los Angeles Superior Court, the City Attorney's Office, the Public Defender's Office and advocates for the homeless. The mission of the program is to help homeless individuals resolve the legal barriers which typically pose one of the most daunting barriers they face on the road to self-sufficiency. It is coordinated through the Homelessness Prevention Law Project at Public Counsel, the nation's largest pro-bono law firm, and hosted by local service providers, including Salvation Army's Bell Shelter, P.A.T.H., Midnight Mission, Covenant House and Union Rescue Mission. These special sessions of the Superior Court of Los Angeles are generally held monthly at a homeless service center, with Judge Michael Tynan presiding, and with court clerk, bailiffs, city prosecutors, public defenders, volunteer attorneys from for profit and non-profit firms, case managers, social workers and clients all in attendance. At each session, eligible cases that have been recommended for Homeless Court, and reviewed by the judge, are presented, the defendant has an opportunity to speak, and, all qualifying offenses before the Court are dismissed outright. Through the Homeless Court program, justice is swift, compassionate and empowering.

History

After over ten years of conducting legal clinics at shelters and transitional housing facilities across the Greater Los Angeles area, Public Counsel recognized that the most common legal issues faced by homeless persons are unresolved tickets and warrants. People who spend the majority of their time on the streets are exposed to law enforcement much more frequently than the general population. Homeless people receive an inordinate number of citations for violations of health and safety laws, jaywalking, loitering, victimless misdemeanors, and increasing varieties of quality of life infractions as jurisdictions continue to expand the number and types of laws that criminalize acts such as panhandling or sleeping in public. Because the homeless are unable to pay fines and fear being sent to jail if they appear in court, they typically fail to act on or resolve these citations. This "failure to appear" is an additional violation, resulting in a court-issued "bench warrant" and additional fines. In addition, the courts may forward the matter to a collection agency and may impose a hold on the individual's driver's license – both of which create serious barriers for people struggling to find employment or housing.

Judge Harry Pregerson of the United States Court of Appeals for the Ninth Circuit has long been a leading advocate for veterans experiencing homelessness, supporting homeless programs and services and educating his peers on the need for legal solutions for homeless people. After learning that San Diego had established a Homeless Court, Judge Pregerson and Public Counsel staff organized a delegation to visit this special court. San Diego Deputy Public Defender Steven Binder arranged for a meeting between the delegation and the San Diego Homeless Court personnel, followed by a live session of the court. (The delegation's experience was even more memorable as Judge Pregerson commandeered an out-of-commission bus from the nearby military base to get a ride home!) In 2000, with Judge Pregerson's leadership, Public Counsel

worked with the L.A. Superior Court to organize a Homeless Court Working Group made up of legal professionals, advocates, homeless services and shelter providers and Los Angeles Superior Court administrative officers to establish a Los Angeles Homeless Court program. After months of careful planning and buy-in from literally all governmental and private entities, including the City Attorney's Office, Superior Court judges, Public Defenders, District Attorney's Office, LA County Sheriff's Department, LAPD and service providers, the group adopted an ingenious design for Homeless Court that was submitted by L.A. Deputy City Attorneys, Alan Dahle and Earl Thomas. This design, which basically allows for cases to be processed and resolved before the individual ever appears before the Judge, streamlined the administrative burdens and minimized economic costs associated with establishing a new program. In November, 2000, Judge Michael Tynan, Presiding Judge of Drug Court, was appointed to conduct the first session of Homeless Court in Los Angeles at the Union Rescue Mission.

Since that first session nearly four years ago, the Los Angeles Homeless Court has assisted nearly 2000 homeless individuals in clearing up outstanding tickets, fines and warrants, allowing them to continue to build productive lives as contributing members of the community. Homeless Court sessions are held at several locations in Los Angeles, including Salvation Army Bell Shelter, Union Rescue Mission and the PATHMall. At the height of activity, Homeless Court was held once a week, at different sites throughout the city. In 2003, severe budget cuts to the Superior Court system crippled the county's ability to provide the clerk and court time necessary to maintain that calendar, and Homeless Court was scaled back to its current schedule of monthly sessions. Judge Tynan continues to preside over these sessions, but many judicial officers have expressed interest in expanding homeless court because of the benefits it has proven to have in creating hope and paving the way for normalcy for those whose lives have been ravaged by the dispiriting effects of homelessness. All participants in this court volunteer their time, along with court clerks, bailiffs, city attorneys, public defenders and pro-bono attorneys, to help homeless men and women overcome their legal barriers to self-sufficiency. Accordingly, it imposes virtually no net cost to taxpayers – while freeing up the homeless to become contributing members of the community once again.

Core Elements

The core elements of the Los Angeles Homeless Court are similar to the San Diego HCP upon which it is based. Two key concepts that drive the Los Angeles program are:

- Creating an Environment of Trust – it is crucial that Homeless Court sessions be held in a “culturally competent” setting, in a place where homeless individuals are comfortable entering, and in a setting that is inviting. There can be no threat of arrest or additional damages or any dis-incentive for appearing that might keep individuals from arriving in court.
- Rewarding Efforts To Avoid Homelessness - Homeless Court is not a forum for defendants who wish to contest their cases. Instead, it recognizes the hard work that it takes to overcome homelessness and despair when one has been exposed to the life-shattering experiences of living on the streets. The work that formerly homeless individuals have completed through their participation in a rehabilitative, shelter, employment and/or social service programs qualifies as the type of community service a

court would have imposed had they gone to court in the first place. Homeless Court credits them for this work and recognizes they are giving back to the community by becoming active and contributing members of society. Homeless Court further empowers homeless services providers with a tool to help their clients remove the obstacle of tickets and warrants that stands in the way of personal progress and may otherwise dishearten their efforts.

One significant difference between the San Diego model and the L.A. model of Homeless Court is that the L.A. model is a pure dismissal court – whereas the San Diego model will impose terms of probation and often set return court dates for homeless defendants. There are advantages to both models – the San Diego model allows individuals to appear in Homeless Court during their first month in the shelter program whereas the L.A. model requires a minimum of 90 days participation before the individual can qualify. The San Diego model will handle a broader range of misdemeanor matters, but the L.A. model handles a wider range of traffic offenses. Whereas the San Diego model involves a court reporter, the L.A. pure dismissal model eliminates that need (giving the homeless participant a letter memorializing the dismissal instead). While both models promise the participant that they need not worry about jail when they appear before the judge, the L.A. model enables the homeless to move on with their life without the need for further court intervention or scrutiny.

Distinctions between the Traditional Court and Homeless Court

The distinctions between traditional court and homeless court are based on the objectives of each system. In the traditional court system, the objective is to determine guilt or innocence and then to impose a suitable punishment for the guilty party. In Homeless Court, the objective is to resolve the outstanding legal issues in order to empower people to continue their progress towards self-sufficiency. There is no guilt or innocence. There are no arguments. There is no punishment. Homeless Court is not punitive – it is positive. It is a way to reward people who have already overcome numerous and often debilitating barriers and to motivate them to keep making progress. The two systems still operate to uphold the laws of the jurisdiction, and to exact a compensation for those who break the law. Homeless Court participants must still serve their “sentence” – however, their sentence is actually carried out and completed prior to their appearance in court, through their participation in a rehabilitative program.

These differences in objectives is also reflected in the settings. Traditional court is held in a government-owned building, usually in the city’s center, in a room dedicated solely to passing judgments, where a judge sits on a high seat above the defendant. The whole setting is imposing and intimidating – justice is “higher” than the defendant. When a judgment is read, there is always someone who suffers under it. In Homeless Court, the session is held in a common room at a local homeless service center, one that is probably familiar to the participant. The judge, in robes and flanked by sheriff deputies, is seated at a regular desk – usually below the eye level of the standing defendant. The room is filled with other homeless participants, social workers, and volunteer attorneys – a whole group of peers and people who are supporting the defendant. When the judgment is announced, there is applause and congratulations, and it is not unusual for the participants, the judge, the attorneys and audience to be moved to tears by the beauty of what unfolds through this special program. People who walk out of Homeless Court walk out with greater freedom and opportunities than when they entered.

Objectives

The main objective of the Los Angeles Homeless Court is to help homeless individuals resolve the legal barriers that they face on the road to self-sufficiency. It does so by providing a non-threatening and accessible alternative to resolve outstanding tickets and warrants. It is a system of justice that is efficient, cost-effective and promotes a healthier community.

Process

In order to be eligible, a person must:

- be a homeless individual who has completed at least 90 days of “continuous satisfactory participation” in a rehabilitative program, as documented by their case manager;
- have no new citations within the previous six months;
- have obtained their outstanding tickets within the City of Los Angeles;
- have an eligible offense (rule of thumb – no victim, no weapon, no drugs);
- have no outstanding felony warrants or pending felony cases.

Participants must be referred by their case manager, and they must complete a two-page application. The application must include a letter of support from their case manager that details the applicant’s progress. The applications can be faxed or mailed to the Office of the City Attorney, who pulls the applicant’s record and reviews the outstanding cases. The City Attorney’s Office will contact the applicant and/or case manager to verify information. The City Attorney will then approve or deny the application to Homeless Court. When there are sufficient eligible applications collected to hold a session, the approved cases are reviewed by the City Attorney’s Office, the Public Defender’s Office and the judge and a “sentencing” recommendation is agreed upon. Cases are assigned a date on the Homeless Court calendar and the defendant is advised of the date and location to appear. At the Homeless Court session, the judge will either dismiss the cases outright, waive fines and/or recall bench warrants, or he may choose to resolve some issues and hold others until the defendant completes additional time in the rehabilitative program.

Budget Considerations

The Los Angeles Homeless Court does not have an operating budget. It is run solely on the goodwill and energy of those who donate their time. Costs that are incurred (office supplies, transportation, etc.) are absorbed by the different agencies and department involved as part of their general operating expenses.

Some of those costs include:

Public Counsel’s staff time – Public Counsel has one full time and one part time person dedicated to the Homeless Court program. They coordinate the court calendar, screen applications, act as the liaison between the host sites and the Superior Court, and do outreach and advocacy on behalf of the program. In addition, Public Counsel also provides direct representation for defendants, and recruits and trains volunteer attorneys from outside firms to represent defendants at Homeless Court.

Community agencies staff time – community agencies work directly with the clients. In addition to providing care and services for a minimum of six months prior that prepares the client for Homeless Court eligibility, the case managers must dedicate time to helping their defendants through the Homeless Court process as part of their case plan. In some cases, case managers must work with other jurisdictions to resolve cases outside the Homeless Court, and even travel to other Homeless Court locations to advocate on their client’s behalf. It is the community agency’s responsibility to make sure each applicant is a “good fit” and will truly benefit from Homeless Court.

Host sites – host sites donate the use of an appropriate space for the Homeless Court session, provide adequate security and coordinate the calendar with the courts and Public Counsel. In addition, host site agencies work closely with other advocates to advance the cause of Homeless Court, education the public and the clients and encouraging the creation and expansion of Homeless Court programs.

Officers of the Court – judges, public defenders, city attorneys, bailiffs and clerks. Judge Tynan does not get paid for his services – he volunteers on his lunch hour to preside over Homeless Court. Other court personnel are not dedicated to Homeless Court, but rather participate as part of their larger court functions. The Superior Court estimated that it would cost approximately \$80,000 annually to fund enough court clerks to operate Homeless Court full-time.

Attorneys – volunteer attorneys represent defendants at all Homeless Court sessions. They come from both for-profit and non-profit offices, local and national firms. Defendants do not pay for representation at Homeless Court.

Government Partners

With the buy in of the City Attorney’s office and the Superior Court, and with leadership from L.A. County Department of Public Social Services Director, Bryce Yokomizo, Homeless Court has been linked to county welfare programs to provide incentives for these individuals to obtain jobs and housing. Specifically, all L.A. County participants in the GAIN and GROW work programs are eligible to submit qualifying offenses for resolution by Homeless Court after 90 days successful completion of these work programs. DPSS is working with Public Counsel to train its GROW and GAIN staff to understand and screen applicants properly for Homeless Court.

Public Counsel has also approached the Los Angeles County Homeless Services Authority (LAHSA) and submitted a proposal for Homeless Court to be built into shelter case management discharge planning as part of the county’s Ten Year Plan To End Homelessness.

Evaluation

The Los Angeles Homeless Court has not completed a formal evaluation. Each agency that refers clients to the program is responsible for tracking that client’s progress. A centralized tracking and follow-up system specifically for Homeless Court participants has not been designed.

Lessons Learned

The proven effectiveness of the L.A. County Homeless Court strongly militates in favor of developing statewide coordinated Homeless Courts. The Courts have proven to be a vital and essential partner in the effort to end homelessness, and the more comprehensively courts can help remove the obstacle of tickets and warrants from the paths of those who have proven their desire to escape the streets – the more likely our communities will be able to see a long term solution to this shameful problem of human suffering. Homeless people often have outstanding tickets and warrants from a number of jurisdictions, collected and forgotten as they have traveled from one place to another in search for food, shelter and opportunities. L.A. County is the largest urban county in the country and includes hundreds of cities and municipalities. It is imperative that we work to expand cross-jurisdictional recognition and develop a working process for resolving tickets and warrants issued outside of the City of Los Angeles.

Success Stories

The Los Angeles Homeless Court Program is a vital part of the social service system. Legal barriers can prevent people from getting a job or renting an apartment. Homeless Court allows individuals to take responsibility for their actions, resolve their cases without punitive sentencing in a setting that is compassionate and empowering. Here are just a few examples of how the Los Angeles Homeless Court, as a part of the social service continuum of care, is changing lives:

Mr. F. had one outstanding ticket and a previous felony conviction that made it nearly impossible to secure a job. The ticket, however, was issued in Ventura County. While the Los Angeles Homeless Court could not assist him directly, a superior court judge and a Bell Shelter case manager accompanied Mr. F. to the Ventura County Stand Down, where they advocated on his behalf. His ticket was resolved through his on-site community service at the Stand Down, and when he returned to Los Angeles he continued to make strides towards self-sufficiency. Bell Shelter is proud to share that Mr. F recently secured employment and is doing well.

Mr. H. became a client of Bell Shelter through their jail outreach program. He participated in job preparation courses and upon release, continued to seek assistance to gain employment. However, his chosen field required him to drive a vehicle – and his four outstanding tickets prevented him from getting his driver’s license renewed. After qualifying for Homeless Court, Mr. H. was able to resolve those tickets and secure a valid driver’s license. He is now employed as a truck driver and has been reconnected to his family, with whom he is living.

One client agreed to share her story in her own words:

“I found out about PATH on the street by an acquaintance. I came in on September 13, 2002. I talked to Eric Pido one of the Access Centers case managers. He then referred me to Reyes Soto at the CLARE Foundation for substance abuse treatment. Reyes Soto then called OMNI to have me hospitalized because I was very ill.”

“After spending some time in the hospital, I transitioned into a sober living residential program. While in sober living I was referred to Gateways Homeless Services and began taking care of my mental health. Then I was referred to PATH where I was given an I.D. voucher by PATH to

obtain my I.D. and social security card. I was put on the waiting list for the PATHWays program and on December 20th, 2002 I was accepted into the PATH women's residential program. While at PATH, a case manager and I developed a case plan, which identified the barriers with action plans aimed toward my self-sufficiency. One of the barriers on my case plan were legal issues. My background consisted of minor infractions (tickets) that, at the time and the crisis I was experiencing, were impossible for me to take care of. When looking for employment these minor offenses seemed to make impossible for me find work. I was recommended and referred to Homeless Court. Through Homeless Court I was able to clear my record and it felt like it lifted a huge load off my back."

"In May 2003 I had left PATH to go to another transitional housing to wait for my Section 8 Voucher. By June I had the voucher and was looking for an apartment. In September 2003 I found an apartment. I came to PATH once more for Rental Assistance. I had received the assistance within 14 days."

"Now I have a one-bedroom apartment and I've been there almost one year. I am so thankful to PATH, CLARE, Gateways, and Homeless Court for helping me get off the streets for good."

Awards/Recognition

The L.A. Homeless Court has received numerous awards and recognition since its inception in 2000 including an editorial endorsement from the L.A. Times and as did the L.A. County Board of Supervisors in a resolution directing county agencies to give full support to efforts to expand this court. Shelter Partnership gave Homeless Court its Community Leadership Award, Midnight Mission gave Homeless Court its "Golden Heart Award" and L.A. City Councilman, Gil Cedillo recognized the role Homeless Court has helped play in paving the way for employment and opportunity in a special commendation to Public Counsel.

Future

The Los Angeles Homeless Court is actively working with Homeless Court practitioners in other jurisdictions to create a network of Homeless Courts that can advocate and provide technical assistance to communities interested in forming Homeless Courts. Led by San Diego and joined by Los Angeles, Bakersfield, Ventura, Las Vegas, and Albuquerque, the Homeless Court concept is finding roots in communities across the country – and even the world. It is our sincere hope that Homeless Court programs become as widely accepted and acknowledged as part of ending homelessness as mental health services, housing and employment training.

New Homeless Court Developments

To enhance coordination and outreach, Public Counsel will be expanding their staff to include a dedicated Point Person at Homeless Court for each of following four Rehabilitative Populations:

- Homeless Rehabilitation (i.e. PATH, Union Rescue Mission)
- Drug and Alcohol Rehabilitation (i.e. Cri-Help, Tarzana Treatment Center)
- Mental Health (i.e. LAMP)
- Family Counseling/Job Training (i.e. CALWORKS, Exodus, Shields for Families)

Develop Deeper Partnerships with Case-Managers

As a once in a lifetime opportunity, each Homeless Court case is reviewed subjectively to determine if the individual has made a “substantial commitment to rehabilitation.” For those files that may indicate a high risk of recidivism, the case-manger is contacted and a decision is made based upon his/her input, and/or his/her further consultations with the client/applicant, as to whether client is to go forward.

Implement a New Pilot Tracking System

- New Applications ask for 3 personal references from each Homeless Court applicant for tracking participants after dismissal.
- After dismissal (Homeless Court date) Participants’ files are marked for review in 6 months, then annually thereafter.
- Criminal records are re-run on these past Homeless Court Participants’ files and reviewed for to determine if participant has remained free of arrests/violations and/or a new pattern of arrests/violations is indicated. In the latter instance, the caseworker, participant, and/or references are contacted to attempt to discern the status of the past Homeless Court Participant’s rehabilitation.
- Statistics are compiled for success rate of Homeless Court participants over time.
- These statistics are broken down, by type of facility by population served, either homeless rehabilitation facility; drug and alcohol rehabilitation facility; mental health facility; family counseling/job training facility.
- Statistics are also compiled for each referring rehabilitative facility.

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Margaret Willis (323) 644-2213
www.epath.org

Salvation Army Bell Shelter
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Bell, CA 90201
Earnest Harris (323) 263-1206
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Union Rescue Mission
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ORANGE COUNTY'S OUTREACH COURT PROGRAM

Established October 2003

Outreach Court Description

The Outreach Court is a special Superior Court session for homeless defendants. The court session is convened in a local homeless shelter to resolve outstanding infractions, misdemeanor offenses and warrants.

Outreach Court builds on partnerships between the court, local shelters, community service agencies, the prosecutor, and public defender. Through the Outreach Court problems that homelessness represents can be met with practical solutions while resolving outstanding legal issues. Initial referrals to Homeless Court originate in shelters and service agencies. The prosecution and defense review the cases before the court hearing. The court order for participation in agency programs is substituted for the traditional court sanctions of fines and custody.

History

In October of 2003, Orange County held its first special Superior Court session at a local shelter for homeless defendants to resolve outstanding infractions and misdemeanor criminal cases. After several planning meetings to explore Community Courts needs and resources the Outreach Court Program was developed as an off shoot that could be implemented quickly with little cost to address a significant community problem.

Core Elements

Voluntary Program

Participants in the program must sign up for the program on their own and no one is taken in to custody at the Outreach Court sessions.

Addresses Range of Infraction and Misdemeanor Offenses

Qualifying offenses are non-violent Infractions and Misdemeanors. Each case is carefully reviewed by either the District Attorney's office or City Attorney's office, and the Public Defenders office to determine eligibility.

Progressive Plea Bargain

The Outreach Court Program "OCP" offers a different plea structure from the traditional court proceeding. The OCP plea agreement responds to the cases/offenses that homeless participants receive due to their condition and status: living on the streets. Additionally, the OCP agreement acknowledges the efforts the participants undertake before their appearance in court. The plea agreement recognizes the participant has often times completed the court order before the court

imposes sentence. The participant has performed the program activities without the threat of custody or a larger fine. Due to standing agreements within the collaborative the Public Defender knows the concerns of the court, the services available and what the court requires to close the case. Based on this collaborative relationship the Public Defender will sometimes recommend participants complete additional activities prior to the OCP hearing, thus the participant is usually able to have completed the order before it is given because that is what is needed to make a move from the streets, through the shelter program, to self-sufficiency.

Alternative Sentencing

The OCP “sentences” participants to activities in the shelter program or community. Local homeless shelters and agencies are the gateway for participants to enter this court. Homeless persons who want to appear before this court must sign up through one of a number of local shelters and community service agencies.

The alternative sentencing structure is not coercive or punitive in nature, but rather designed to assist homeless participants with reintegration into society. With alternative sentencing, the OCP gives credit for the participant’s accomplishments in shelter activities. These activities include life-skills, chemical dependency or self help (AA/NA) meetings, computer and literacy classes, employment training, employment, medical care (physical and mental), counseling and volunteer work. These activities replace the traditional court sentence options of fines, public work service and custody.

Shelter representatives often write advocacy letters for clients residing in their shelter. The advocacy letter provides proof of the progress the participant has made in their life with a description of the program, the clients start date, accomplishments, programs completed and insight into the client’s efforts. The OCP sentence strengthens and re-enforces efforts of the participant.

When participants work with agency representatives to identify and overcome the causes of their homelessness, they are in a stronger position to successfully comply with court orders. The quality of the participant’s time spent in furtherance of the program is the key to a successful experience.

No One Goes Into Custody

The OCP collaborative members (judge, prosecutor, defense attorney, and homeless shelter/service agencies) agree, “No one goes into custody against his or her will.” This does not mean that the prosecution gives up its power to ask for custody, nor does the court relinquish its authority to incarcerate. Rather, this agreement acknowledges that participants have committed offenses and have met court requirements through their work in their programs. This agreement respects the relationship and trust the homeless service agencies hold with the participants who appear before the OCP, and acknowledges that time spent working with these agencies is equivalent to, and more constructive than, incarceration. The pre-screening process where both the prosecution and defense review the case prior to it being calendared for Outreach Court allows for cases that require custody to be identified and appropriate action can be taken outside of the OCP.

Distinctions between the Traditional Court and Outreach Court

In Orange County, the traditional court sentence for a municipal code violation is a fine. In the traditional court setting, a defendant will receive \$81.00 “credit” against a fine for every day spent in custody pursuant to California Penal Code Section 1209.5. The defendant who spends two days in custody receives credit for a \$162.00 fine. To satisfy a fine of \$300.00, the court requires a defendant spend 4 days in custody. Thirty days in custody is the equivalent of a \$2,500.00 fine. The court might convert this fine to public service work, however there is an enrollment fee to complete the court ordered community service.

When someone is convicted of being under the influence of a controlled substance for the first time, he/she faces a mandatory jail sentence or the option of completing a diversion program (PC1000). The diversion program includes an enrollment fee, orientation, 20 hours of education, individual session, drug and alcohol testing, weekly self-help meetings, and an exit conference.

The traditional court response to misdemeanors and infractions do very little to address the root cause of a homeless persons problems. Without a stable living environment or income jail custody is the only option for the homeless population. Outpatient treatment programs that require enrollment fees, and that are not easily accessible are not successful with the homeless population.

Typically an OCP participant has been in a shelter or community service program for at least 30 days (from the initial point of registration to the hearing date) when standing before the judge at the shelter for Homeless Court. By this point, their level of activities in the shelter or a service agency exceeds the requirements of the traditional court sentence. While the program activities vary from one shelter to another, they usually involve a greater time commitment than traditional court sentences. Program staff ensures homeless participants are already successful in their efforts to leave the streets before they enter the courtroom. These individuals are on the right track before they meet the judge at the OCP.

Objectives

The Outreach Court Program brings the court to the shelters and helps homeless individuals get a fresh start back into society. The OCP is part of the linkage to get people the tools they need through shelters and community service agencies that lead to self sufficiency and a new beginning.

Process

Overview of the OCP Process

Each month staff from the public defender, district attorney, city attorney, various shelters, and the Orange County Superior Court completes a series of steps which result in the OCP hearing.

Step One: Outreach

To help staff and case managers understand and visualize the program an attorney from the Office of the Public Defender visits local shelters and service agencies to explain the OCP purpose and process. Case managers introduce their clients to the option of the OCP. The case managers' challenge is to encourage participation by convincing potential defendants that this program is designed to be a positive experience in their lives and that they will be rewarded for the hard work that has been completed as opposed to past court hearings that resulted in jail custody, warrants, and fines that are impossible to pay. Case managers use examples of successful participants to ease the anxiety and illustrate the positive impact of clearing one's record and being able to progress to self sufficiency.

Step Two: Interest List

After learning about the program through an outreach session or from the shelter staff, residents provide their name, date of birth, gender, and ethnicity for purpose of identification to shelter staff. The referring agency fills out contact information (agency name, case manager, and contact person's phone number) and contacts the Public Defender's Office. Staff at the Public Defender's Office complete a search of case files then coordinates the participation of those seeking to resolve their case through the OCP. Staff at the Public Defender's Office then forward a list of interested clients and eligible cases to the prosecution and court.

Step Three: Plea Offers and Negotiations

The city attorney or district attorney reviews the case files of the defendants provided by the Public Defender. The city attorney/district attorney generates an offer based on agreements of the collaborative (plea bargain) for resolution of the cases. The prosecutor makes offers for resolution of the cases based on criminal history, impact of criminal behavior on the community, and the number of outstanding cases. The city attorney/district attorney offers a plea bargain, in anticipation of proof, and an acknowledgement of each participant's involvement in his or her respective program.

The public defender may negotiate further with the prosecutor after learning more about the defendant's individual situation during a pre-hearing consultation. In most instances, these negotiations end with an agreement reached. In the rare instance when the prosecution and defense do not reach an agreement the judge will make the final decision.

Step Four: Records Search

Using the information on the list provided by the Public Defenders Office, the courtroom clerk conducts a search of the courts database for all open cases, warrants, and pending civil assessment penalties, this is done to verify that all eligible cases are addressed at the Outreach Court hearing. Active qualifying cases are placed on the next OCP calendar. No felony charges or offenses committed outside the jurisdiction of the Orange County Superior Court are calendared for OCP.

Step Five: Active Cases Set for Hearing

The Orange County Superior Court clerk prepares a court calendar/docket for the OCP hearing. This docket includes those who were identified by the public defender as being eligible and interested. The court calendar lists each defendant and all of his/her open cases, warrants, fines, civil assessment penalties, and any other pertinent information.

Step Six: Defense Attorney Consultations

Prior to the hearing, the public defender consults with the participants to review his/her case(s) and prepare for the court hearing. The public defender presents each individual case(s) and proposed plea agreement as the worst-case scenario to help the participant face his/her greatest fears about the judicial process. The public defender learns about the individual's participation in a shelter or other type of program, (i.e. community college, technical school rehabilitation, and outside medical treatment) which the court can use as an alternative sentence to fines, community service, probation, or in some cases, custody. During the consultation, the public defender also explains the importance of advocacy letters each participant can bring to court. These letters show proof of participation in classes, counseling, and community service. These letters highlight individual accomplishments with specific information including the total number of hours that the defendant participated in treatment, counseling, or volunteer service as well as the type of programs. The defense attorney uses the shelter programs and the recovery process to get clients involved in successful court hearings. The defense attorney tells the clients to bring proof of program activities and advocacy letters to ensure a successful resolution to the individual cases.

Step Seven: The Hearing

The Outreach Court hearing is scheduled for the last Wednesday of each month. Hearings are regularly held at the Orange County Rescue Mission to accommodate the defendants, shelter staff, court personnel, and visitors. Due to advanced planning efforts by all involved parties, the hearing moves rather quickly. The California and American flags are placed in the front of the room. The bailiff calls the court to order as the judge, dressed in traditional court attire, takes the bench. This official preparation generates an atmosphere similar to the "traditional courtroom" and shows the participants that this is a legitimate court session.

The defense attorney formally calls each defendant to come before the judge. The public defender and defendant stand in front of the room. The judge takes the bench seated at a table on an elevated platform. The defense attorney states the agreement, says whether the recommendation is a dismissal or a plea and presents the letters. The court clerk gives the case files to the judge and the public defender asks that advocacy letters be formally entered into the court record.

Unlike a traditional court, the judge communicates more with the defendant than with the public defender. The judge asks the defendant about what brought him/her to the court, his/her participation in programs, counseling, or classes. The judge consults the city attorney about the offer for disposition and, in most cases, the charges, warrants, and penalties are formally dropped

as previously agreed. The defendant’s record is again clean allowing greater opportunities for jobs, housing, and regaining a driver’s license.

As in traditional court, the judge may continue a case until the defendant provides appropriate documentation to satisfy the alternative sentence agreement (such as advocacy letters, proof of completion of self help meetings or community service). If a defendant fails to appear for the hearing, the case is taken ‘off-calendar’ and any agreements that have been negotiated between the prosecutor and public defender are withdrawn until further review.

Step Eight: Follow-Up

The deputy court clerk transfers the case disposition information into the court’s database, files the advocacy letters, and closes the case files if necessary. Defendants who fail to appear are not automatically placed on the OCP calendar for the following month, they must begin the process again by signing up with the public defender.

Budget Considerations

The table below outlines staff time and hourly rates to conduct the Outreach court once a moth. Currently no grant funds are used to assist with these costs. Each agency currently pays the staff salary out of their own funds.

Outreach Court

Position	Hourly Rate	Hours per month	Total (monthly costs)
Judge	\$69.15	2	\$138.30
Court Clerk*	\$34.39	2.5	\$85.98
Court Coordinator*	\$33.49	4	\$133.96
Baliff*	\$62.35	1.5	\$93.53
Public Defender*	\$64.66	50	\$3,233.00
PD Support staff	\$18.73	15	\$280.95
Total	\$282.77	75	\$3,965.72

*Salary and Employee Benefits included in hourly rate. All other hourly rates include salary only.

Evaluation

The greatest measure of success is the ongoing and increasing participation of homeless defendants. Involvement with the OCP illustrates the participant’s confidence and value these proceedings have in resolving a critical component from their past. Participants recognize that they need to overcome the obstacles of their criminal cases to move on with their lives from the streets through the shelter, ultimately to self-sufficiency.

To date 45 participants have had 62 cases resolved through the program. Of the 45 participants 8 have been identified as veterans. We believe that the number of veterans serviced by the program is higher, a formal survey was not conducted with all of the participants.

Outreach Court participants affirmed in surveys that participation changed their attitude about the court system. A majority responded that it was a positive experience. In response to the question of what do you think would have happened the responses were “be afraid of my warrant”, “probably end up in jail”, “hide and not deal with my problem.”

The survey further asked “What do you want to do now that your case is finished?” Some of the responses were “get my license”, “Move on with my life, keep up the community services”, “seek employment and housing”. A major goal of the program is for participants to feel comfortable coming to the court session to deal with their cases. In the survey participants were asked “How did you feel today at court?” Of the survey responses, 41 % felt very comfortable, 47 % felt fairly comfortable, and 12% felt ok, there were not any negative responses.

Lessons Learned

The primary lesson learned is that it takes time for participants to overcome their fears and face the past. It was expected that many more participants would participate in the program than have so far. More outreach is needed to local shelters in the area to inform staff of the program and procedures. As more clients are serviced by the program the legitimacy and reputation of the program will be proven with the participants whom it is designed to serve.

One of the unexpected results of this program is the clearing of old cases by defendants who do not qualify for the Outreach Court Program. Defendant’s who are ineligible due to their charges are making contact with the Public Defender’s office and facing their past and trying to clear up old cases to gain a new start in the traditional court process.

Success Stories

There have been numerous successes in the short time of operation of the Outreach Court Program. Every person who completes a program and is referred to the OCP has overcome several obstacles and made life changing decisions to make a fresh start. I have included a few brief stories of former participants.

Bobby A. was homeless for 2 years prior to receiving services at a local shelter. Bobby entered a transitional living home and accomplished many goals in just two months at the shelter, he was able to attend counseling with at therapist, maintain sobriety, obtain full time employment, begin paying outstanding debt, prepare a monthly budget, and had registered for courses at a local community college. Bobby was in the outreach court to clear a ticket for driving on a suspended license and failure to provide proof of insurance. Bobby has since regained his license and continues to thrive in his new environment.

Charlotte G. a 61 year old woman who had an outstanding traffic violation was referred to the Outreach Court Program by a local women’s shelter after 2 months of working hard to change her life. Charlotte had not been employed in several years and was able to obtain part time employment, obtain individual and group counseling, she also had been volunteering her free time with the shelter assisting new residents.

Several of our participants are in service with the Mental Health Association of Orange County. The participants enrolled in service at MHA have significant mental disabilities. One participant who has worked quite hard to overcome homelessness and address mental illness is Cynthia M. Cynthia is chronically persistently mentally ill and receives services through MHA, she has secured transitional housing at a local shelter and has applied for SSI benefits due to her mental illness. Cynthia was able to receive services at MHA and volunteer every day at the MHA center assisting in unloading food from trucks that would be used to provide meals for other mentally ill homeless individuals. Cynthia was able to clear up a jaywalking ticket that had gone to warrant. Had she not been able to clear her record she could have had SSI benefits interrupted if she was incarcerated on the ticket and subsequent warrant.

Awards/Recognition

Prior to the first Outreach Court Program session a story was run by the Orange County Register newspaper on September 3, 2003. The paper reported on the problem of how the condition of homelessness leads to many crimes and obstacles and how the court planned to address the problem with a new approach, work on the cause of a person's homelessness, rather than punish the effects.

Future

The most significant shortcoming for the Homeless Court Program is its difficulty in addressing the misdemeanor criminal cases of participants throughout the county. Currently, the Outreach Court addresses defendants who are living within the jurisdiction of the Central Justice Center which services the cities of Santa Ana, Orange, and Tustin. The outreach Court is working with the District Attorney to extend the program to other justice centers within the county and provide this service to all homeless individuals in Orange County

The collaborative group is in the early planning stages to hold a Veterans Stand down in 2005 to assist homeless veterans access services.

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SACRAMENTO'S HOMELESS COURT PROGRAM

Established 1999

Homeless Court Description

Sacramento's homeless court operates once a month on the third Thursday at 2:30 p.m. in Department 3. This is considered the homeless court by official court personnel but not any of the participants. A homeless clinic is held the 1st Wednesday of each month at Loaves & Fishes, a local non-profit, non-government funded, homeless services provider. Loaves & Fishes host the clinic supplying the Public Defender's office with an area to interview and meet with clients. During this clinic, offers are conveyed to the clients. The clients then meet with staff from Loaves & Fishes who enable the client to meet their court requirements.

Loaves & Fishes staffs as well as the staff of the Public Defender's Office connect the clients with community service, drug/alcohol counseling, prenatal health treatment or residential rehabilitation. The clients generally complete their commitment to the court (sentence) prior to the next month's court calendar. The clients may appear in court or authorize the Public Defender to appear on their behalf. At the court calendar, the proof is provided to the court and the matters dismissed, or deemed time served. Normal costs/fines associated with misdemeanors and infractions are waived or stayed by the court. Our clients consider the non-confrontational atmosphere of the clinic their court and generally prefer not to attend the calendar in the courthouse.

History

In the fall of 1998, Tommy Clinkenbeard, an attorney with the Sacramento Public Defender's Office, was investigating a homicide case involving two young homeless men. The potential witnesses were all homeless. Therefore, in order to contact the witnesses, he had to find them at their various camp locations. It quickly became clear that the witnesses did not trust the public defender anymore than they trusted the police. Furthermore, because of illegal camping ordinances, people did not set up their camps or return to their camps until late afternoon or early evening. Thus, Mr. Clinkenbeard and the investigator assigned the case spent many evenings at the camps building trust and listening to the various stories about law enforcement harassment as well as the stories about how many of the people had ended up becoming homeless.

In 1999, while crossing a train trestle to reach the camp area, Mr. Clinkenbeard and the investigator witnessed a law enforcement helicopter circling over the river area and surrounding lands where people camped. There were also two or three law enforcement sports utility vehicles, a large vehicle with an open trailer behind it, and numerous officers both on foot and on bikes. For the next couple hours, law enforcement officers walked through and drove through the bushes and dense vegetation arresting homeless people and confiscating whatever possessions they had. Those possessions were then tossed into the trailer being towed by one of the vehicles.

From the train trestle, Mr. Clinkenbeard watched as many homeless men, women, and children ran and fled attempting to avoid apprehension. Later that evening Mr. Clinkenbeard found many of those who had fled and were attempting to hide. There were people with obvious physical ailments, mental ailments, elderly people, young couples with children, and homeless teenagers. Most were concerned about their possessions and their friends. Other than hiding, they believed there was nothing they could do about the “sweeps” and retrieving their property, or clearing up warrants for minor offenses.

It was at that moment that the need for a homeless legal clinic became clear. About one month later, the Sacramento Public Defender’s Office began holding a homeless legal clinic at Friendship Park at Loaves and Fishes. Initially, the focus was building up trust with the homeless population and informing them of their rights. In addition, a process was developed to assist people with clearing up their warrants and handling current quality of life offenses. The Public Defender’s Office worked closely with Angie Mendoza, staff member at Loaves & Fishes and various other homeless support services so that once the legal issues were addressed, homeless people were made aware of various programs and resources they might be able to utilize. Furthermore, a different approach had to be developed so that instead of serving jail time for quality of life offenses, homeless people could participate in community service at no cost. Because of the many different physical, mental, and emotional needs of the homeless population, a program was designed so that it was monitored by staff familiar with those needs and could thus place individuals in positions more likely to ensure successful completion of their community service.

Core Elements

Once a month, attorneys and interns go to Loaves and Fishes, to conduct interviews, open case files, relay offers on existing cases, and check for outstanding warrants. Also present are Loaves & Fishes staff members who are usually familiar with the clients seeking assistance. The staff of Loaves & Fishes can usually provide background on the individuals coming to the clinic. This information is helpful in discovering which persons suffer from a mental illness, addiction problems, real physical limitations, chronic homelessness, and obstacles impacting housing. On a different day, once a month, a court calendar has been established for cases coming out of the clinic. Judie Odbert, Supervising Attorney of the Public Defender’s Misdemeanor Unit, supervises the homeless court calendar where the cases are put on the record and community service completion hours are presented to the court. Ms. Odbert negotiates most of the cases prior to the court date and those negotiated offers are relayed to the clients at the previous months legal clinic.

Voluntary Program

The homeless court is a voluntary program and no client is required to participate. It is an option that is available to them. Just as the program is voluntary, participation in any offered treatment is voluntary. Judie Odbert and the District Attorney Misdemeanor Supervisor work out alternate offers to be presented to the client. An example of this is an offer of 10 community service hours or 10 NA/AA meetings. The client then does not feel forced into treatment and generally is more receptive to receiving it.

Sentencing

The Public Defender Misdemeanor Supervisor and the District Attorney Misdemeanor Supervisor work out the offers/sentencing. The offers are non traditional and take into account the special needs of each individual. They are geared towards allowing the client with dignity to choose how to handle their obligation to the court and community. They are designed to be capable of being accomplished successfully. We are hopeful that they help the client gain services that meet their needs and help them move towards stability.

Traditional Court vs. Home Court

There are two significant distinctions. First, staff from the Public Defender's Office travel to the homeless community. This has built trust and a significantly improved relationship between the homeless population and the Public Defender's Office. As a result, more homeless people have cleared warrants that in the past had kept them from getting into shelters, obtaining a drivers license, or seeking employment. Many homeless persons are now less intimidated by the court process and feel that they have an advocate. Second, the case dispositions are clearly designed to address the challenges of the homeless population rather than be another obstacle preventing people from transitioning to non-homelessness. For example, dispositions could include drug and alcohol counseling, mental health counseling and participating in a medication program. Community service is designed to accommodate the limitations of the participants while also instilling a sense of accomplishment. Unlike traditional courts, the goal isn't punitive, but rather remedial.

Objectives

Our objective is to provide a forum in which homeless clients with dignity and respect may come to handle quality of life offenses without punitive punishment orientated resolutions.

It is the goal to clear warrants allowing clients to receive community services, which will not accept them with an active warrant. It is the vision of the homeless court to individually design resolutions for the client that address their daily needs, physical and mental health requirements, and inspire in them a sense of pride and accomplishment.

It is the further objective of our homeless court to enable these clients to utilize existing agencies, private providers, educators, and the faith community to find better solutions to homelessness. It is the final objective to stop the denigration and legal entanglement of the homeless in a system that traditionally deals with them by harassing, attempting to relocate them to another county, or warehousing them.

Process

Homeless clients request a warrant check by both coming to the Public Defender's Misdemeanor Unit and speaking with the Defender of the Day (D.O.D.), or by signing up for a check at Loaves & Fishes. Loaves & Fishes faxes the warrant check request list to the D.O.D. The Defender of

the Day faxes the results back to Loaves & Fishes, the clients are then informed of their warrant status. If a client has a warrant, an inquiry is made as to whether they wish to participate in the legal clinic/homeless court.

Participants from Loaves & Fishes are placed on a list, which is faxed to the Misdemeanor Unit Supervisor, Judie Odbert. The D.O.D. brings the walk in clients request directly to the supervisor. All participants are given the date of the next clinic and assured their warrants will be recalled in the next two business days.

The unit supervisor checks each client for additional warrants in the County Traffic system as well as old probation cases to determine if there are additional failure to complete warrants or outstanding fines. Once all active warrants/cases are located, Ms. Odbert completes a calendaring request for each client and list of cases including a warrant recall request. She then opens/creates a file for each client.

The calendaring requests are walked over to the Judge assigned to Department 3, who signs them. The requests are then given to the JIMS unit who places the cases on the next homeless court calendar. Ms. Odbert then meets or emails the Misdemeanor District Attorney Supervisor and negotiates each case prior to the next clinic.

All clients are scheduled for the clinic one month prior to their court date. Walk-ins are accepted at the clinic. Offers are conveyed to the clients at this time. All options and legal rights are explained to the clients. If further negotiation is needed the client is asked to check back the following week with the staff at Loaves & Fishes for their updated offer.

If an offer of community service, NA/AA, or treatment is accepted the client meets with the Loaves & Fishes staff. They coordinate locations convenient to the client for fulfillment of the offer. The Loaves & Fishes staff provides them with a verification form, which has been filled out with the clients name, case number (s) and number of hours or meetings needed. Information on where to attempt to locate the client is gathered.

The client is also given a sheet reminding them of their next court date and obligation. This sheet has the Public Defender contact information on it as well as a map to the courthouse. This sheet is provided to the client by the Public Defender at the clinic.

One week prior to the court date the service providers or clients start delivering completed community service, etc., forms to Loaves & Fishes. Those unaccounted for are sought out by the Loaves & Fishes staff. Completed forms are faxed to the unit supervisor who updates the files, copies the proof for the court and additionally makes calls to locate unaccounted for clients for proof.

At the court calendar the Supervising Assistant Public Defender, as well as two interns, meet with clients one hour prior to the calendar time. Additional proof is gathered and copied; clients are given any additional needed legal advice.

During the calendar proof is provided to the court and pleas are entered either with or without the clients presence, depending on their desire.

We handle between 90 and 130 cases per month.

Budget Considerations

The Sacramento County Public Defender's Office has never received any additional funding outside its normal budget for this program.

It is possible because of the dedication and commitment of the staff and the Public Defender who allows the program to exist. Each attorney and intern who works this program does so on top of their normal duties and assignments. They often use their free time to make sure all the necessary preparations are accomplished.

The Sacramento County Public Defender already had a Defender of the Day program in existence prior to the conception of the homeless court. The D.O.D. has the same duties as before but now has a different location available to assign cases to.

The Homeless Court could not be possible without the generosity and support of Loaves & Fishes. Loaves & Fishes pays the salary for the two women, Angie Mendoza and Arnette Tipton, who find treatment locations, community service providers, and shelters for our clients. They gather the completed forms, hand out reminder cards and ensure the clients presence in court. Loaves & Fishes often gives out bus/light rail passes at their cost to help our clients gain access to court. They have also been known to provide McDonald's coupons to clients as incentives to attend court. This allows the clients opportunity to choose what they want to eat as opposed to eat only what is given to them.

The cost to the Public Defender is absorbed by their regular budget and salary to staff. The court costs are that which they normally incur for running one afternoon calendar. The court slot already existed it was just renamed and the time and date assigned for the hearing of our homeless court cases.

Evaluation

There are many marks of success of our Homeless Court. The first sign of success was the referral of homeless clients with warrants to our clinic and D.O.D. by law enforcement themselves. Being told by police officers that they would prefer we handle the situation rather than the officers arresting our clients for the warrants is priceless.

The clinic ran for six (6) months in 2000 and 231 clients visited the clinic. In 2001 at the clinic we saw 358 clients, 2002, 577 people came, in 2003 resulted in 1,731 clients being helped. This year between January and June 959 clients have come into the clinic for our help.

Between January 2002 and June of 2004 our clients have completed 10,813 hours of community service. That equates to saving our clients 1,802 days in jail (or 4 years 9 months).

The number of cases that have been cleared from the system exceeds that of the number of clients. More clients have been helped than reflected above because these do not include cases that originated with the D.O.D.

Saving the clients from unnecessary incarceration, allowing them to take advantage of services available in the county, aiding them in gaining housing or reaching sobriety are successes that have no normal measurement.

The courts, law enforcement, and prosecutors are saved the costs associated with tracking down the homeless with warrants, serving them, housing them in jail, processing paperwork required for in custody arraignments and transportation as well as the cost associated with attempts to enforce the payment of fines owed the court.

Lessons Learned

If you wait for the perfect moment it will never arrive.

There is never going to be a fiscally perfect time to approach the court or even your department head to start a homeless court. Everyone has budget constraints. Committees bog down-ponder to many “what ifs”. In the meantime society’s homeless are dying and alternatives to incarceration need to be sought.

Do what you need to today to start your court. Educate everyone you come into contact with and win them over! It is possible to do with little funding. Remember these cases are in the system and the court is required to hear them. You must convince them of the truth, they will be saving money in the long run by establishing a homeless court and clearing these cases from the docket. The fiscal savings appears to be the most effective argument when dealing with the courts.

Success Stories

I first met L.B. when she was a witness in a homicide. My first awareness of the devastating extent of her illness and homelessness came when I subpoenaed her detox records. Detox is where chronically intoxicated homeless are taken by law enforcement for short approximate three (3) day stays. Her records were two feet tall. She had been in and out of detox for more times than I could count with no effect. She would be released at 7:00 a.m. and back in by 10:00 a.m. with high alcohol content. She hadn’t had a roof over her head in years. She lived on the streets and ate whatever she could find. She drank everything she could get her hands on.

She started coming to the clinic, warrants were cleared and treatment offered. She didn’t want the treatment in the beginning but finally accepted. She stayed in rehab for nine (9) months. She has been sober now for a year and a half. She now has a home at Quinn Cottages, a transitional housing for the homeless. She is looking for a job.

FOX 40 locally in Sacramento did a two-part expose on our homeless clinic this spring. It was aired on their 10:00 o’clock news. They spent time interviewing the participants of the clinic as

well as the staff working it. They followed the clients through completion at court. It generated some but not enough needed publicity about the plight of the homeless and their limited options in our area.

Awards/Recognition

The Sacramento Public Defender's Office has received community awards from Loaves & Fishes for its involvement in assisting the least fortunate in the community. The Homeless Clinic has received high praise from law enforcement, county agencies and departments, and homeless providers for its significant contribution in assisting the homeless population by removing obstacles on the path towards non-homelessness. Law enforcement and county support services now routinely refer homeless persons to the clinic to clear warrants and deal with any active quality of life cases.

Future

We are currently working with the Court, District Attorney, City Attorney and Downtown Business Partnership in an attempt to expand the clinic. The goal is to move the physical court including the judge and clerk and prosecution to the sight of the clinic. This way resolution would occur in a more streamlined fashion. Clients would be more likely to come to court because of the familiar surroundings and success rates would go up because their would be no lag time between the clinic and court.

Most importantly we are striving to have more providers available as resources for the clients. We are in great need of fully funded residential rehabilitation placements.

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SALT LAKE CITY'S HOMELESS COURT PROGRAM

Established 2004

Foot in the Door: A Minimalist Approach to Homeless Court

Looking to start a homeless court but your prosecutors, public defenders and court administrators are all out of calendar space, out of money and out of human resources? Then maybe, just maybe by telling you what we are doing you can get things going.

Homeless Court Description

We are the Salt Lake City Justice Court Homeless Outreach Program. We are a court of limited jurisdiction hearing infraction and misdemeanor cases with maximum penalties of 180 days in jail and \$1850 in fines. The court is staffed by a judge, two court clerks, a bailiff, a volunteer receptionist, and a homeless day center case worker to assist defendants who have been sentenced to community service. Court is held the second and fourth Fridays of each month from 1:00 to 4:00 p.m. at the Bishop Weigand Homeless day center (a Catholic Community Services homeless service center) which is located near Salt Lake City's homeless shelter and other homeless service providers.

The court has a computer link to the courthouse data base so that defendants can walk in and appear without having previously scheduled a homeless court appearance. However, a substantial number of defendants schedule their appearances via a sign-up sheet at the day center's front desk so that complete files are available on the day of court.

History

The homeless court opened its doors for business on May 7, 2004. The process leading to the creation of the homeless court began when Judge John Baxter received a news release about Steven Binder's book, *The Homeless Court Program: Taking the Court to the Streets*, from a local poverty law lawyer.

While practicing as an attorney, the judge volunteered for several years at a legal advice table at a Sunday morning homeless breakfast. He was interested in maintaining both his connection to the homeless community and homeless service providers. Working as a public defender, the Judge had represented clients in drug courts, and participated in the creation of a restorative justice project and a mental health court so he was familiar with the process of establishing alternative courts.

He ordered several copies of the Binder book and distributed it to the players, the Salt Lake City Prosecutor, the Salt Lake Legal Defender Association, the supervising attorney at the homeless breakfast outreach table and other judges.

The Salt Lake City Justice Court, the umbrella organization for the Homeless Outreach Program, opened in July of 2002. Since then, the Court, staffed by 4 ½ judges and their clerks has seen the case load increase beyond initial projections (see Table 1, below).

Table 1.		FY 2002		FY 2003	
	Month	Total Cases		Month	Total Cases
2002	July	1072	2003	July	1728
	August	1297		August	1453
	September	1212		September	1668
	October	1067		October	1553
	November	1137		November	1353
	December	1334		December	1346
2003	January	1906	2004	January	1161
	February	1223		February	1226
	March	1748		March	1541
	April	1422		April	1419
	May	1609		May	1305
	June	1755		June	1724
	Total	16782		Total	17477

4% increase in case filings from fiscal year 2003 to fiscal year 2004.

At the same time Judge Baxter was contemplating a homeless court project, the Court, the prosecutors and the public defenders were adjusting to the real world requirements of getting a high volume court up and running. Consequently, resources from all three entities were stretched and the ability to establish new programs questionable.

Rather than attempting to establish a coalition to push the project forward in light of the problems related to resources, the judge chose a minimalist approach. Recognizing that at least he could recall bench warrants, set court dates, and accept guilty pleas and sentence on many of the minor charges that homeless people receive, he enlisted the assistance of his immediate staff and Matt Sorensen, the court’s criminal division manager. The team brainstormed an approach until they developed a simple model using current resources existing within the court hoping that, “if we build it they will come.”

Once the model was developed, the judge and Matt approached the managers of the homeless day center to see whether they would be interested in hosting the court. Judge Baxter selected the site based on his experience within the homeless community knowing that even during good weather a substantial number of homeless people would use the center to make telephone calls, do laundry or play cards and watch television. The center managers were enthusiastic about the opportunity to extend court services to the homeless population they serve. They have provided a space for the court, computer link access and a case manager to assist defendants sentenced to community service.

For each session of homeless court, the court provides a half day of judge time, a half day of bailiff time and with file preparation and updating, one and one-half days of clerk time. Our volunteer receptionist and the case worker each dedicate one-half day to the project.

We are beginning to interact with the prosecutor's office, the Salt Lake City Police Department (SLCPD) and the local Medicaid mental health care provider to develop a more comprehensive approach, similar to the San Diego model, although none of these relationships has been formalized yet.

The homeless court project is necessary from a practical perspective because our court accrues approximately ten bench warrants per day at arraignments for people who are identifiably homeless. Although that number seems insignificant in isolation, it amounts to over 2,500 warrants per year, a significant drain on court resources. Further, most of these cases eventually resolve by the defendant spending some time in jail, receiving credit for time served and closing the case. The Court needed some mechanism to clear these warrants and if possible, to gain some benefit to the city for adjudicated cases. Finally, warrants for the arrest of any particular homeless person are perceived to be if not in fact barriers to that person gaining access to the services he or she requires.

Addressing each issue in turn, let's begin with resources. A recent study presented to Salt Lake County's Criminal Justice Advisory Committee established the expense to house a criminal defendant in the County's Adult Detention Center as \$69.00 per day. The day of booking costs the taxpayer \$150.00 for officer and administrative costs. The Salt Lake City Prosecutor's office, for purposes of community restitution to be paid by defendants participating in a restorative justice program estimates the cost to keep a SLCPD officer on the job as \$60.00 per hour including wages, training, benefits and vehicle. The time from initial contact between defendant and police officer through arrest and booking and for the officer to get back on the beat is two hours.

A typical outcome for a homeless defendant booked into jail for warrants for failing to appear in court on minor, non-violent offenses is that he or she will spend three or four days in jail, plead guilty to several cases, have several cases dismissed and receive either credit for the time already served or receive a few more days of jail time. In the event that he receives credit for time served and has served three days, not counting court costs or prosecutor and defense attorney costs, the taxpayer outlay is \$120.00 for the police officer, \$150.00 for the first day in jail, and \$69.00 x 2 for the second and third days in jail or a grand total of \$408.00 to clear the cases.

Factoring in prosecutor costs, court clerk costs (since every file has to be handled by someone), judge costs, bailiff wages, interpreters and transportation costs for officer time whether within the jail for video court or for transportation to the courthouse, the cost for each defendant jailed can easily rise another \$100.00, so \$500.00 per defendant is not unusual.

Compare those costs to seeing a defendant in our homeless court. Clerk costs of \$8.50 for 30 minutes to prepare and screen a file, \$7.50 for 15 minutes of bailiff's wages, and \$13.00 for 15 minutes of judge time to either adjudicate or set a new hearing for a total of \$29.00 (see tables 2 & 3).

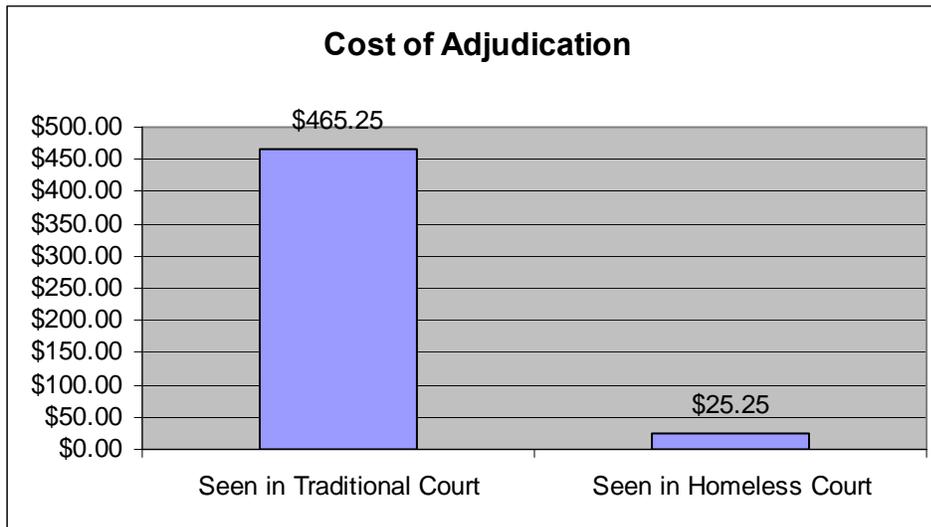
Table 2.
Government Resources in Traditional Adjudication

Adult Detention Center per day (average of 3 days in jail (\$69.00X2)).....	\$69.00
Booking Cost and first days stay....	\$150.00
Patrol Officer wage and benefits per hour (average of 2 hours from arrest to booking).....	\$60.00
Prosecution Cost (30 minutes Screening and filing).....	\$17.00
Legal Defenders cost (30 minutes Spent with defendant and Processing case).....	\$15.00
Judge cost (salary and benefits 15 minutes with defendant).....	\$13.00
Clerk cost (salary and benefits 30 minutes).....	\$8.50
Bailiff cost (salary and benefits 15 minutes).....	\$3.75
Total.....	\$465.25

Government Resources in Homeless Court

15 minutes with defendant).....	\$13.00
Clerk cost (salary and benefits 30 minutes).....	\$8.50
Bailiff cost (salary and benefits 15 minutes).....	\$3.75
Total.....	\$25.25

Table 3.

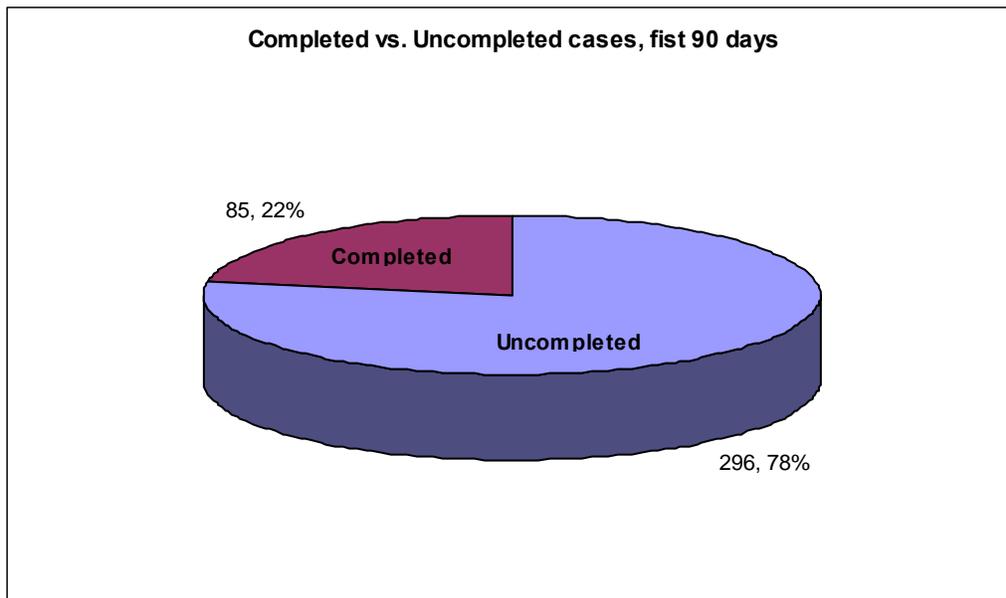


Second, the city Justice Court holds daily arraignments each morning with the calendars comprised of from 80 to 120 cases. Defendants who are cited are to report to the court for arraignment 14 days after receiving the citation. Most non-violent misdemeanor defendants are not in custody on arraignment day. Each day an average of about 40 defendants fail to appear as scheduled. The court records show that 23% of those who fail to appear have, in the address line

of the citation issued by the police, an address of, “transient, homeless, or no address,” or the address of the local homeless shelter. As the court bench warrant pipeline filled, it became imperative to, in some way, be able to process these outstanding cases in an efficient, cost effective manner rather than simply waiting for the defendants to be booked.

At homeless court we have adjudicated 381 cases in 13 sessions and have received proof of community service and successfully terminated probation in 85 cases. In view of the overall numbers for the court, that figure seems small, but those are 85 cases that no clerk will have to touch again.

Table 4.



22% of all cases heard in homeless court in the first 90 days have probation terminated successfully with proof of community service. 78% or 296 adjudicated cases remain open awaiting proof of completion of community service.

In addition, the 85 cases completed represent 690 hours of community service or, based on the dollar per hour amount generally granted by the judges of our court, \$6,900 worth of service to the city.

Finally, based on data compiled prior to the establishment of the San Diego court, Judge Baxter’s years of experience at the homeless legal table and anecdotal evidence since the Salt Lake homeless court was established, homeless defendants were and are not receiving services necessary to break out of the cycle of homelessness because they fear arrest on their outstanding warrants. Some privileges, such as possessing a valid driver’s license or holding a place on a subsidized housing list simply cannot be had with warrants outstanding. By clearing warrants and resolving cases homeless defendants can begin with a clean slate and gain access to those necessary services.

Core Elements

At its most basic level, the Salt Lake homeless court recalls warrants, adjudicates and sentences on minor cases and sets future court dates at the main courthouse for cases which need prosecutor and defense attorney assistance.

Operations at this level required at a minimum, a space for a courtroom at a homeless shelter, a day center, or some other place with ready public access where homeless people do not feel threatened. Our experience is that those who are able to resolve their cases in a familiar environment without having to go to the courthouse do so readily, while a substantial proportion of those who are set for further dates at the courthouse fail to appear as scheduled.

The facility needs a computer link to gain access to the information necessary to recall warrants, clear warrants on other judge's calendars, and schedule hearings at the courthouse.

The facility must be able to be secured to protect court staff. Security at our homeless court operates on several levels, but we do not use a magnetometer or metal detection device. On the first level, the day shelter staff is alert to the presence of the court and has provided security intervention when necessary. On the second level, the volunteer receptionist has worked with the homeless population for years and is careful to ensure that no one who appears to be inebriated or otherwise impaired interrupts proceedings. Next, the bailiff is present and is the first person defendants meet as they come in the door of the actual courtroom so that they are aware of an armed presence in the courtroom. Finally, our particular facility has a door behind and to the side of the bench for clerks and judge to use if necessary.

The second core element is a court administration and staff willing to fund and support the homeless court. Again, the resource issue rears its ugly head. Our court managers universally agree that philosophically, the homeless court is a good idea. However, we have had to work closely with them, educating and collaborating to arrive at staff resource allocations sufficient to staff the court, but not burden the overall operation of the main court. Additionally, the in-court staff must be educated and comfortable with homeless defendants and the issues which contribute to their being on the streets. Not everyone we see is well either mentally or physically. It is the judge's and court managers' responsibility to educate court staff so that they will have the empathy and resiliency to interact appropriately in what may be a challenging setting.

The third core element of our court is recognizing that although we are operating at a very basic and simple level, we can develop a paradigm for case resolution that is 1) fair to both the city and the defendant, 2) provides the defendant an opportunity to successfully navigate probation, and 3) may provide a defendant with a clearly recognizable goal which they may achieve with pride and dignity.

As to fairness, it is fundamental to our model to understand that these cases are not revenue positive cases. Before the homeless court, the only way these cases resolved was with the expense of incarceration. We have already discussed in detail what the taxpayers either give or receive by incarcerating homeless defendants compared to receiving the benefit of community

service. By recognizing that homeless defendants are willing and able to perform service to resolve their cases, we have developed a resource which did not exist before.

Regarding successfully navigating probation, sentencing terms which encompass an exchange of community service instead of jail time, and help finding a location to complete that service has resulted in success for defendants who previously have had no success whatsoever serving probation. A bonus and an unanticipated consequence of the homeless court, is the pride with which our successful defendants have presented their proof of service to the court. For many, it appears that this is the first time in a long time that they have been treated with dignity by authority figures and have been able to make a contribution to their society while taking care of their business with the court.

The fourth core element of our court is that defendants are not booked. Warrants are recalled for no fee regardless of whether the defendant pleads guilty or not guilty. Defendants are not booked out of the homeless court to encourage them to come forward and begin resolving their cases.

The final core element is that although court is held in a room at a homeless day center, and although the defendant is seated across a desk from the judge, it is still a court of law. Although at times the atmosphere may become less formal than in a courtroom at the courthouse, hats come off, the judge is addressed as, "Your honor," and the court staff is treated with respect. One disadvantage of holding court in the afternoon is that occasionally a defendant will have come under the influence and may need to be escorted from the court. In that event, the security measures discussed above come into play and there have been no incidents of note.

Process

A defendant comes to the homeless court either by signing up on a sheet at the day center or by walking in while court is in session. For a defendant to figure out whether he has outstanding warrants with our court, the court prepares a computer generated warrants list using as search terms the homeless address identifiers discussed above. Then, we leave the list at the front counter of the day center for defendants to peruse. If a defendant sees his name on the list, he can sign up for court. The center staff faxes a copy of the list to the court and the clerks pull and prepare the files.

If a defendant has not signed up, he can still attend court by checking in with our volunteer receptionist and giving her sufficient identifying information that the clerks can search for case histories in the court database using a computer link from the homeless court to the courthouse. If cases are found, the clerks print histories, warrants are recalled, and the cases are either adjudicated or set for hearing at the courthouse.

If a defendant pleads not guilty or continues a previously entered not guilty plea a pretrial conference is set before the judge who issued the bench warrant for the most serious charge the defendant has. The prosecutors and legal defenders are notified so that they may have files available or notices of appearance and demands for discovery filed prior to the hearing.

If a defendant wishes to plead guilty to cases such as Open Container, Trespass, Park Curfew and Public Intoxication, the judge will accept the plea(s) and sentence that day. Typical sentences are 10 to 30 hours of community service with a maximum of 30 hours total based on the idea that 30 hours is a round number roughly equivalent to four 8-hour workdays and that the defendants, if booked, usually spend about three or four days in jail. No cases are dismissed. If a defendant pleads guilty, he is sentenced that day to community service and a period of probation. The probation period is for up to 12 months (recently revised downward to 6 months for new cases) and is terminated successfully upon proof of completion of the community service.

If a defendant chooses to plead not guilty, the judge discusses appointing a defense attorney and sets a fairly short court date at the court house. The judge will not accept guilty pleas without counsel on assaults or other violent charges, thefts, DUI's, prostitution and sex solicitation cases, and possession of marijuana and paraphernalia cases, some of the more common charges homeless defendants receive.

If a defendant fails to appear at a court date at the courthouse, or if community service is not completed during the period of probation, new bench warrants issue.

Success Stories

At this basic level, we are defining success in terms of 1) successful completion of probation and 2) dollars saved from not booking defendants.

AB, a male about 45 years old has been booked 13 times from May 2003 to March of 2004 for 11 charges of trespass, open container (of alcohol) and public intoxication and one charge each of theft and battery. His average time between bookings was about 25 days. He has served a total of 65 days in jail. Using the costs discussed above, he has cost the city $13 \times \$150.00$ or \$1950 for the days of booking alone. Subtracting those 13 booking days from the 65 total days served, he has cost the city $52 \times \$65.00$ or \$3,380 for regular days in jail or $\$1950 + \$3,380 = \$5330$ for the total jail stay. By pleading guilty to the 11 minor charges, he was sentenced to and has completed 30 hours of community service. After pleading, he remained out of custody from early March 2004 until a recent booking in August 2004 or about 160 days. AB chronically fails to appear, even when he comes to the front counter of the courthouse to schedule hearings. By resolving the minor charges at homeless court, he has remained, for the most part, out of jail and completing \$3000 dollars worth of community service. If he had continued to be booked at his average rate of about 25 days between bookings, we could have expected to incur the costs for at least five more bookings during the time from March 2004 until August 2004 for a cost of \$750.00. So, by clearing his warrants, the court has saved \$750 in costs and gained the \$3000 in service.

SL, a female about 40 years old has been booked twice in 2004, once each in March and April. She has numerous prior bookings dating back to 1991. Her recent charges include trespass, alcohol in the park, open container, and camping in a public place. Her time between bookings in 2004 was 34 days. During 2004 she has served a total of 17 days in jail. Using the costs discussed above, she has cost the city $2 \times \$150.00$ or \$300 for the days of booking alone. Subtracting those two booking days from the 17 days served in 2004, she has cost the city $15 \times$

\$65.00 or \$975 for regular days in jail or $\$300 + \$975 = \$1275$ for the total jail stay. By pleading guilty to the 11 minor charges, she was sentenced to and has yet to complete her 30 hours of community service. She has not been booked since April 2004 and as of early September has remained out of custody for about 140 days.

The defendants described above roughly represent the range of bookings, charges and time spent in jail for homeless court defendants. There is no effort to define success within the Homeless Outreach Program solely in financial terms, it is only that at this point of our development we have few other tangible measures.

Future

As word of the Homeless Outreach Program spreads, we have made contact with representatives of the Salt Lake City Prosecutors Office, the Salt Lake City Police Department, the Salt Lake Legal Defender Association, Valley Mental Health (the Medicaid mental health treatment provider for Salt Lake County), and the Third District Court Mental Health Court among others. Although we do not expect rapid growth given time and budget constraints, our wish list includes actively engaging all of these agencies in a comprehensive program including adjudicating more serious cases and giving homeless defendants credit for participating in substance abuse treatment, vocational rehabilitation and other educational programs. There is no formal plan in place, now, rather we are assessing the success of the program in its current format, then letting it sell itself.

Conclusion

By giving you some idea about how we started our program, we hope that those of you who have budget and personnel constraints similar to those we have faced will take the next step and leverage some of those scarce resources into your own homeless court. The financial benefits seem beyond above arguing, but the intangibles, the feel good stuff is what really keeps the project going forward. We will not tell you that the clerks fight to go to homeless court, but in a court atmosphere where much of what we all do is just grinding, hard work, it is very gratifying to get some immediate positive feedback by way of a thank you and a handshake from someone on the streets who feels as though they have finally been heard and treated with dignity.

Statistics compiled by Melissa Blanco, Marilyn Sudweeks and Marnie Hammer. Judge John Baxter is the Salt Lake City Justice Court Homeless Outreach Program judge. Matt Sorensen is the criminal division manager for the court.

Contact Information

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SAN BERNARDINO COUNTY HOMELESS COURT PROJECT

“Know Who You’re Playing With”

The Homeless Court Project (HCP) in San Bernardino got off to a bang in mid-spring of 2004. Steve Binder’s lecture at a training seminar in Seattle, WA inspired Supervising Deputy Public Defender, Debra Harris, and she left the seminar determined to get a HCP organized in San Bernardino County. In the meantime, Deputy District Attorney, Michael D. Martinez, had his own inspirations about a Homeless Court. He too had attended a training conference wherein he left with an Olympic-type flame burning within him.

He passed the torch on to his Chief, Karen Bell, who later got her boss on board. To their amazement, a Superior Court Judge called a meeting of “key participants” and informed them that San Bernardino County would have a Homeless Court, and it would be patterned after a neighboring county’s project. The attendees were DAs, Court staff, judges, PDs, Department of Behavioral Health staff and community leaders who worked closely with the homeless population. The Bench donned Behavioral Health as the leader of the project.

Steve Binder also presented a training seminar in San Bernardino County that was well received by the all attendees, DBH, DAs, PDs, and community leaders. The stage was set, until all involved realized that most of the cases that would go to the Homeless Court Project involved the PD and the City Attorney.

Needless to say, the Homeless Court Project immediately met with a brick wall. However, all was not lost! Through the experiences of many of the Committee members, such as the Bench Officer, the DA’s Office and the Police Representatives who personally toured areas populated by our homeless community, we have all gained a greater insight into the plight of the homeless and now, more than ever, realize the importance of having the Homeless Court Project in the County of San Bernardino.

Therefore, even though we currently do not have a HCP, all of our efforts provided each of the participants with valuable knowledge about our County’s homeless population, issues unique to our community and who the key participants are. We anticipate scheduling another planning meeting with all the key participants in the near future, and we are hopeful that we can successfully organize a Homeless Court Project very soon.

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SAN DIEGO'S HOMELESS COURT PROGRAM

Established 1989

Homeless Court Description

Homeless Court Program (HCP) is a special Superior Court session for homeless defendants --- convened in a homeless shelter --- to resolve outstanding misdemeanor offenses and warrants. The HCP builds on partnerships between the court, local shelters and service agencies, and the prosecutor and public defender. It works to resolve the problems that homelessness represents with practical solutions. Initial referrals to Homeless Court originate in shelters and service agencies. The prosecution and defense review the cases before the court hearing. The court order for sentencing substitutes participation in agency programs for fines and custody. The HCP is designed for efficiency: the majority of cases are heard and resolved, and people are sentenced, in one hearing.

History

In 1989, San Diego started the first Homeless Court Program in the nation. The HCP is a special Superior Court session held annually at Stand Down and monthly at local shelters for homeless defendants to resolve outstanding misdemeanor criminal cases. The Homeless Court was created in response to a survey where one in five homeless veterans requested help with the criminal justice system.

Following this first Homeless Court session, the San Diego Court reported 130 defendants had 451 cases adjudicated through Stand Down in 1989. The following year, 237 homeless veterans addressed 967 cases. Between 1989 and 1992, 942 homeless veterans resolved 4,895 cases in Stand Down courts. The continued large numbers of homeless people participating in the Homeless Court Program, coupled with their efforts to overcome the obstacles their condition represents, fostered the program's expansion from an annual, to a quarterly, then a monthly schedule. Over the years, the Homeless Court expanded to serve battered and homeless women (1990), residents at the city- sponsored cold weather shelter (1994), and the general homeless population served at local shelters (1995). In 1999, the HCP started holding monthly sessions, alternating between two shelters (St. Vincent de Paul and Vietnam Veterans of San Diego), with a grant from the Bureau of Justice Assistance/Department of Justice.

To counteract the effect of criminal cases pushing homeless defendants further outside society, this Court combines a progressive plea bargain system, alternative sentencing structure, assurance of "no custody" and proof of program activities, to address a full range of misdemeanor offenses and bring them back into society.

Core Elements

Voluntary Program

Homeless participants voluntarily sign up for the HCP through their chosen homeless shelter or service agency. The homeless service provider introduces the participant to the HCP explaining its purpose, entry criteria and step by step process. The participant voluntarily enters his/her homeless shelter/agency. The HCP does not order participants into a program. If a participant who has signed up for Homeless Court decides to challenge his/her case, be it through a trial or motion, the case is set for a date certain in the courthouse. The HCP homeless participant is entitled to all protections afforded by due process of law. No one gives up the right to go to trial or pursue motions challenging the allegations against him/her.

Addresses Full Range of Misdemeanor Offenses

The HCP addresses a broad spectrum of misdemeanor offenses, including, under the influence of a controlled substance, theft, and driving under the influence charges. The HCP recognizes people can overcome great obstacles and serious misdemeanor offenses, and that these cases represent but one part of their lives, not the whole of the individual. Participants who appear in Homeless Court with serious misdemeanor cases submit proof of completion in significant program activities. In many circumstances, the participant's program activities voluntarily exceed the demands a court might order for treatment for low term felony cases (e.g. certain drug and theft charges).

Progressive Plea Bargain

The HCP offers a different plea structure from the traditional court proceeding. The HCP plea agreement responds to the cases/offenses the homeless participants receive due to their condition and status: living on the streets. Additionally, the HCP agreement acknowledges the efforts the participants undertake before their appearance in court. The plea agreement recognizes the participant has completed the court order before the court imposes sentence. The participant has performed the program activities without the threat of custody or a larger fine. The participant completed the order before it was given because that is what he/she needed to do to make a move from the streets, through the shelter program, to self-sufficiency.

Alternative Sentencing

The HCP "sentences" participants to activities in the shelter program. Local homeless shelters and agencies are the gateway for participants to enter this Court. Homeless persons who want to appear before this Court must sign up through one of a number of local shelters.

The alternative sentencing structure is not coercive or punitive in nature, but rather designed to assist homeless participants with reintegration into society. With alternative sentencing, the HCP gives "credit for time served" for the participant's accomplishments in shelter activities. These activities include life-skills, chemical dependency or AA/NA meetings, computer and literacy classes, training or searching for employment, medical care (physical and mental), counseling

and volunteer work. These activities replace the traditional court sentence options of fines, public work service and custody.

The Homeless Court recognizes that each shelter has its own requirements and guidelines to allow residents access to the Homeless Court. Some shelters require a resident to complete an assessment, an initial phase of the program or attend specified meetings. The shelters introduce potential participants to the Homeless Court through a variety of means. These agencies will offer the Homeless Court as an option after the homeless person has completed a certain course, phase, or activity. Each shelter/service provider establishes requirements in accordance with its treatment program. The Homeless Court does not interfere with the shelter requirements. Requirements vary from program to program.

The shelters perform the assessments of clients and provide for their basic needs (food, clothing and shelter) while building the motivation and support that leads clients to the services which, in turn, fulfill the court orders for alternative sentencing. The shelter caseworkers are in the best position to evaluate the client's needs and design a plan with attainable goals and benefits. Most shelters offer emergency and transitional beds for their clients. Some provide independent living for clients who successfully complete their program. Other shelters provide basic services or support for clients seeking to access benefits, counseling, group meetings, or an identification card, clean clothing and a meal. Clients who actively select their services and goals are more likely to benefit from the program. The Homeless Court and shelters share the desire to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness.

The shelter representatives write advocacy letters for each client. The advocacy letter is evidence of the relationship between the client and the agency while including a description of the program, the client's start date, and accomplishments, programs completed and insight into the client's efforts. The HCP sentence strengthens and advances the efforts of the participant and agency representatives.

When participants work with agency representatives to identify and overcome the causes of their homelessness, they are in a stronger position to successfully comply with court orders. The quality, not the quantity, of the participant's time spent in furtherance of the program is of paramount importance for a successful HCP experience. A person who signs up for the HCP is not limited to the sentencing alternatives provided by the homeless agency that referred him/her to Court. Rather, the participant is encouraged to participate in a program that will best meet his/her needs.

No One Goes Into Custody

The HCP key players (judges, prosecutors, defense attorneys, and homeless shelter/service agencies) agree, "No one goes into custody against his or her will." This does not mean that the prosecution gives up its power to ask for custody, nor does the Court relinquish its authority to incarcerate. Rather, this agreement acknowledges both that the participants have committed offenses and have met court requirements through their work in their programs. This agreement respects the relationship and trust the homeless service agencies hold with the participants who

appear before the HCP, and acknowledges that time spent working with these agencies is equivalent to, and more constructive than, “time” spent in custody.

Distinctions between the Traditional Court and Homeless Court

In San Diego, the traditional court sentence for a municipal code violation is a fine of \$300. In the traditional court setting, a defendant will receive \$50.00 “credit” against a fine for every day spent in custody. The defendant who spends two days in custody receives credit for a \$100.00 fine. To satisfy a fine of \$300.00, the court requires a defendant spend 6 days in custody. Thirty days in custody is the equivalent of a \$1,500.00 fine.

The court might convert this fine to six days of public service work or the equivalent time in custody. The traditional punishment for a petty theft is one day in custody (for book and release), \$400 in fines, victim restitution, and an eight-hour shoplifter course. When someone is convicted of being under the influence of a controlled substance for the first time, he/she faces a mandatory 90 days in custody or the option of completing a diversion program. The diversion program includes an enrollment orientation, 20 hours of education (two hours a week for 10 weeks), individual sessions (biweekly for three months, 15 minutes each), drug testing, weekly self-help meetings, and an exit conference.

Typically, the HCP participant has *already* been in a shelter program for at least 30 days (from the initial point of registration to the hearing date) when standing before the judge at the shelter for Homeless Court. By this point, their level of activities in the shelter or a service agency *exceeds* the requirements of the traditional court order. While the program activities vary from one shelter to another, they usually involve a greater time commitment than traditional court orders and introspection for their participants. Program staff ensures the homeless participants are already successful in their efforts to leave the streets before they enter the courtroom. These individuals are on the right track before they meet the judge at the HCP.

Objectives

The Homeless Court Program brings the law to the streets, the court to the shelters and the homeless back into society. The Homeless Court Program provides access to Court for homeless defendants, working with shelter services, holding proceedings in shelter community rooms and recognizing individual effort for purposes of sentencing. The Homeless Court Program’s greatest achievement is the contribution of the shelter and homeless participants building a more inclusive criminal justice system and stronger community.

Process

Overview of the HCP Process

Each month staff from the public defender’s and city attorney’s offices, various shelters, and the San Diego Superior Court carry out a series of synchronized steps which ultimately culminate in the HCP hearing.

Step One: Outreach/Roadshow

Initially, to help staff and case managers understand and visualize the HCP, an attorney from the Office of the Public Defender visits local shelters and service agencies to explain the HCP purpose and process. In turn, the case managers introduce their clients to the HCP. The case managers' challenge is to encourage participation in the HCP. They use their ability to convince potential defendants that this program is designed to be a positive experience in their lives. The case managers use examples of successful participants to illustrate the importance of clearing one's record and being able to access government services.

The outreach program begins with a viewing of the HCP half hour documentary video, "*And Justice for All: Taking Courts to the Street*." The video shows the frustration and despair on the streets of San Diego. It explains how the HCP started and shows the HCP in action at the shelters. The public defender presents the video, explains how to use the monthly calendar, "Interest List", "Agreement to Appear" and answers questions or responds to issues raised during the session. When possible, a representative from one of the host shelters joins the outreach meetings.

Step Two: Interest List

After learning about the program through an outreach session or from the shelter staff, shelter residents sign-up on a "HCP Interest List." Potential participants provide their name (including aliases), date of birth, gender, and ethnicity for purpose of identification. The agency fills out contact information (agency name, case manager, and contact person's phone number) and forwards the list to the Office of the Public Defender for a search of case files. The Office of the Public Defender coordinates the participation of those whose names appear on the interest list, delivering the list to the prosecution and Court. Participants receive an agreement to appear calendar, which acts as an organizing device for those who cannot afford day planners. This also serves as a notice to show the police that the participant has a future court date.

Step Three: Plea Offers and Negotiations

The city attorney reviews the case files of the defendants on the court calendar. The city attorney generates a list of cases, relevant discovery and an offer (plea bargain) for resolution of the cases. The prosecutor makes offers for resolution of the cases based on criminal history, impact of criminal behavior on the community, and the number of outstanding cases. The city attorney offers a plea bargain, in anticipation of proof, and an acknowledgement of each participant's involvement in his or her respective program. Cases outside the City of San Diego are negotiated between the deputy public defender and deputy district attorney on a case by case basis.

The public defender may negotiate further with the prosecutor after learning more about the defendant's individual situation during a pre-hearing consultation. In most instances, these negotiations end with an agreement reached. In the rare instance when the prosecution and defense do not reach an agreement the case is continued to a future date for further negotiations or proof of program activities.

Step Four: Records Search

Using the information on the Interest List, the Deputy Clerk of the San Diego Superior Court conducts a criminal history search for open cases, further proceeding, warrants, and pending civil assessment penalties. Active cases are placed on the next HCP calendar if they are criminal cases within the jurisdiction of the San Diego City Attorney's Office (i.e., persons cited for misdemeanors committed in the City of San Diego) with outstanding warrants. Cases from the County of San Diego, in the jurisdiction of the District Attorney, are addressed on the HCP calendar when negotiations are final. No felony charges are calendared for HCP. However, attorneys with the Office of the Public Defender coordinate the surrender of felony clients into the courthouse as referrals from the Homeless Court Program with proof of participation in program activities.

Step Five: Active Cases Set for Hearing

The San Diego Superior Court Clerk prepares a court calendar/docket for the HCP hearing. This docket includes those who signed up on the Interest List and who were found to have outstanding active, non-felony, city of San Diego cases with the Court. The court calendar lists each defendant and all of his/her open cases, warrants, fines, civil assessment penalties, and any other pertinent information.

Step Six: Defense Attorney Consultations

One week prior to the hearing, the public defender meets participants at the host shelter. Case managers notify each defendant who has open cases to come to the meeting so that they can review his/her case(s) and prepare for next week's court hearing.

The public defender meets with the defendant to review his/her case(s). The public defender presents each individual case(s) and proposed plea agreement as the worst-case scenario to help the participant face his/her greatest fears about the judicial process. The public defender learns about the individual's participation in a shelter or other type of program, (i.e. community college, technical school rehabilitation, and outside medical treatment) which the Court can use as an alternative sentence to fines, community service, probation, or in some cases, custody. During the consultation, the public defender also explains the importance of the advocacy letters each participant is required to bring to Court. These letters show proof of participation in classes, counseling, and community service. These letters highlight individual accomplishments with specific information including the total number of hours that the defendant participated in treatment, counseling, or volunteer service as well as the type of programs. The public defender also explains the history of the HCP program. The defense attorney uses the shelter programs and the recovery process to get clients involved in successful court hearings. The defense attorney tells the clients to bring back proof of program activities and advocacy letters to ensure a successful resolution to the individual cases.

The one-week lapse between the initial interview and the court session allows the attorney time to confirm the participants' activities and identifies difficult cases.

The consultation meeting between the public defender and the defendant a week before the HCP hearing is unlike the process in a traditional misdemeanor court. Usually in a traditional misdemeanor court the public defender only meets with the defendant just prior to an appearance in court. The HCP consultation provides the public defender with important information to negotiate a settlement with the prosecutor. If the defendant cannot attend the initial meeting, phone counseling can be arranged during that week. Occasionally, the defendant and the public defender meet on the HCP day. The pre-hearing case review is an unusual and unique feature of the HCP program.

Step Seven: The Hearing

The hearing is scheduled for the third Wednesday of each month. Hearings are alternately held at one of the two largest shelters in the San Diego area (St. Vincent de Paul Village or Vietnam Veterans of San Diego) to accommodate the defendants, shelter staff, court personnel, and visitors. Due to advanced planning efforts by all involved parties, the hearing moves rather quickly. The California and American flags are placed in the front of the room. The sheriff calls the Court to order as the judge --- dressed in traditional court attire --- enters the room. This careful preparation generates an atmosphere similar to the “traditional courtroom.”

The defense attorney formally calls each defendant to come before the judge. The public defender, prosecutor, and defendant stand in front of the room. The judge takes the bench, either standing at a podium or seated at a fold out table. The defense attorney states the agreement, says whether the recommendation is a dismissal or a plea, and presents the letters. The court clerks give the case files to the judge and the public defender asks that advocacy letters be formally entered into evidence.

Unlike a traditional court, the judge communicates more often with the defendant than with the public defender. The judge asks the defendant about what brought him/her to the Court, his/her participation in programs, counseling, or classes. The judge consults the city attorney about the offer for disposition and, in most cases, the charges, warrants, and penalties are formally dropped as previously agreed. The defendant’s record is clean. On average, 90% of the Homeless Court cases are dismissed.

As in traditional court, the judge may continue a case until the defendant provides appropriate documentation to satisfy the alternative sentence agreement (such as advocacy letters). If a defendant fails to appear for the hearing, the case is taken ‘off-calendar’ and any agreements that have been negotiated between the prosecutor and public defender are withdrawn.

Step Eight: Follow-Up

The deputy court clerk transfers the case disposition information written on court calendar at the hearing into the court’s database, files the advocacy letters, and closes the case files if necessary. Defendants who fail to appear are not automatically placed on the HCP calendar for the following month. They must begin the process again at step one, signing up with the public defender.

Budget Considerations

In July 1999, ten years after starting with Stand Down, the Homeless Court received a grant from the Department of Justice/Bureau of Justice Assistance to hold monthly court sessions. This grant funded all the key agencies that comprise the Homeless Court: the Office of the Public Defender, City Attorney of San Diego, San Diego County Superior Court, Vietnam Veterans of San Diego, St. Vincent de Paul, and an evaluation by SANDAG (San Diego Association of Governments). In April 2001, at grant's end, all the key players integrated funding of the monthly court sessions into their regular budget.

The Homeless Court Program developed a number of materials to foster growth and replication of the Court. These materials include:

- “And Justice for All...” a half hour documentary video on the Homeless Court was released in November 1999.
- “Is it a crime to be homeless?” a tri-fold pamphlet that describes how to access and prepare for Homeless Court.
- “Taking the Court to the Streets” (a Homeless Court Program, how to manual), published by the American Bar Association/Commission on Homelessness and Poverty in September 2002.
- “Taking the Court to the Streets” a second half hour video, highlights participant's efforts and accomplishments to prepare for Homeless Court, released in September 2003.

Evaluation

The greatest measure of the Homeless Court Program's success is the ongoing and increasing participation of homeless defendants. Their involvement with the Homeless Court Program illustrates the participant's confidence for and the value these proceedings have in resolving a critical component from their past and need to overcome the obstacle of their criminal cases to move from the streets through the shelter to self-sufficiency.

In 2003, 574 defendants applied for Homeless Court. The Court resolved 918 cases during this period. Between January and December 2002, over 300 defendants applied for Homeless court. In 2002, monthly sessions settled 564 cases. Between January and December 2000 (the first calendar year of monthly hearings), 198 homeless defendants resolved 507 cases, reports San Diego Association of Governments evaluation of the Homeless Court Program. The researchers concluded “the most significant factor as to whether or not a participant appeared at the hearing was whether or not they met with the public defender one week prior to the hearing.”

The San Diego Superior Court reports, 188 homeless veterans resolved 454 cases at the three-day annual Stand Down event in 2002. In 2003, with budget constraints eliminating on site registration for court, 155 homeless veterans resolved 400 cases.

In June 2001, the San Diego Association of Government (SANDAG) issued a 79 page report with appendix entitled “San Diego Homeless Court Program: A Process and Impact Evaluation”

authored by Nancy Kerry and Susan Pennell. Address: SANDAG, 401 B St., Ste. 800, San Diego, CA. 92101, phone: (619) 595-5300.

SANDAG reported 209 participants resolved 704 cases through monthly Homeless Court sessions between October 1999 and February 2001. The SANDAG evaluation found 80% of these participants had no post-hearing criminal activity.

Homeless Court participants affirmed in interviews that Homeless Court participation changed their attitude about the court system. All but three respondents answered affirmatively. When questioned further as to "How has your attitude changed?" the most often repeated comment was that their "fear" of the court system was reduced or eliminated.

When Homeless Court participants resolved a case, they were asked if participation in the program impacted the following issues: as a result of "clearing their warrants or cases," 46 percent said they would now look for a permanent place to live; 38 percent said they would now look for a job. Thirty-nine percent (39 percent) said that after clearing their cases, they would now apply to get a driver's license (if they did not already have one).

The SANDAG study, comparing participants of the Homeless Court to those with criminal charges who utilized the traditional court system, the recidivism rate for the Homeless Court participants showed less interaction with police and peace officers after the court proceedings. Over 700 cases were resolved between October 1999 and February 2000.

Fewer cases are set for a continuance in Homeless Court compared to traditional court. Advance negotiations between prosecutors and defense attorneys account for this decrease. Creative alternative sentencing encompasses treatment instead of incarceration and fines. Ninety-six percent of the Homeless Court cases were resolved through creative alternative sentencing. The alternative sentences require the defendant's participation in programs designed to address the underlying issues likely to be associated with their conduct and offense; that is, unemployment, mental illness, and substance abuse.

The benefits of the Homeless Court Program extend beyond the process of clearing up outstanding cases or warrants. According to the data gathered, individuals who participate in Homeless Court are also willing to make changes in their behavior that will help them reintegrate back into society. First, because their fear of being arrested is reduced or eliminated, they feel less apprehensive in filling out applications for employment or to obtain a drivers' license. Most participants said fear constrained them in the past, and that without Homeless Court they would have waited to be arrested to handle their cases.

Non-Custodial Parent Program

The Non-Custodial Parent Program (NCP) is modeled on the HCP. The NCP addresses homeless veterans owing child support. This program offers a wide variety of supportive services, such as information and referrals, life skills training, money management, assistance with credit repair and employment/training opportunities to assist program participants reach self-sufficiency. The participants are homeless veterans who have been living on the streets, in

emergency shelters, sober housing or primary care facilities. To participate, these veterans must address other issues such as medical, substance abuse and/or psychological needs. All clients enrolled in the Non-Custodial Parent Program will be in some form of case-management.

This program assists the non-custodial parent to become more financially and emotionally involved in their children's lives, while assisting the homeless veteran achieve his/her highest level of independence by alleviating the financial barriers that have prevented them from obtaining and maintaining employment.

The Vietnam Veterans of San Diego found that many homeless veterans who obtain work do so under the table. The average salary of the veterans working under the table is \$7.00 - \$9.00 per hour. The primary reason given for working under the table is to prevent the Department of Child Support Services from garnishing what little money that individual is earning. These veterans feel trapped. They would like to find legitimate employment and satisfy their child support obligations. With the high cost of rent, these veterans find that they cannot provide for themselves and satisfy the obligation owed in child support, taken by wage garnishment by the Department of Child Support Services.

This program assists homeless veterans to clean up the wreckage of their past and move forward to re-connect with their children. The homeless veteran is in a better position to take financial responsibility for him/herself and child without the fear of having the majority of their check garnished.

Lessons Learned

In January 2000, The Institute on Crime, Justice and Corrections at George Washington University issued a report from a site visit conducted by Dr. Kelly Johnson. The Institute evaluation stated, "A key challenge to encouraging participation in the Homeless Court lies in the ability to convince potential defendants that the court program is designed to be a positive experience in their lives." This is resolved through word of mouth, from clients who have successfully resolved their case during the Homeless Court hearing. Additionally, the shelter staff has developed a high level of trust with their residents. More than a year passed before the staff at a woman's shelter referred their participants to Homeless Court. The staff expressed concern that their relationship and trust with clients would be jeopardized if a client was incarcerated. The trust between the shelter staff and the participant is transferred to the Homeless Court. This is fundamental to the continued operation of the Homeless Court.

In 1999, during the implementation of the monthly court sessions, a breakdown in the communication process for clients interested in attending court occurred between the shelters, participants and the Public Defenders Office. Originally, the shelter case manager was instructed to fax the participant interest list to the host shelter that would then forward this list to the Public Defender's Office. This process raised several problems: missed faxes, difficult to read second generation faxes and misspelled names or dates of birth. To remedy this problem, the shelters were instructed to fax this list directly to the Public Defenders Office, call to confirm its receipt, and include the name and phone number of the shelter contact person.

Success Stories

The participants in the HCP appear from varied backgrounds, hardships and accomplishments. The following participants successfully resolved their cases:

Homeless for five years, one woman completed community college with honors and plans to major in social work at a state university. After the prosecution moved to dismiss her offense, in recognition for the advances listed in her advocacy letter, she left the court in tears of joy.

One man, ten years on the streets, struggling with mental illness, and facing four misdemeanor cases, developed plans with his program to move from his van into an apartment. His success in the program, addressing his illness and finding employment, helped to resolve his cases.

Illiterate, one participant sought a referral to another program's literacy classes after successfully resolving his three cases.

One man faced charges for driving under the influence of a controlled substance. He spent more than seven months in his program, successfully completed the chemical dependency classes, attended over 150AA/NA meetings and was in an employment training program.

Facing ten cases, one woman escaped an abusive relationship when her boyfriend was incarcerated for four years. Following his arrest, she spent 20 consecutive days contacting INFO-LINE, the local emergency hotline, trying to gain access to a shelter bed. Battling physical and mental illness, she completed the Challenge To Change course and pursued a basic education program.

Awards/Recognition

- Finalist, 2004 Innovations in Government Awards, Ash Institute for Democratic Governance and Innovation/Kennedy School of Government - Harvard University
- Community Service Award, San Diego County Bar Association, 2004
- 2004 Innovations in Government Awards, one of the "Top 50" programs selected by the Ash Institute for Democratic Governance and Innovation/Kennedy School of Government - Harvard University
- 2003 Presidents Pro Bono Service Award (Government)/State Bar of California
- NACo Award, presented to the County of San Diego for the Homeless Court Program, 2002
- "Stan Conant Award," The Board of Directors of Federal Defenders and Appellate Defenders, 2002
- "Hodson Award," presented to the Office of the Public Defender for the Homeless Court, Am. Bar Assn. Gov't and Public Sector Lawyers Div., 2001.
- "Unsung Hero Award," National Coalition for Homeless Veterans, March 2000.
- "Community Service Award," Public Defender Association, 1999.
- "Volunteer Attorney of the Year," Vietnam Veterans of San Diego, 1990.

Media

- “Court Program Helps Homeless,” San Diego Union-Tribune, August 19, 2004
- “Homeless Court Serves Both The Homeless And The Courts,” San Diego Transcript, June 17, 1999.
- “The New Cuckoo’s Nest,” California Lawyer, September 1999.
- “Homeless Court Offers New Hope for the Down and Out,” Los Angeles Times, May 1, 2000.
- NBC Nightly News, June 20, 2000.
- KGTV/Channel 10, November 24, 2000.
- “Homeless Courts Seek Out Needy for last Chance,” LA Daily Journal, November 30, 2000.
- “No One Goes To Jail,” San Diego Lawyer, May/June 2001

Future

The most significant shortcoming for the Homeless Court Program is its difficulty in consistently addressing all the misdemeanor criminal cases participants face throughout the county. Currently, the Homeless Court addresses misdemeanor cases within the City of San Diego. The Homeless Court is currently working with the District Attorney to extend the Court’s jurisdiction and address misdemeanor cases throughout San Diego County.

The Homeless Court’s inability to address the defendant’s cases throughout the county precludes full resolution of all cases. The judge is not able to review the entire criminal history of each defendant, review all the cases an individual carries, nor fashion a comprehensive court order and sentence. The defendant is forced to travel long distances, attend numerous hearings and appear before judges unfamiliar with the Homeless Court guidelines. Additionally, when defendants are forced to attend numerous court hearings they are unable to participate in shelter activities. The shelter’s voice and contribution is diluted when its staff spends time attending numerous court hearings and is drawn away from shelter activities. The prosecution and defense attorneys from the Homeless Court are not in a position to travel across the county and attend to hearings in other jurisdictions. When the Courts hold hearings across the county, prosecutors and defense attorneys expend additional time to familiarize themselves with each defendant and shelter programs incur additional court time and expense.

Replication

The San Diego HCP is poised to assist others develop and replicate a Homeless Court Program in their community. We welcome any questions or concerns you may have. The San Diego HCP challenges other communities to reach out, find opportunity in adversity, and meet homeless participants in life transition and build a larger community for justice.

“Recall the face of the poorest and the weakest man whom you may have seen, ask yourself if the step you contemplate is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny?” Mahatma Gandhi, 1947

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VENTURA COUNTY SUPERIOR COURT'S HOMELESS COURT PROGRAM

Established 2000

Homeless Court Description

The Homeless Court Program (HCP) is a special Superior Court session for homeless defendants to resolve outstanding infractions and certain misdemeanor offenses and warrants, generally arising out of the condition of homelessness. The HCP convenes bimonthly, usually on the last Friday of the month, rotating between four locations in the county, all of which provide support services to people experiencing homelessness.

The HCP builds on partnerships between the court, local service agencies, and the offices of the District Attorney and Public Defender. It attempts to resolve some of the problems that homelessness presents with practical solutions. Initial referrals to the HCP originate in shelters and service agencies. The prosecution and defense review the cases before the court hearing. The court order for sentencing substitutes community service and/or participation in agency programs for fines and custody. The HCP is designed for efficiency: the majority of cases are heard and resolved, and people are sentenced, in one hearing.

History

In 1998 Ventura County Superior Court opened its first Self-Help Legal Access (SHLA) Center designed to assist self-represented litigants access the court system in civil matters and infractions. In 1999 Catholic Charities contacted the SHLA Center to inquire whether a young homeless mother could work off approximately \$4,000 in unpaid fines and fees through community service. The unpaid fines and fees were an impediment to her gaining employment and housing, as she needed to regain her driving privileges in order to work. At the time there was no program in Ventura to allow people to resolve their fines and fees through community service, but that changed when the SHLA Center Coordinator attended a Homeless Court seminar in San Diego as part of a National Lawyer's Guild Conference. The SHLA Center Coordinator brought an informational video and materials about San Diego's Homeless Court program back to the Ventura County Superior Court, and the Honorable John Dobroth who had presided over the annual Stand Down court since its inception, began presiding over Homeless Court in March 2000.

Inspired by San Diego's program, Ventura began its HCP as a pilot project. The first session of Homeless Court was held in conjunction with Ventura's annual Stand Down event. (Stand Down is for homeless veterans, typically held during the last weekend in July, during which time homeless veterans are provided with medical, social, legal and related services, including the opportunity to clear outstanding low-level offenses by performing community service at the Stand Down event.) The HCP presiding judge met with stakeholder groups including law enforcement, business and community leaders, social workers, public defenders and district attorneys to solicit ideas and educate the community about the program's purpose. A written protocol was developed. Detailed statistics were kept regarding case disposition, service hours

volunteered, and how the HCP affected the defendants' lives. After one year as a pilot project the Ventura bench voted unanimously to make the HCP a regular court program.

In its first year the HCP heard 153 cases from 65 defendants of which 133 were fully resolved and cleared for 58 of the defendants, showing a success rate of 89.3%. 2,709.5 hours of community service were performed, almost half of which represented hours volunteered over and above the sentence. Measured a year later, twelve of the defendants had achieved sobriety (with another four still enrolled in drug/alcohol programs), eight had found housing, four had regained custody of their children and two had found employment.

In its second year the HCP heard 428 cases from 236 defendants, of which 189 successfully completed and cleared 344 cases (80%). 8,322.5 hours of community service were performed, over half of which were volunteered over and above the sentence requirements. Measured a year later, 32 defendants had achieved sobriety, 25 had obtained housing, 9 regained custody of their children, and 23 found employment.

In 2002 the HCP began holding sessions in Eastern Ventura County, and currently rotates between four locations throughout the county. The HCP has been well received by the community and the court, allowing a forum for homeless individuals to resolve one major impediment to reintegrating into society.

Core Elements

“Restorative” or “Therapeutic” Justice Program

The HCP is a “problem solving” court, focusing more on restorative justice and therapeutic justice principles than the traditional adversarial process. Unlike a standard criminal law calendar in which the prosecutor and defense attorney argue on opposite sides, the deputy district attorney and public defender assigned to the HCP work together with the defendant and his or her social worker to find a meaningful alternative sentence that will benefit the individual and society. This allows for the calendar to handle a high volume of cases in a limited amount of time, and focuses energy on problem solving and healing as opposed to punishment.

Voluntary Participation

Those who participate in the HCP volunteer to do so. Since the HCP now requires defendants to complete their community service in advance of being placed on the HCP calendar, the success rate of the program has increased.

Addresses Full Range of Infractions and Limited Misdemeanor Offenses

Any infraction can be resolved in the HCP, but only misdemeanors relating to the condition of homelessness, such as illegal camping, open container, urinating in public, etc. can generally be heard on the HCP calendar.

Progressive Plea Bargain

The HCP offers a different plea structure from the traditional court proceeding. The HCP plea agreement responds to the cases/offenses the homeless participants receive due to their condition and status: living on the streets. Additionally, the HCP agreement acknowledges the efforts the participants undertake prior to their appearance in court. The plea agreement recognizes the participant has completed the court order before the court imposes sentence. The participant has voluntarily performed the program activities without the threat of custody or a larger fine. The participant completed the order before it was given because that is what he/she needed to do to make a move from the streets, through the shelter or assistance program, to self-sufficiency.

Alternative Sentencing

The HCP “sentences” participants to activities in programs that assist people experiencing homelessness. Local homeless shelters and agencies are the gateway for participants to enter this court. Homeless persons who want to appear in the HCP must sign up through one of a number of local agencies.

The alternative sentencing structure is not coercive or punitive in nature, but rather designed to assist homeless participants with reintegration into society. With alternative sentencing, the HCP gives “credit for time served” for the participant’s accomplishments in shelter activities and community service. These activities include life-skills, chemical dependency or AA/NA meetings, computer and literacy classes, training or searching for employment, medical care (physical and mental), counseling and volunteer work. These activities replace the traditional court sentence options of fines, public work service and custody.

The Homeless Court recognizes that each service agency has its own requirements and guidelines to allow resident’s access to the Homeless Court. The agencies introduce potential participants to the Homeless Court through a variety of means. These agencies will address the Homeless Court as an option after the homeless person has completed a certain course, phase or activity. The Homeless Court does not interfere with the agency’s requirements. Requirements vary from program to program. The agencies perform the assessments of clients and provide for their basic needs (food, clothing and shelter), while building the motivation and support that leads clients to the services which, in turn, fulfill the court orders for alternative sentencing.

Most agencies that serve homeless people provide some form of assistance, whether it be food, clothing, transportation vouchers, medical or dental care, and when available, transitional beds for their clients. The agency is in the best position to evaluate the client’s needs and design a plan with attainable goals and benefits. Clients who actively select their services and goals are more likely to benefit from the program. The partnership between the HCP and referral agencies helps to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness. The HCP sentence strengthens and advances the efforts of the participant and agency representatives.

When participants work with agency representatives to identify and overcome the causes of their homelessness, they are in a stronger position to successfully comply with court orders. The

quality, not the quantity, of the participant's time spent in furtherance of the program is of paramount importance for a successful HCP experience. A person who signs up for the HCP is not limited to the sentencing alternatives provided by the homeless agency that referred him/her to court. Rather, the participant is encouraged to participate in a program that will best meet his/her needs.

No One Goes Into Custody

The HCP key players (judges, prosecutors, defense attorneys, and homeless shelter/service agencies) agree, "No one goes into custody against his or her will." This does not mean that the prosecution gives up its power to ask for custody, nor does the court relinquish its authority to incarcerate. Rather, this agreement acknowledges both that the participants have committed offenses and have met court requirements through their work in their programs. This agreement respects the relationship and trust the homeless service agencies hold with the participants who appear before the HCP, and acknowledges that time spent working with these agencies is equivalent to, and more constructive than, "time" spent in custody.

Distinctions between the Traditional Court and Homeless Court

Many homeless defendants do not appear in traditional court because they know they cannot pay the fines and fees, and they fear being taken into custody. When people have no home, they keep their few life belongings with them, including in many cases, a loved pet. Incarceration causes them to lose their life belongings, and their pet, so they tend to avoid coming to court to deal with even low-level infractions. This often results in later arrests on failure to appear (FTA) warrants. After serving several days in jail, the defendant is often released and "credited" for time served. This costs the taxpayer for the cost of incarcerating the homeless defendant, and does nothing to help the individual get out of homelessness.

The HCP provides an alternative to the homeless individual to resolve their fines and fees before an FTA warrant is issued, or if one has been issued, to resolve it before being picked up by law enforcement and incarcerated. As previously mentioned, the HCP is non-adversarial, allowing all sides to approach each case from a problem solving standpoint, thus better maximizing limited resources to improve the lives of individuals and the overall common good of the community.

Typically, the HCP participant has *already* performed his or her community service when standing before the judge. By this point, their level of activities in the shelter or a service agency meets or *exceeds* the requirements of the traditional court order. While the program activities vary from one agency to another, they usually involve a greater time commitment than traditional court orders and introspection for their participants. Program staff ensures the homeless participants are already successful in their efforts to leave the streets before they enter the courtroom. These individuals are on the right track before they meet the judge at the HCP.

Objectives

To provide a means for homeless individuals to clear their fines and fees through community service and to clear from the court docket those cases that would otherwise languish in the

system primarily due to the defendants' lack of financial means and their homeless condition. Additionally, to connect homeless individuals and families with community organizations and services that can assist them, thereby improving quality of life issues not only for homeless people, but also for those communities most impacted by homelessness.

Process

Overview of the HCP Process

Referral agencies inform program participants of the opportunity to resolve cases through the HCP. Staff at the social service agencies complete the intake and referral forms, supervise the community service work, verify completion of work/programs, and help to transport the participants to the HCP on the day of hearing.

Step One: Outreach

Initially, to help staff and case managers understand and visualize the HCP, the SHLA Center coordinator visits local service agencies to explain the HCP purpose and process. Social workers and case managers then introduce their clients to the HCP. The case managers' challenge is to encourage participation in the HCP. They use their ability to convince potential defendants that this program is designed to be a positive experience in their lives. The case managers use examples of successful participants to illustrate the importance of clearing one's record and being able to access government services.

Step Two: Community Service Work

After learning about the program from the referral agency staff, homeless participants "sign-up" by doing community service work at the approximate rate of one hour for every ten dollars owed in fines or fees. Once the community service work is completed, the social worker at the referral agency forwards a completed Intake and Referral Form to the Office of the Public Defender, along with a completed work log and Case Disposition Form so the defendant's case(s) can be calendared for the next session of the HCP. The Office of the Public Defender coordinates the participation of those whose names appear on the interest list, delivering the list to the prosecution and court. Participants are instructed by their social worker when and where to appear for the court calendar.

Step Three: Calendaring

The Office of the Public Defender reviews the case files of the defendants to be placed on the court calendar to make sure that only those types of cases that can be heard in the HCP are calendared, and that all such cases belonging to each defendant that can be resolved in the HCP are calendared for resolution at the same time. The public defender's office forwards the cases to the criminal/traffic unit in the court to be calendared to the next homeless court session. The prosecutor makes offers for resolution of the cases based on criminal history, impact of criminal behavior on the community, and the number of outstanding cases. The city attorney offers a plea

bargain, in anticipation of proof, and an acknowledgement of each participant's involvement in his or her respective program.

Step Four: Plea Offers and Negotiations

Prior to the Homeless Court calendar being called, the deputy public defender meets with each of the defendants to discuss plea offers and review the paperwork confirming the community service or equivalent alternative to sentencing. Any questionable issues are discussed with the deputy district attorney so consensus is reached before the court convenes. In virtually every instance, these negotiations end with an agreement reached.

Step Five: The Hearing

The hearings are generally scheduled for the last Friday of the month, and are presently held bimonthly. Sessions are rotated between four locations in the county: Salvation Army-Ventura, Commission on Human Concerns-Oxnard, Samaritan Center-Simi Valley, and Rescue Mission-Oxnard. Court is held in a community room. Any religious insignias are either temporarily removed or covered by a court banner while court is in session. Since the judge volunteers to preside over the HCP calendar during a break from his regular calendar, and the location of the court session requires travel from the courthouse, court sometimes begins after its scheduled time of 11:00 a.m., but generally concludes between noon and 12:30 p.m. A judicial assistant records the session and later inputs the information into the court docket.

The judge calls the cases and the defendant comes forward to sit at counsel table with the deputy public defender. The prosecutor sits at an adjacent table. The judge wears a robe, but counsel generally appear without suits or ties. The judge may ask questions of the defendant and/or social worker to try to see if any other issues can be addressed by the court to help the individual reenter society. Unlike a traditional court, the judge communicates more often with the defendant than with the public defender. The judge may ask the defendant about what brought him/her to the court, his/her participation in programs, counseling, or classes. The judge may consult the deputy district attorney about the offer for disposition and, in most cases, the charges, warrants, and penalties are formally dropped as agreed by all sides. The defendant's record is clean. Generally, the matters are resolved all in one session.

As in traditional court, the judge may continue a case until the defendant provides appropriate documentation to satisfy the alternative sentence agreement (such as advocacy letters). If a defendant fails to appear for the hearing, the case is taken 'off-calendar' and any agreements that have been negotiated between the prosecutor and public defender are withdrawn.

Step Six: Follow-Up

The deputy court clerk transfers the case disposition information written on court calendar at the hearing into the court's database, files the advocacy letters, and closes the case files if necessary. Defendants who fail to appear are not automatically placed on the HCP calendar for the following month. They must begin the process again at step one, signing up through their social worker.

Budget Considerations

No budget is allocated to the HCP. It depends entirely on volunteers from the bench, judicial assistants, public defender's office, district attorney's office, and the court's SHLA Center. A small grant (approximately \$5,000) was used to pay a student worker to gather ongoing statistics from the social workers regarding the long-term outcomes of the defendants who appeared in the HCP.

The HCP brings the law to the streets, the court to the service agencies and homeless people back into society. It provides access to court for homeless defendants, working with local agencies, holding proceedings in community rooms and recognizing individual effort for purposes of sentencing. The HCP's greatest achievement is bringing together of resources to help participants, and in so doing, building a more inclusive criminal justice system and stronger community.

Evaluation

Social workers from agencies that serve homeless people and refer cases to our Homeless Court provide ongoing critique of the program and identify areas where we can improve the process to better serve the population. The offices of the public defender and district attorney also provide helpful suggestions regarding future direction of the program. The entire Homeless Court program is a collaborative justice model that continually builds on relationships between the court and community, allowing the program to evolve in a non-threatening manner to better serve the needs of a diverse county and population. The first two-year statistics referenced above also attest to the success of the program.

Lessons Learned

It is best to begin on a small scale with limited types of offenses and a discreet geographic area, then to expand the program as it builds a reputable track record. It is also important to maintain credibility with the homeless population by following through with orders made in the Homeless Court. If, for example, the court informs a defendant that his or her fines and fees have been cleared, but a communication breakdown occurs within the court, or between the court and the Department of Motor Vehicles, so that the defendant still cannot obtain driving privileges, or worse, a warrant issues for his or her arrest after being told that none will, the word on the street will be, "Don't trust Homeless Court." On the other hand, if there is good follow through, the word on the street is that the court does care about the individuals, and those willing to do the community service work, or achieve sobriety, will be rewarded for positive choices, thereby building trust among a population which historically has been most distrustful of court and government institutions.

Success Stories

Several participants in the HCP have benefited far beyond getting their fines and fees cleared. In Ventura County, driving is often a requirement to get to work since public transportation systems

are marginal at best. Resolving outstanding fines and fees has allowed several homeless mothers to regain their driving privileges, obtain employment, and even regain custody of their children.

We also had one gentleman who had 32 cases, mostly involving public intoxication, open container, and illegal camping. He successfully completed a sobriety program through the Salvation Army, and was able to eventually clear all his fines and fees. He performed 320 hours of community service over the course of several months to clear his fines and fees, but continued to perform community service work because he found the feeling of success and accomplishment helped him maintain his new life of sobriety.

Future

We hope to network better with other counties in helping people resolve their outstanding fines and fees, since the homeless population is often transitory and may have unresolved cases in different venues. We also hope that legislation will be passed to better recognize Homeless Courts and specifically authorize judges to convert restitution fines to community service in those cases in which the judge believes it to be appropriate.

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A JUDGE'S PERSPECTIVE

Everyday in the City of San Diego, homeless people are cited for low-grade misdemeanors and infractions such as drunk in public, riding the trolley without a ticket and illegal lodging. If they subsequently miss the court date listed on the citation, an arrest warrant is generated, and, when next contacted by the police, the offender is ultimately jailed. For many homeless people this cycle repeats itself with alarming frequency.

Homeless Court attempts to break this cycle by offering a clean legal slate to those who agree to participate in treatment. The program is a collaborative effort between the San Diego Superior Court, the San Diego Public Defender, treatment providers, SDCA and the DA's Office, the program attempts to remove the legal impediments that prevent recovering drug abusers and alcoholics from re-integrating into civil society.

Homeless Court requires that misdemeanants successfully complete a regimen of substance abuse treatment before becoming eligible for consideration. The program allows the bench to recognize the achievements of those who have proven they are serious about recovery. Unlike most criminal proceedings where the defendant promises to behave in the future for leniency today, the Homeless Court participant has already proven him/herself before any benefit is bestowed. Thus Judges, and the other Homeless Court participants are rewarding an offender's success rather than relying on promises of future good behavior. This aspect of recognizing and rewarding success is the Homeless Court's most satisfying aspect to a bench officer.

In San Diego Homeless Court is held at two alternating treatment centers. For most Homeless Court participants the court proceedings have a negative connotation, and are intimidating. Thus, the bench officer typically endeavors to make the atmosphere somewhat less formal. Since there is no raised bench at the treatment center, a podium is utilized so that the judge and the participant can stand face to face. This configuration allows for a more even exchange between judge and participant. It also lets the public defender to easily hand the bench officer letters that note the progress of the participant, so that the judge can acknowledge their progress. For some offenders this is first time in their lives that they have received public praise from an authority figure.

The Court does, however maintain some of the trappings of a normal proceeding. The judge wears a robe, and is assisted by a bailiff and clerk. Unlike their other court experiences, the armed deputy sheriff does not take the offender to jail after his/her appearance. Despite constant assurances, and all their progress in treatment, many participants still that court means jail, and that at the end to the proceedings they will be hauled off. This of course is not the case, but it underscores how ingrained these ideas are in some participants.

Homeless Court is not a panacea, and will not single handedly end homelessness. It is however a practical way to remove legal obstacles from the path of those truly serious about recovery. Even if the participant does not maintain sobriety forever, the criminal justice still benefits from the one, two or three years the Homeless Court graduate does not re-offend. From a cost savings perspective, the court clears hundreds of warrants from an overburdened system. Every time a

case touched, it costs the court money in staff hours. When old cases are closed, and new ones reduced the court saves cost of handling those matters. Thus, HC is a benefit to more than the homeless participants.

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FROM THE PROSECUTOR'S PERSPECTIVE

This prosecutor is committed to Homeless Court for three reasons: 1. Professional, 2. Ethical and 3. Personal.

It is a prosecutor's duty to be able to suggest an appropriate sentence for each case. A sentence should work to have three effects. It should be one that punishes the defendant, repays the community and seeks rehabilitation. Homeless Court accomplishes all three of these.

Most participants feel the ramification of their punishment because of the shame and fear they have suffered in not having the ability to pay fines; in not having transportation to be able to get to traditional Courts; in not being able to report their own victimization due to fear of being arrested on an outstanding bench warrant and in other none traditional punishments.

Homeless Court is a benefit to our communities in that it removes the barrier that has been preventing the participants from securing employment and housing, thereby lifting this person from being a burden on society and rather helping him/her to become a productive member of the community again.

Homeless Court assists in rehabilitation. Those who participate in the program do so under strict and numerous requirements that must be completed in order for them to even be considered eligible to have cases heard.

The second reason that this prosecutor is committed to Homeless Court is because of ethical considerations. As Prosecutors we are held to high ethical standards. If we do not believe that we can prove guilt beyond a reasonable doubt; we are ethically bound to seek dismissal of the charges. If a motion to suppress evidence based upon an unreasonable search is made, and we know that the search was unlawful, we are obligated to honestly represent that to the Court. Likewise, we are obligated to try to assist in a just sentence. It is not justice to be unable to obtain housing because a person walked a dog without a lease, or fished without a license and as a result cannot pay the fine. It is not justice to be unable to get a job because of a hold on a driver's license from a 3-year-old ticket and the inability to pay a fine. Homeless Court is and has a remedy for these injustices and prosecutors are ethically bound to assist and in all applicable cases be used as a part of that remedy.

On a personal level, this prosecutor is committed to Homeless Court for a number of reasons. Many years ago, I was in an abusive marriage. I spent many long nights debating with myself about what to do. Ultimately it came down to this: did I want to face the very real possibility of homelessness or the almost certainty of death by staying at home. It wasn't an easy decision. It took a lot of soul searching. I looked homelessness in the face and it was a cold, lonely, scary place. Ultimately, I chose to risk being homeless. That was one of the worst feelings of my life, and certainly one of the most painful decisions I was ever faced with.

Additionally, my mother suffers from a severe mental illness and as a result faces the possibility of homelessness each day. A great deal of her survival is dependent on the advanced Mental Health Services that she receives.

I believe that life is like very finely woven lace. It is held together by a series of threads that can barely be felt between your finger tips. If the thread begins to loosen, the silk could unravel in an instant. I could be homeless at any moment. A natural disaster, a car accident, an illness, a mistake...everything could be turned upside down. It's the old saying 'There but for the grace of God...'

This prosecutor is committed to Homeless Court because it is the right thing. We help the participants, the community, and ourselves. There is nothing, except right and justice in doing this.

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**COLLABORATIVE COMMUNITY JUSTICE:
SAN DIEGO CITY ATTORNEY'S PARTICIPATION IN
THE HOMELESS COURT PROGRAM**

Police officers receive a call of a homeless man sleeping in the doorway of a downtown business. The man has been lodging there for several nights without the business owner's permission. Trash is being left in the doorway during the day. There is also a strong smell of urine that can only be removed with bleach. The business owner is concerned that customers are being driven away. The police are asked to take care of the problem. Officers issue the homeless man a citation to appear in court for a violation of California's Penal Code section making it a misdemeanor to lodge in a public or private place without permission. Most misdemeanors in California are punishable by up to six months in County jail and a \$1,000 fine. The homeless man is given a court date, but fails to show up. A warrant is issued for his arrest. If he is contacted by police again and they check for outstanding warrants, the man will be arrested. Maybe he will be lucky and won't be contacted by police again, but the warrant may affect his ability to apply for employment in the future, or credit, or perhaps even a driver's license.

This scenario repeats itself in the City of San Diego and in cities across the country every day as police officers and prosecutors are called upon to use the criminal justice system to solve what is more truly a social problem, a mental health problem, or a substance abuse problem. Homeless individuals can rack up a number of citations and arrests for drinking in public, illegally lodging, trolley tickets, and other minor misdemeanors. In the City of San Diego, the San Diego Police Department has a long-standing tradition of being a law enforcement leader in the field of community policing. The Police Department has a nationally recognized Homeless Outreach Team – a squad of officers who partner with mental health professionals and social workers to get resources to homeless individuals contacted on the street. The Homeless Outreach Team is a proactive, prevention-oriented team working to curb recidivism by focusing on providing assistance instead of engaging in enforcement. The San Diego City Attorney's Office – the office responsible for prosecuting all state and local misdemeanors in the City of San Diego -- is also community-minded, committed to proactive, early intervention lawyering and collaborative community justice.

In 1989, when staff members from the Vietnam Veterans of San Diego approached the San Diego Superior Court and the San Diego City Attorney's Office to bring the court to its annual Stand Down event, the City Attorney's Office joined on the team immediately. It was the right thing to do to help those who had served our country. The first Homeless Court at Stand Down was a collaborative effort involving the Superior Court, Office of the Public Defender, San Diego City Attorney's Office, and Vietnam Veterans of San Diego. The monthly Homeless Court calendars, which began a few years later, were a natural extension of the Stand Down event. At the direction of California's Chief Justice Ronald George, courts throughout California were focusing on becoming more accessible and accountable to the needs of community members. The collaborative team of judicial officers, court administrative staff, prosecutors, and defense attorneys had to work out the logistics of holding a court session on a monthly basis at a local homeless shelter. Everyone involved felt it was worth the effort of overcoming any

logistical complications to help clear the misdemeanor warrants of those who had been through rehabilitative programs and were getting their lives on track.

All of the criminal justice stakeholders involved in San Diego's Homeless Court Program benefit. Police and prosecutors feel like justice is served when people who are getting their lives together are given a second chance. The Homeless Court helps the Superior Court clear hundreds of outstanding misdemeanor warrants each year. The Homeless Court provides the Public Defender's Office with an important sentencing alternative to help clients who are in rehabilitation.

The positive aspects of the Homeless Court program can also be seen on the participants' faces every time a court session is held. As the participants sit quietly before the hearing with paperwork in hand, waiting for their cases to be called, there is visible anxiety on their faces. One by one, they are called to stand before the judge. Soon they are talking with the judge about what they are learning in their treatment programs, or what classes they are taking in night school. Their cases are resolved, often with a handshake and a grateful look toward the prosecutor. The participants usually walk away smiling, and are always relieved.

The significance of this exercise is not lost on the prosecutors who work in San Diego Homeless Court. With each case that is resolved before the court, we are fostering a sense of accountability to society. By standing up before a judge and taking responsibility for their actions, the participants take a crucial step in the direction of developing a sense of personal responsibility.

The San Diego City Attorney's Neighborhood Prosecution Unit has been responsible for managing the Homeless Court and Stand Down caseloads for the past four years. The Neighborhood Prosecution Unit is a team of five deputy city attorneys, a legal assistant, and police officers who work in partnership with other agencies and the community to aggressively and creatively combat crimes that impact quality of life. We prosecute quality-of-life misdemeanors, including transient crimes, alcohol and drug offenses, prostitution, graffiti, and other offenses that impact communities. We use traditional prosecutorial tools. We also embrace alternative sentencing models. The Homeless Court is a perfect example of alternative sentencing that works.

Homelessness is a primary concern facing the communities in which we work. As partners in the Homeless Court Program, we reward those who are taking steps to better themselves and become law-abiding citizens. It is our hope that those who benefit from the program continue on this path and no longer violate the law. We hope to curb recidivism as well as recognize the efforts of individual participants, encouraging them on their new found paths.

San Diego's Homeless Court Program works because there are structured guidelines and established expectations. We do not handle driving under the influence cases or domestic violence cases in Homeless Court. All other misdemeanor crimes, including drug offenses, vandalism, batteries, resisting arrest, weapons charges, petty theft, and misdemeanor sex crimes cases, may be considered. The prosecutors who review the cases maintain discretion to follow the established guidelines or deviate if appropriate based on criminal history or factors in

aggravation. While we may not always see “eye to eye” with defense counsel on how certain cases should be resolved, we all support the concept and goals of the Homeless Court Program. We have an open dialogue with all of the criminal justice stakeholders involved, and we embrace the importance of all criminal justice representatives working more collaboratively to benefit the needs of the communities we serve.

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THE UNIQUE PROBLEM SOLVING HOMELESS COURTS:

COMPLYING WITH THE TEN TENETS OF FAIR AND EFFECTIVE PROBLEM SOLVING COURTS

Problem solving courts continue to spring up all over the country. These specialized courts are different from traditional criminal courts because each has a defined focus that provides a different approach to case disposition compared to the traditional adversarial trial and sentencing process. The individual is noticed in these courts. Problem solving courts provide wrap-around services designed specifically to address the needs of offenders within a category of cases such as drugs, mental health, guns, domestic violence, and homelessness. Even though Homeless Courts come within this expanding family of general problem solving courts, these uniquely designed courts stand out as the most innovative, community-oriented, justice-seeking courts in our country.

Even before the interest started with the creation of Miami's Drug Court in 1989, many of the nation's courts had a long prior history of seeking to solve the problems of offenders through the imposition of sentences with rehabilitative conditions or indeterminate sentences with the goal of rehabilitation. The advent of mandatory minimums, sentencing guidelines and reduced discretion of judges through determinate sentencing foreclosed many such options. Consequently, justice-seeking reformers who wanted to break cycles of recidivism identified new ways of processing cases by focusing on the individual and underlying problems that an accused person (and sometimes a whole community) faced. The reforms focused on a specific class of cases or offenders where the traditional parties in the system – the prosecutor, defender and judge – sought out other professionals and new ways of dealing with an accused person along with family members or living conditions. In problem solving courts, judicial administrators and social service providers are asked to think about their roles in new ways. In a Homeless Court, the court administrators in particular have played a powerful role in conceptualizing how a court could move outside the traditional courthouse walls and still operate fairly and efficiently. The first Homeless Court that opened in San Diego on July 14-16, 1989 would not have been possible without the cooperation and full participation of court clerks, sheriffs, a judge and the others court personnel who were willing to listen to a public defender and the veteran community describe the needs of the homeless and how their plight in the system was unique. Without their organizational skills and willingness to try something new, these exceptional and successful problem solving courts would not have come into existence. In an unprecedented move within any justice system, all parties agreed to help public defenders take the court to the streets.

Defender-initiated Homeless Court Designed to Address the Needs of the Most Needy

What makes the Homeless Courts so unique is that these are the first courts actually initiated and designed by public defense lawyers seeking to help homeless veterans and others living on the streets in their community. Defenders wanted to reach out to directly aid those individuals who manifest the most severe problems facing our society and the overburdened court systems. Others in the system – police, court clerks, probation and parole, social service providers and court administrators, prosecutors and defenders -- saw the cycle repeating itself. The cycle typically goes something like this: Law enforcement officers hand out citations to the homeless with the goal of bringing “order” to the streets and enforcing community norms (i.e., putting the broken windows theory into action). Homeless individuals receive these citations, but the impact on them is significantly different than for most citizens. For homeless persons, these citations

force them further outside the system and society. They do not know, or are often unable to respond to these formal legal citations and procedures.

Locating and entering a courthouse in order to resolve these legal citations induces fear and confusion for this segment of our community. For example, many homeless persons have some form of mental illness which poses immense challenges in dealing with formal criminal proceedings. Indeed, for most people dealing with court proceedings can be a challenging and intimidating experience, particularly when not represented by counsel. A mentally ill or substance abusing homeless person has great difficulty and fear of the “system” that has repeatedly delivered legal citations to them while living in the street. Even if they have been provided a public defender, in traditional courts the defender often has large caseloads that do not allow them to spend time with their clients. Meaningful communication opportunities are minimal. The focus in traditional criminal courts is to deal with the legal citation specifically while not addressing the underlying problems facing a homeless person such as mental illness or substance abuse. Traditional lawyers and courtroom settings do not deal with critical issues for a homeless person such as access to benefits and basic needs for survival such as food, shelter and health care. This is not lost on their public defense lawyers and others working in the criminal justice system. It is particularly frustrating for defenders and those working inside corrections system to watch as community service providers and facilities face budget cuts. This shifts the burden to jails and prisons because they are called upon to fill in the gaps in these social services. Prisons and jails become the source of food, shelter and health care for the homeless. Homeless courts are the answer to these challenges.

Communications, Cost-Savings and Compassion are Paramount in Homeless Courts

The first Homeless Court expanded into monthly sessions as a result of a U.S. Department of Justice, Bureau of Justice Assistance grant written by the San Diego Public Defender program in 1999. With the support of the San Diego Public Defender Steven J. Carroll, public defense attorney Steve Binder had a vision about the way veterans and homeless individuals in San Diego could be ‘processed’ differently through the judicial system. Their goal was not only to help homeless individuals lead more productive, law-abiding lives, but to make the system run more efficiently and fairly. Defense Attorney Binder worked with judges, court administrators, service providers and several grass roots organizations to bring the court to the streets. This problem-solving court would be much more accessible to the homeless population in their community – and help all the other players in the justice system do their job more effectively and with compassion. In addition to being a defender-initiated court, the homeless court different from most problem solving courts because it is based in the community and is designed to meet all the needs of the homeless offenders and monitor their progress beyond formal courthouse structures. Access is key. The Homeless Court model is designed to address the problems of a class of persons who have been isolated and in many cases feel exiled from a community.

There are several core elements for developing a Homeless Court program. First, the client’s participation must be completely voluntary. The homeless individual must be assured that he or she will not be held in custody. Together the judge, prosecutor, defender, service providers, sheriff, corrections and court administrators agree that the goal is to impose alternative sentencing along with a progressive plea structure. A defendant in a homeless court will be

provided assistance in finding housing or provide proof of shelter and service agency activities for the court hearing. A direct result of these wrap-around rehabilitative services is reduced cost of incarceration for society and better services pinpointed at the homeless population's needs.

Concerns of Defense Lawyers

The concern in the defender community with other problem-solving courts is that despite Department of Justice and other publications that urge inclusion of defenders in the adjudication partnerships that form to establish these problem-solving courts, the voice of the defense bar has been sporadic at best. Too often defense counsel's voice is not heard when these specialty courts are designed. Too many defender leaders have said that they are invited to participate in these courts only after the other stakeholders have had their say in the conception and design of these courts. Sometimes they only seek the public defense rubberstamp rather than full participation in design and implementation. Problem-solving courts must include defense lawyers at the table when the courts are designed as well as during the evaluation process of these problem-solving courts. Compared to others in the system, defenders bring a valuable perspective to the table because they are able to articulate the needs of their clients and the larger under-served community they represent based on special communications protected by the attorney-client privilege.

Homeless Courts are a model of how these specialty or problem-solving courts should be designed and implemented. Across the country, those problem solving courts that are most popular and self-sustaining seek out *all the players* – including defenders in the policymaking processes. Defenders will convince their individual clients to participate in a problem-solving court when they have an impact on the design, implementation, and evaluation of problem solving courts. The defense can also explain what treatment resources are best suited to meeting a client's needs based on privileged communications with the client and his or her family members. Defense representation at all stages is critical to the fair and effective operation of such courts.

Public defense lawyers from around the country have created a framework to assess the fairness and effectiveness of a problem-solving court. The defender-initiated homeless court provides an outstanding model for other problem-solving courts because this model satisfies the core principles of this nationally recognized framework endorsed by the American Council of Chief Defenders (ACCD). Public defense leadership from across the United States adopted the "Ten Tenets of Fair and Effective Problem Solving Courts." The preamble explains that these were "developed to increase both the fairness and the effectiveness of Problem Solving Courts, while addressing concerns regarding the defense role within them. They are based upon the research done in the drug court arena by pretrial services experts and others and the extensive collective expertise that defender chiefs have developed as a result of their experiences with the many different specialty courts across the country. There is not as yet, a single, widely accepted definition of Problem Solving Courts. For the purposes of these guidelines, Problem Solving Courts include courts which are aimed at reducing crime and increasing public safety by providing appropriate, individualized treatment and other resources aimed at addressing long-standing community issues (such as drug addiction, homelessness or mental illness) underlying

criminal conduct.” Review the Ten Tenets listed below to see how Homeless Court Programs satisfy the fundamentals of a fair and effective problem solving courts.

**The American Council of Chief Defenders (ACCD)
“Ten Tenets of Fair and Effective Problem Solving Courts”**

1. **Qualified representatives of the indigent defense bar shall have the opportunity to meaningfully participate in the design, implementation and operation of the court, including the determination of participant eligibility and selection of service providers.** Meaningful participation includes reliance on the principles of adjudication partnerships that operate pursuant to a consensus approach in the decision-making and planning processes. The composition of the group should be balanced so that all functions have the same number of representatives at the table. Meaningful participation includes input into any on-going monitoring or evaluation process that is established to review and evaluate court functioning.
2. **Qualified representatives of the indigent defense bar shall have the opportunity to meaningfully participate in developing policies and procedures for the problem-solving court that ensure confidentiality and address privacy concerns,** including (but not limited to) record-keeping, access to information and expungement.
3. **Problem solving courts should afford resource parity between the prosecution and the defense.** All criminal justice entities involved in the court must work to ensure that defenders have equal access to grant or other resources for training and staff.
4. **The accused individual’s decision to enter a problem solving court must be voluntary.** Voluntary participation is consistent with an individual’s pre-adjudication status as well as the rehabilitative objectives.
5. **The accused individual shall not be required to plead guilty in order to enter a problem solving court.** This is consistent with diversion standards adopted by the National Association of Pretrial Services Agencies. See Pretrial Diversion Standard 3.3 at 15 (1995). The standards stress, “requiring a defendant to enter a guilty plea prior to entering a diversion program does not have therapeutic value.” Id.
6. **The accused individual shall have the right to review with counsel the program requirements and possible outcomes. Counsel shall have a reasonable amount of time to investigate cases before advising clients regarding their election to enter a problem solving court.**
7. **The accused individual shall be able to voluntarily withdraw from a problem solving court at any time without prejudice to his or her trial rights.** This is consistent with the standards adopted by the National Association of Pretrial Services Agencies. See Pretrial Diversion Standard 6.1 at 30 (1995).

- 8. The court, prosecutor, legislature or other appropriate entity shall implement a policy that protects the accused's privilege against self-incrimination.**
- 9. Treatment or other program requirements should be the least restrictive possible to achieve agreed-upon goals. Upon successful completion of the program, charges shall be dismissed with prejudice and the accused shall have his or her record expunged in compliance with state law or agreed upon policies.**
- 10. Nothing in the problem solving court policies or procedures should compromise counsel's ethical responsibility to zealously advocate for his or her client, including the right to discovery, to challenge evidence or findings and the right to recommend alternative treatments or sanctions.**

The traditional role of a defender is to act as a zealous, partisan advocate for an accused person and to avoid taking actions that might conflict with the client's interests in any way. The role of traditional defenders is to guard carefully and maintain the secrecy of all information learned about a client (or from the client) during the course of the representation. Problem solving courts challenge all of these traditional duties. Inside any problem solving court, the role of a defense lawyer is ambiguous as the institutional pressures to be a "team player" is expected. This does not mean, however, that defense lawyers do not want to participate in these problem solving courts. They recognize, for the most part, that these courts provide better services and individualized attention for their clients compared to traditional courts. The challenge is to ensure that the court proceedings are fair, transparent and that clients' interests are not hurt by selecting a problem-solving process over a traditional court process. The modified role of defenders in problem-solving courts presents different ethical considerations than those that normally govern the adversary setting. Each defender in a problem solving court must thoughtfully reconcile their behavior with the competing goals of zealous trial advocate and team player. To help with this assessment process for defenders, the Bureau of Justice Assistance convened a working group to address the concerns of defense attorneys in Drug Courts. The working group produced a document entitled *Critical Issues for Defense Attorneys in Drug Court* (Monograph Series 4) National Drug Court Institute, Bureau of Justice Assistance (edited by Judge Karen Freeman-Wilson, Ronald Sullivan, Susan P. Weinstein, April 2003). It is a useful monograph that raises the concerns that all good defense lawyers should ponder before advising a client to enter a problem solving court, whether it be a drug court, mental health court, community court, or homeless court. Here are some of the core ideas raised in this BJA monograph that will help others who are creating or evaluating their existing Homeless Court.

Defense lawyers need to think carefully about all the competing interests for an accused person entering a problem-solving court such as an innovative Homeless Court. Here is a list of ideas and actions to take to ensure that the Sixth Amendment right to counsel is fully protected:

- Provide advice and representation about the court process, the benefits and the potential costs of participation
- Raise confidentiality consequences of entering the problem solving court; read and consider any confidentiality waivers a client must sign.

- Investigate and negotiate at the outset the contours of the treatment program that the court would provide. Seek treatment guarantees and options that will provide their clients with the best possible chance to overcome the problems the client faces.
- Identify sound treatment programs and be on the alert for persons or organizations that may not provide quality professional services.
- During team meetings where each participant's case is discussed, defense counsel must be present and vigilant to ensure the client's desires are expressed clearly and taken into consideration as much as possible. Clients are often not as articulate or fail to emphasize accomplishments as much as defense advocate could on behalf of an accused person.
- If the client speaks directly to the judge the defense lawyer should ensure there is complete confidentiality and full immunity in place for statements made during the problem solving court process.

Finally, it would be an outstanding advancement for justice, compassion, fairness and efficiency if Homeless Courts began to spring up across the country just like drug courts have in the past two decades. In addition to the public value explored above, and the creative ways that Homeless Courts participants resolve problems, an additional benefit of a Homeless Court Program is that all those who participate are deeply impacted by the process. Judges, sheriffs, prosecutors, court stenographers, clerks, probation and parole and individual defense attorneys – all become more sensitized to the plight of our most needy community members. By literally taking the courtroom into the streets each participants receives a unique educational experience. It is almost impossible to participate in a Homeless Court program and not see one's own life – ones home and family – from a new perspective. It is my hope that Homeless Courts spread into every community that has men, women and children who do not have a place to call home, because these problem solving courts really can change lives, and not just the lives of those living in the streets.

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COURT CLERKS' ROLE IN THE HOMELESS COURT PROGRAM

One observer to the San Diego Homeless Court Program commented, "I can see why Court Clerks would like this assignment." A supervisor in the Clerk's Office confirmed this by stating that both Courtroom Clerks and Court Support Clerks readily accept the labor-intensive tasks of preparing calendars and minute orders and the follow-up work that comes with the Homeless Court assignment. They see how the program is making a positive difference in people's lives and their role in the process is making an impact as well.

In the traditional courtroom, the defendants may seem to be just another number on the calendar. In the Homeless Courtroom, the defendants have an opportunity to speak directly to the Judge and they are individually given positive feedback from the Court for what they have accomplished. The clerks realize that the work that they do is contributing to this rewards phase; plus it gives the defendant an opportunity to regain self-esteem and successfully resolve their court cases.

The once-a-month process for the Court Clerk is basically as follows: once the Public Defender has identified participants for the Homeless Court Program, the Clerk's Office is notified and the work begins to prepare the calendars and minute order forms. Court Support Clerks pull all cases for the defendants, including eligible cases in other divisions of the court; as many as 200 cases may be pulled for any given date. Defendants typically have multiple cases in the system. This initial process can take from 15-20 hours per month.

The Public Defender counsels clients one week before the hearing date and informs them of all of the outstanding cases. A second counseling session is held immediately prior to the hearing and recommendations are confirmed with the prosecutor assigned to the Homeless Court session. Once the cases have been heard in Homeless Court, the Courtroom Clerk completes the court minutes. Any warrants that were outstanding will be recalled after the defendant appears before the Judge. A timesaving step that was recently added was for the Courtroom Clerk to periodically call the Court Support Office during the court session with a list of case numbers for defendants that have already appeared, so that the Court Support Clerk can recall the warrants in the computer system that is only available to staff at the main courthouse. This saves time at the conclusion of the proceedings and has reduced overtime. Calendar and post hearing tasks take approximately 20 hours per month. A couple of new forms were created specifically for the Homeless Court session in order to process the cases in the most efficient manner. The clerks basically "carry the courtroom" with them to the community room, bringing all of the court files, forms and supplies necessary to complete their work for the afternoon session.

Even though the Homeless Court surroundings are less traditional in many ways, including the fact that the Judge is standing at a small, portable podium and clerks are seated at a folding table in front of a community room, the setting provides the defendant an opportunity to see the Court in a different light – in a non-threatening environment that is comfortable and familiar to them – "on their turf". And, it is gratifying to see the defendant being acknowledged and congratulated by the Judge and given the opportunity to shake his hand – something that rarely occurs in other types of court sessions.

Another bonus is that the defendants' appearance rate is approximately 90% at the Homeless Court session – most other traditional court hearings cannot claim such a high appearance rate. There is also a large satisfaction that the cases are actually finished – no need to track payment of fines or set review hearings, which is a large cost savings to the court compared to other traditional cases.

The San Diego Homeless Court Project was a natural evolution from the yearly Stand Down program, the annual program that provides medical, social and legal services to homeless veterans. It was obvious to everyone involved that this was not a once-a-year problem, but one that needed to be addressed all year long to meet the needs of the large homeless population in San Diego. The San Diego Homeless Court has been in operation since 1989. For jurisdictions considering such an effort as a Homeless Court project, several factors should be considered: 1) Do you have the homeless population to support the need?; 2) Do you have local shelters or community providers that can provide the resources and required structured programs to the homeless population?; 3) Is there a Community Room in one or more the shelters that can provide the site for the Homeless Court?; 4) Do you have the commitment from all parties – Judges, Court staff, Public Defender, Prosecutor and the Community? If the answer to all of the above questions is “yes,” then the groundwork will have been laid for development of a Homeless Court program. You can adapt and change the program to modify procedures due to budget/resource constraints as necessary.

From the Court Clerk's perspective, all of the efforts are well worth the results that are seen in the smiling faces of the participants when they leave the Homeless Court session.

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HOMELESS COURT: A SERVICE PROVIDER'S PERSPECTIVE

At PATH, our involvement with Homeless Court began as simply a referring agency, helping our own clients access this unique program in order to fulfill their goals and advance our mission to help homeless people break their personal cycles of homelessness. When PATH developed a new facility in 2002 to offer a comprehensive array of service provided by co-located collaborating agencies, we knew that one of those services had to be Homeless Court. We had seen first hand how Homeless Court transformed people's lives – seen the immediate relief in their spirits as years of judicial pressures and hundreds of dollars of fines were wiped clean away. We followed the progress of our own clients who used the Homeless Court as a springboard to other successes – employment, housing and independence. If the new *PATHMall* was to be a place where homeless people could find all the resources they needed to become self-sufficient, then Homeless Court had to be a part of the solution.

While we're not legal experts and we're not officers of the court, social service providers have a deep and critical responsibility to the Homeless Court program. We are the gatekeepers. We are the ones upon whom positive outcomes depend. The success of Homeless Court is not measured merely by the number of cases resolved or the dollar of fines waived – it is found in the lives that are transformed and the actions of individuals long after the session is over. Homeless Court removes the barriers and is a powerful motivator, but it's up to the service providers to ensure that each participant makes the most of the new opportunities available. If Homeless Court is to be successful, we must be the ones who understand our clients, read their true level of motivation, monitor and assist in their progress and provide the care and support they need to continue to succeed beyond the court session. The closing of a case through Homeless Court is not the end of someone's story – we see it as a new beginning. We must prepare our clients fully for the responsibilities that will come after Homeless Court and ensure that only those who are committed to their own progress are given this special opportunity. It is only through our careful assessments and thoughtful participation that Homeless Court remains a compassionate reward, not an abused entitlement.

After working with the Superior Court and Public Counsel to establish the *PATHMall* as a host site for Homeless Court, PATH began to explore other alternative justice methods that would help homeless people at other points in the justice system. In 2003, PATH was chosen as the lead agency to coordinate the Los Angeles Street or Services Program (SOS), which intercedes at the point-of-arrest. SOS allows quality-of-life offenders to meet with a PATH Resource Coordinator on-site at LAPD's Central Division station rather than be sent to booking downtown. After an assessment interview, the participant is offered the choice of entering an appropriate social service program for 21-28 days or having their case be referred to the traditional court system. If they successfully complete their assigned program and a community service activity, then the original arrest is never filed with the City Attorney. SOS is a pre-cursor to Homeless Court, working at the street level, at the exact time that a homeless person comes in conflict with the law. Several SOS graduates have gone on to have their other outstanding tickets resolved through Homeless Court, completing a positive and empowering cycle of justice that stands in stark contrast to the revolving door of the traditional cycle of arrest-booking-jail-release. Homeless Court has inspired and motivated us to take a more active role in advocating and creating programs that help homeless people disentangle themselves from a complex and debilitating legal system. As PATH works to share the vision of the *PATHMall* and SOS with other communities, we take along with us the passion we have for Homeless Court. As we

discuss expanding the *PATHMall* model across the nation, we hope each new facility will include some form of alternative justice program.

Legal services for the homeless has not been – and still remains – a difficult “sell” to some people. Why do the homeless need or deserve free or special legal programs? Even service providers and advocates for the poor wonder if providing legal services is really a good choice, when people have such immediate needs for food and shelter. The answer is simply this: without alternative justice programs for homeless and very poor people, they will remain forever locked in their situations. Homeless Court is good for everyone – it saves court time, it saves tax dollars, and it frankly saves lives. Three hots and a cot might serve a man today, but Homeless Court offers a way for people to truly move beyond their homelessness, embrace personal goals and make positive choices for the future. If we are truly committed to ending homelessness, than Homeless Courts should be a part of every 10 Year Plan.

P.S. - Just because we are not in the “law business” does not mean we cannot be involved. If Homeless Court doesn’t already exist where you are – **YOU CAN MAKE IT HAPPEN**. Don’t wait for the courts to ask for you to participate – get in there and start the conversation. Gather your fellow providers and document the need for Homeless Court in you community, and share that need with judges and city prosecutors. Find one or two key people in the courts – a visionary judge, a compassionate prosecutor, a sympathetic public defender – and show them how Homeless Court can help reduce recidivism and rebuild lives. Call Steve Binder and ask him to make a presentation to your judicial leaders. Talk to other Homeless Court practitioners. Spread the word – Homeless Court is changing lives!

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HOMELESS COURT AT ST. VINCENT DE PAUL VILLAGE

Tears or defensiveness often accompany a first meeting between a resident and the Homeless Court staff when there are problems with the legal authorities involved. Both are grounded in a fear of the legal system and a sense of powerlessness to solve the problems preventing them from working, going to school, or accomplishing other goals on a path to self-sufficiency.

Nearly 1000 men, women, and children live in the transitional housing at St. Vincent de Paul Village in downtown San Diego. All of them have experienced homelessness before finding the safety of "The Village". Once safe, fed, clothed, and housed, residents are expected to work with case managers to develop plans to for permanent income and housing. Often this means seeking employment and training. Sometimes, this means applying for disability income or subsidized housing. However, outstanding legal issues, including warrants or the threat of warrants, often prevent even making an application out of fear of the consequences. Plans for employment or training expire in the face of those fears.

Simply being homeless and forced to live on available public assets often result in what, for most of us, would be a ticket. No cash to buy a trolley Day Tripper? Just get on, then. Most of the time, a rider can get away with it and when caught, a simple ticket is the consequence. The ticket is not a problem if you don't intend to pay it. However, if someone is a responsible citizen or actually seeking to change their life, this ticket becomes a major barrier. A ticket for hopping a ride on the San Diego Trolley costs \$85.00. This is painful for all of us, to be sure, but even more painful for a homeless man or woman without the \$5.00 to purchase the Day Tripper in the first place. Worse, if the ticket is not paid within thirty days, it doubles and then continues to increase every thirty days thereafter. The result can look insurmountable when the lack of \$5.00 was the original issue.

Two recent residents at St. Vincent de Paul Village were in this situation, but to an extreme level. Ted had received five trolley tickets and one ticket for driving without a license and without insurance. Ted appeared before Homeless Court where all cases were dismissed and the fine set aside. As a result of this opportunity, the St. Vincent de Paul Village resident was able to reinstate his driving license and is currently working as a security supervisor. A second resident had received eighteen tickets for riding the trolley without purchasing a pass. As a result of appearing before Homeless Court, all tickets and fines were dismissed. This past resident, Susan, is now a successful manager for a social service agency.

Mere appearance is not enough, however. The St. Vincent de Paul Village resident seeking the assistance of Homeless Court will demonstrate serious commitment to change past habits and reduce barriers to their self-sufficiency before their appearance. This means, at a minimum, that the resident will be in compliance with the addiction programs as attested to by "The Village's" Recovery Services program, if an addictive substance is part of the legal problem. Further as a part of the minimum requirements, residents from "The Village" will obtain a certificate of completion for a forty-five hour training program called Challenge to Change.

Challenge to Change takes a dynamic, multi-dimensional approach to change. This course is purposefully designed to challenge, motivate, and support St. Vincent de Paul Village residents as they explore their inner depths and heights. It is designed to offer residents encouragement as they begin to take uncharted steps toward changing their ways of being, thinking, feeling and doing. The course provides each resident with the necessary tools and techniques to assist them in pursuing their goals, meeting their needs, and fulfilling their desires. Participation in this course will place residents in an environment and small community where they can be at their best as they challenge themselves to change by becoming the persons they were meant to become.

Residents participating in Challenge to Change often realize what a privilege it is to be part of a caring community in which people are willing to reach out to others by sharing their common human experiences. The focus on “community” as the basis to supporting continual improvement is an emphasis in Challenge to Change. Conversely, our residents in Challenge to Change are encouraged to view the community in which they live as well as the larger community as an entity from which they draw their rights and to which they owe responsibility. The intention of this course is to present various means by which the resident will come to a better understanding of their internal world in order to reshape their external world. This course moves them toward realizing the richness of their potential. This includes homework assignments in such areas as: (1) ways in which they prevent themselves from realizing their potential; (2) ineffective ways in which they relate to others; and (3) advantages of recognizing and utilizing the power they have as an individual.

Each resident is expected to come to class on time each and every day prepared to discuss the topic of the day. This class is a highly interactive and informative. It is important that residents stay up with the readings and the assignments because they will quickly fall behind.

Further, residents are responsible for keeping their assignments and notes in order and up to date. Therefore, when a resident is absent or does not complete the required assignments, he or she will not receive a Challenge to Change Certificate of Completion.

Each resident in Challenge to Change is evaluated on the following areas using standards established by the San Diego Workforce Partnership:

- Attendance
- Class participation
- Lab Projects and demonstrations
- Quizzes and exams
- Project papers
- Interviews

Residents at St. Vincent de Paul Village are supported by a multidisciplinary staff of case managers, assessment specialists, employment specialists, instructors, addictions and recovery counselors, mental health counselors, adult basic education instructors and tutors, residential specials, medical doctors, nurses, dentists, psychiatrists, psychologists, and several others. As residents prepare for an appearance before Homeless Court, or any other event in their lives, this

multidisciplinary team called Team Approach to Services, or TAS, meets to assure each resident is receiving the support they need. When a resident from St. Vincent de Paul Village appears before Homeless Court, everything has been done that can be done by the resident and “The Village” to assure they are making the changes necessary for self-sufficiency and responsible participation in the community.

Renee moved into St. Vincent de Paul Village with six charges of check fraud. After completing Challenge to Change and other programs at “The Village” she appeared before the Homeless Court where he was placed on summary probation and ordered to not return to the store where the crimes were committed. She subsequently completed her case plan at “The Village”, moved into her own apartment and obtained a full-time job earning \$14.00 an hour managing an apartment complex.

Sometimes just the act of seeking shelter while a person is homeless results in legal issues. This is bound to happen when there are 15,000 homeless in San Diego county and fewer than 4000 beds to shelter them. Jack received three illegal lodging tickets for sleeping under a bridge. He sought services and transitional housing at St. Vincent de Paul Village. As he progressed through his case plan, it became clear that those tickets were a barrier to employment. After completing Challenge to Change, Jack appeared before Homeless Court where the outstanding charges were dismissed. He is now night shift supervisor in the engineering and maintenance department for a major downtown hotel earning \$18.00 an hour. Jack completed his case plan and now has his own apartment and car.

Jack, Renee, Ted, and Susan are all successes that would not have been possible without access to the Homeless Court. Certainly they all had to make the effort to make serious change in their lives, but they all faced the barrier of legal problems stemming from homelessness. Their effort coupled with the opportunity that Homeless Court provides in removing those barriers are both necessary ingredients in the success.

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FROM A SERVICE PROVIDER'S PERSPECTIVE: VIETNAM VETERANS OF SAN DIEGO

Since Vietnam Veterans of San Diego (VVSD) originated in 1981, the number one mission of our agency has been to help homeless veterans become healthier, end their homeless status, and find high paying, long-term jobs. VVSD has been remarkably successful in pursuing this mission. For over a decade, VVSD has successfully run homeless facilities, drug treatment, mental health programs, and employment programs for homeless veterans. The average hourly wage among VVSD graduates is nearly \$14 per hour 6 months after being hired and less than a year after they were typically living on the street.

VVSD is perhaps best known as the inventor of the national Stand Down Program. Last year over 750 homeless veterans and family members received 3 days of safe shelter, food, clothing, legal and medical assistance, social services, job training, and referral to transitional housing at VVSD's Stand Down. Over 2,000 volunteers plus more than 50 organizations, such as the VA, the active duty military, and the American Legion volunteer at this event. Originated by VVSD in 1988, Stand Down has become a national phenomenon replicated in over 200 cities and endorsed by Presidents, Governors, and Mayors. At the first Stand Down, VVSD learned that one of the top problems among homeless veterans were outstanding arrests warrants, typically misdemeanors for vagrancy or failure to appear in court. As a result, VVSD worked with the San Diego Court system, including public defenders, the district attorney's office, city attorneys and local judges to bring the court to our Stand Down field. Every year since 1989 a local public defender named Steve Binder has worked closely at Stand Down to help hundreds of homeless veterans' clear misdemeanors that have often stifled their progress towards ending their homelessness. These veterans do not have their warrants cleared for doing nothing; they have to participate in a local drug treatment program, service center, or homeless shelter. Homeless court is one reason that only a small percentage of Stand Down participants come back to Stand Down from one year to the next. We recall a couple vividly who had family ready to pay for them to come home BUT, the two had minor misdemeanors and were TERRIFIED to leave San Diego and face a warrant. They were so relieved to have their case handled and are doing well 2 years later back home. Remember, a high percentage of the homeless have a diagnosable and treatable mental illness.

As a result of the success at Stand Down, Mr. Binder brought the homeless court to two year-round shelters, one run by VVSD and the other run in San Diego by St. Vincent De Paul. Approximately 40 homeless veterans per month have about 90 cases cleared in exchange for participating in a homeless facility that requires them to obtain the drug treatment, mental health, employment, and other services needed to end their homelessness. By everyone's account, both the Stand Down homeless court and the year-round homeless court programs have been great successes. It is a win win win program. The taxpayers benefit because so many cases can be cleared, the court benefits because they have time to search the records and make decisions regarding the offenses well prior to the court date, treatment centers gain because they require the resident to earn the right to get into Homeless Court. By the time a VVSD resident gets to homeless court, they have already attended over 80 twelve step meetings and performed more than 20 hours of community service. According to the judges; they would never require anywhere near that amount as a sentence. And, the resident benefits from a clear record. The

homeless court program has recently been replicated in 5 California regions including Los Angeles and San Francisco as well as New Mexico, Salt Lake City, and even in Australia.

VVSD is known as a national leader among homeless veteran programs in America. In the recent past, VVSD was awarded a homeless veteran employment incentive grant by HVRP and the National Coalition of Homeless Veterans (NCHV) for outstanding innovative programs, such as inventing Stand Down and originating a Homeless Court Program. VVSD operates over 200 year-round transitional housing beds at 6 locations throughout San Diego County.

VVSD also developed a new program with the public defenders office and the local D.A. whereby homeless vets begin to pay child support and get to see their children again, often after years with no connection. VVSD's recidivism rate is very low, due to our comprehensive drug treatment, mental health, job training and support services. A two-year study of VVSD by San Diego State University concluded, "the social model program offered by VVSD is more effective than other known and tested treatments for this population." Consistent with this high praise, VVSD was selected as San Diego's Nonprofit of the year by the San Diego ABC Television Station. In October 2001, Pete Dougherty, national Director of VA Homeless Programs presented VVSD with a \$980,000 award for the VA Homeless Grants & Per Diem for 80 new beds for homeless veterans. It was the largest VA Homeless award in the nation that year. At this ceremony, Mr. Dougherty stated, "There is no finer program for homeless veterans in America than Vietnam Veterans of San Diego!" Last year VVSD placed over 300 homeless vets into long-term employment. The average wage exceeded \$13 per hour after 180 days of employment. Additionally, VVSD was named the Veteran Organization of the Year 2003 for the city of San Diego.

VVSD Staff Capability: VVSD employs 3 Licensed Masters Level Therapists and 15 Masters-level Intern Therapists who provide excellent support services to clients. These licensed therapists supervise our dozen counselors, both volunteers and staff. Many of them are formerly homeless veterans in recovery. As a result, our peer counselors and drug treatment case managers share an empathy with our clients and provide excellent role models. Our CEO Al Pavich serves on VA Secretary Principi's Homeless Veterans Committee and on the San Diego Mayor's veteran task force.

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STAND DOWN: A NATIONAL PROGRAM FOR HOMELESS VETERANS

STAND DOWN is a belief in the triumph of the human community over extraordinary odds. It grows out of a conviction that the overwhelming number of homeless veterans in every American city is unacceptable and a national disgrace.

The urban streets of America are crowded with homeless people in search of shelter, food and employment. While the number of women and families on the street is on the increase, the number of military veterans ranges from 35 - 45% on any given night across the country. The San Diego Regional Task Force on the Homeless reports that there are about 8,000 urban homeless in San Diego County and estimates that 42% of them are veterans. Typically, the Mayor's Cold Weather Shelter exit survey has indicated that over 50% of the 500 occupants are veterans and that doesn't include their families. There are similar statistics in most major American cities, and our experience suggests that providing a successful program for veterans can potentially impact all homeless people in a given community.

Stand Down was designed from the ground up with the help of over 300 homeless vets at a meeting in Balboa Park in San Diego on April Fool's Day in 1988. It is a "tent city", using 30 to 40 military billeting and fly tents to provide shelter for approximately 800 veterans and office space for participating services and agencies for three days. More than 50 governmental, nonprofit, military and private organizations cooperate to provide needed services that include: medical, dental, vision care, legal assistance, alcohol and drug recovery, counseling, benefits, as well as, picture IDs, showers, nightly entertainment, food and clothing. Typically, 2,000 volunteers pass through our gates for three days each year.

Creating a community that embodies respect, support, hope and empowerment is essential for a successful Stand Down and must transcend the myriad of logistical details. By the same token, it is the careful attention to those details that allows the program to work its magic. The best Stand Down is a balance between logistics and program; the lack of resources of a given community need not rule out a successful event.

The Stand Down program is designed to transform the despair and immobility of homelessness into the energy necessary to get into recovery, to resolve legal issues, to seek employment, to access health services and benefits, to reconnect with the community and to get off the street. A very tall order for a three day event. The heart of the program is the community that takes shape over the three day Stand Down and its potential for relieving isolation, raising self esteem, providing social support and activating motivation in its members.

Each entering veteran is assigned to a 20 to 25 person tent at registration that will become their primary support group throughout the event. These groups serve an important logistical purpose, while immediately relieving the isolation characteristic of homelessness. These "tent groups" are facilitated by two individuals, usually a mental health professional matched up with a veteran, who has graduated from Stand Down or one of the veteran-specific programs in San Diego. These leaders participate in a didactic-experiential training prior to Stand Down that

reviews relevant elements of individual and group counseling, crisis management, program orientation and “cheer-leading.”

The Stand Down program philosophy is well described by Abraham Maslow’s Need Hierarchy: The fulfillment of basic **physiological** needs opens the way to addressing **safety** needs and **belonging** and **self esteem** and ultimately, **self actualizing**. As lower order needs are satisfied, an individual can address each successive higher order need. But if a lower order need is not met, a person is unable to progress, and, in the case of someone living on the street, may find themselves trapped in “just trying to survive.” When veterans first enter Stand Down their most basic needs for food, shelter and sleep (**physiological**) are immediately addressed and they are able to move towards establishing emotional and physical **safety** within the first day. The tent groups and greater community are designed to promote a sense of **belonging**, and an unconditional acceptance, which leads inevitably to an increase in **self esteem**. By the third day of Stand Down, members are working together to achieve individual and group goals and move beyond their painful self absorption. They support fellow participants and the larger community and begin to **actualize** their potential to move towards success and stability.

The tent group is designed to be the “family” for each participant and an arena for resolving issues and conflicts that emerge during the event. They live together, eat together and can ultimately form a tight bond in a short period of time. Tent leaders keep discussions in the “here-and-now” whenever possible, so that veterans use their time productively. The group members are encouraged to take responsibility for their current circumstances, rather than blaming others or predicting their own failure based on past experience. The emphasis is on the participants themselves initiating change. We try to avoid applying a model that casts the “client” as the passive recipient of strategic services. Every aspect of Stand Down is designed to foster hope, empowerment and dignity, because powerlessness tends to keep people homeless.

After lunch, on the first day of Stand Down, each tent group elects two of its members as “squad leaders” to assist the tent leaders in managing the group and seeing to its needs. This has emerged as a critical part of the program, because it promotes homeless veterans into the Stand Down leadership, and empowers the entire community. With this shared leader function the program has greater potential to evolve beyond an “us vs. them - job fair “ and become a life transforming event.

An ongoing background to all the activities at Stand Down are services that are provided as scheduled throughout the day including showers, clothing, haircuts, eyeglasses, as well as visits to provider tents. The many volunteers who provide site services and information are an important part of the community. Much of the important work of Stand Down continues throughout the year, when these same providers collaborate across agencies to offer more comprehensive care to homeless veterans.

We provide workshops on various topics at Stand Down so that each participant can individualize their program. The menu of workshops includes a broad range from “foot care” to Posttraumatic Stress Disorder and are taught by knowledgeable volunteers from the community. The workshop format is modeled somewhat on a professional conference, with participants encouraged to be good consumers and to work to get what they need from each presenter.

The second day of Stand Down is especially significant because of our Homeless Court, which is designed to adjudicate misdemeanors and sentence veterans to community service and recovery in lieu of jail time. The Homeless Court came into existence after the first Stand Down in 1988, when the participants rated their legal issues as a fundamental concern in an exit survey. The program began in 1989, and, for the first time in America, successfully brought the courtroom to the people. Through the extraordinary efforts of Steve Binder, the Homeless Court program has moved beyond its birth place at Stand Down and has become a highly successful national program.

One of the most enduring features of Stand Down for veterans is the Recovery Hour that is scheduled the same time each day. This is the one period during Stand Down when everything ceases, and everyone, including volunteers, attends a recovery meeting that most closely meets their needs. We provide a broad menu of meetings that include the traditional AA, CA, NA, ACA and meetings that are designed to strengthen existing support systems like Women's AA, Hispanic AA and African-American AA. We have an additional recovery meeting called "stress reduction," for participants who do not have an addiction or who may still be in denial.

We place emphasis on the importance of attending recovery meetings at Stand Down, because they have the potential to be far more impactful than an ordinary meeting. Many veterans, over the years, have begun their abstinence at a Stand Down and have returned the following year to celebrate their sobriety with the community. On the final day of the event, volunteers and participants, who have maintained their sobriety from a previous Stand Down, are invited onto the stage to be recognized. After 17 years of this program our stage is packed with men and women, who are a model of successful recovery.

An underlying theme at Stand Down is the creation of a community to strengthen, support and mobilize each of its individual members. We use "tent groups" to build families and "Town Meetings" to bring all the families together to optimize this support and strength. There are some strategic times during the event when a Town Meeting is most productive. For example, immediately after lunch on the second day, participants are feeling safer and can better tolerate sitting with a large group of people. We use this time to allow federal, state and local dignitaries to address us and for the associated media briefing to occur. Most homeless veterans are surprised and pleased that "important people" are interested in them and this Town Meeting can be a particularly validating event.

Two other Town Meetings occur on the last day and are of particular importance. "Open Mike" invites participants to come to the stage and to address the entire community over the public address system. They typically pass on what they have learned and express their gratitude; it usually is a very powerful and humbling experience.

The graduation ceremony brings the entire community together to witness and celebrate each participant's successful completion of the program. It is a powerful event that must be experienced to be truly appreciated. Tent groups march up single file carrying flags to pass in front of the stage with bagpipes and snare drums playing in the background. Each veteran is presented an official Stand Down hat and graduation button to thunderous applause. When all the

tent groups have been acknowledged and returned to stand in front of their tents, we all gather in an enormous circle of about one thousand strong. We have spent a powerful three days together and we are no longer homeless veterans and volunteers, but one interdependent community.

The final part of the program is the volunteer debriefing that occurs once the event has ended and the participants have left the site. Typically, we all sit in a circle and review our experiences, but we postpone our critique for another time. The best use of the debriefing at the completion of Stand Down is for support and validation of all the work that was done. It is also a time to acknowledge the inevitable sadness that volunteers experience as they watch veterans leave Stand Down and return back to the street.

Stand Down, in spite of its resource requirements and logistical complexities, has spread across America and been replicated in hundreds of cities, each with its own unique character. One of the original reasons for the program was to raise the national consciousness about the plight of homeless veterans, but it's time for this mission to move to the next level. The best indicator of Stand Down's success over its history has been the steadily increasing number of former participants who have become successful and returned as volunteers. A group of these veterans has established a new organization called the Stand Down Alumni Association. I believe that the future of this movement legitimately belongs to these once homeless alumni and that the energy invested over the years by thousands of dedicated Stand Down volunteers will find new life in this next generation of leaders.

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CREATING COMMUNITY AT STAND DOWN

For the three days of Stand Down in July each year, the criminal justice system works the way most people would like it to work. Homeless vets and their dependents are off the streets, the hungry are fed; the unsheltered have beds. Clothing and haircuts are dispensed along with legal counsel, medical and dental care. The residents of San Diego County feel good about what is going on at the baseball field at San Diego High School. Yet much more is being created on that field.

The success of the Homeless Court project begins in the tents of Stand Down. For three days, volunteer tent leaders create a sense of dignity, trust and family out of the disparate, isolated, disenfranchised and discouraged vets that find their way on to the field at Stand Down. This is no small feat. The tents are field issue military tents, put in place by See Bees during the days before Stand Down. They are strategically placed in a horseshoe shape. The opening points toward the stage and service tents just beyond the main community of tents. This semi circle design connects the vets, allowing them to create their own environment “inside the wire” around Stand Down. Inside the wire, a community springs to life and amazing things happen.

Led by their tent leaders, the vets shuffle and straggle across the compound on Friday morning to find their tent and set up their cots. Suspicious strangers, assigned at random to the various tents, are asked to help each other put up the metal cots. The seed of community is carefully planted in this simple task. Just being together in the tent reminds the vets of their prior experience in the military. They begin to connect to that time in their lives when they belonged; when they had self-respect, did meaningful work and were productive members of society. From Friday morning through Sunday afternoon, the vets will do things together as a tent family. They will be called to showers, clothing, meals and other services as a group. The vets quickly learn to identify who their tent mates are from the first morning.

Some know each other from the streets, but most are isolated and mistrusting of each other. Many come to Stand Down in dirty clothes, heads down. Their long beards and hair shield them from the judgmental stares they encounter in the community. They ferociously guard the backpacks, duffle bags and plastic grocery sacks containing their belongings. They introduce themselves in a tent meeting and begin to share their names, hometowns, and what they need from Stand Down. Many have attended before and are resolute about what they want to accomplish. The first timers are immediately connected to the “old timers” to orient them to Stand Down.

Each tent is assigned several tent leaders who act as facilitators. Tent leaders are the heart and soul of the community of Stand Down. They have no special talents other than the ability to listen, be respectful, and to recognize the dignity in every human being. They are recruited by the Stand Down faithful who spread the word each year to friends and family about the incredible three-day experience of Stand Down which can't be duplicated anywhere else. The volunteer tent leaders come from all segments of the San Diego community. The best tent leaders come from the ranks of former Stand Down participants who are now stable and want to offer that hand up to another vet. They are more than mere role models; they are walking

miracles, vets who are not afraid to care and share their stories with others if it will help. Other tent leaders are recruited from the ranks of local graduate students in the helping professions. The vets are always amazed and touched that people (many who are not vets themselves) want to volunteer for three days to help their homeless neighbors.

Caroline was recruited to volunteer as a tent leader and, after her first year, she wanted to return with her father, Tom, at the next year's Stand Down. Tom, a Vietnam vet, had never talked with his daughter about his experiences in country. He had been an MP in Hue during the Tet Offensive. Tom and Caroline served as co-tent leaders in November tent. During the three days of Stand Down, Caroline was able to watch as her father related to his fellow vets. She heard him open up and talk about his Vietnam experience during a workshop on PTSD. They attended "Triple Threat", a recovery meeting dealing with alcohol, drugs, and combat, and she listened, for the first time, as he described what it was like to be in Hue during Tet. Stand Down changed their father-daughter relationship forever. Five years later, they are still volunteering together at Stand Down. They have never been closer.

Kevin, a homeless Navy vet from Iowa, always looked forward to Stand Down each year. He began coming in 1989 and arrived each July to take advantage of the opportunity to get off the street, rest, and eat well for three days. He utilized all the services, enjoyed the entertainment at night and socialized with friends. For the first few years that was all he wanted. He knew he had a serious problem with heroin, but attempts to kick the habit and stay clean always failed. He had tried several stints at St. Vincent De Paul but never finished the program. As the years went by, he knew he was sinking deeper. After eleven years, he knew he needed help or he'd die. At Stand Down he could get help. That year he entered the rehabilitation program at Vietnam Veterans of San Diego and went on to complete a two-year stabilization program. Today he is the operator of a successful airport shuttle business. He's not afraid to share his story and inspire others. He has been a tent leader at Stand Down for the past five years and is active in the National Stand Down Alumni Association.

As the tent family comes together on Friday, the leadership slowly shifts from the tent leaders to the tent members. By the afternoon, the tent members elect two Squad Leaders from their ranks. The vets themselves take over the running of the tent and provide the needed leadership. Tent leaders step back and watch the empowerment process as it unfolds. At this point the vets are beginning to trust what is happening at Stand Down and are more likely to access services.

By Saturday morning, the vets are eager, yet apprehensive, to appear in court. Participants have spread the word that the Homeless Court at Stand Down is "the real deal". Still, they fidget nervously in their chairs as they wait. They have showered, shaved, cut their hair, put on clean clothes and are anxious to make a good impression with the judge and prosecutor. That small measure of trust that began to develop in their tent family on Friday morning is now being extended to the Stand Down Homeless Court. The vets wait patiently for their names to be called.

After their matters are adjudicated, they leave the court area with wide smiles, intense relief highlighted on their faces. They feel lighter. They stand straighter. They filter back to the tent and tell the others about their experience at court. Their relief is contagious. Those who did not

pre-register for the court are encouraged to hear they can show their Stand Down registration cards at court after Stand Down in order to take advantage of the goodwill that began on the field. They talk about taking care of business and getting their lives together for the first time in years.

The Stand Down Homeless Court is an integral part of the three-day experience for the vets. The court “comes to the people” and the vets are grateful for the second chance. They begin to see themselves as part of the community. They begin to believe in their ability to be productive and self-sufficient once again. The trust that began to take root in the tent family is reinforced by their experience at court. After graduation on Sunday they come to believe anything is possible. And, it is.

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She is the Tent Leader Coordinator for Stand Down in San Diego. She has been one of the tent leaders for Bravo tent for the past 16 years.

FROM THE PARTICIPANT'S PERSPECTIVE

“I came to San Diego by way of Boston. I thought I was gonna find a new life here...I ran out of little money I had. Nothing went right for me. I found myself turning to a bottle. It didn't take long before I was homeless and living a life not caring even for myself. This went on for 2 years and I found my way to the Salvation Army. Here I found my self-respect and a new way to live in 'society.' But, before I came into the Salvation Army Program, my addiction took me to receiving tickets such as drinking in public, illegal lodging misdemeanor tickets. Homeless Court gave me a change in life, where as nobody else has. I am grateful and blessed that there is such a thing as Homeless Court because today I am living a clean and sober life and saw the mistakes I made in the past.”

Male, Participant

“I have been living in San Diego for about twelve years. I was homeless for a good part of that time. That's because I'm an alcoholic. I've lost my job again due to my drinking and I decided to get some help. I usually would let a warrant for a traffic ticket go until I was picked up by the police. Then I would clear up any and all warrants at that time. This has always been my way of doing things. Now that I am in Salvation Army for their ARC (Adult Rehabilitation Center) program, I can see things a lot differently. I didn't know what Homeless Court was until I went. Now, I am glad I did.”

Male, Participant

“If not for the Homeless Court, I wouldn't have taken care of my outstanding court cases. Having the opportunity to clear the legal wreckage of my past while also paving the road to sobriety has given me an increased optimistic outlook on life...(the attorney did) a great job in letting the homeless court participants know what they are up against on their first visit. I was a little apprehensive as I always am about going to court...I feel the Homeless Court Program fills a void inherent in today's legal system. With all the uncertainty regarding consequences stemming from charges brought against a person, it is no wonder many people prefer to just not show up. The Homeless Court Program is a major step in filling this void.”

Male, Participant

“The Homeless Court Program has been extremely beneficial in helping me iron out my legal issues. In the past, I've been apprehensive about appearing in court on certain charges, always seeming to fear the worst possible outcome...(the attorney) does a professional job in informing and gaining the trust of those he's representing. I can honestly admit that given the responsibility of handling my cases without the HCP, the charges against me would still be at ground zero. It's pretty hard to argue against a program that gives a person who is actually trying to better their life the opportunity to absolve their legal problems at the same time. Of course we're all accountable for our own actions and consequences should be justly served but,...serenity and peace of mind can definitely be attained through finalizing a court case, and this becomes added incentive for a person trying to follow the right path and make positive changes in their life on the road to recovery.”

Male, Participant

“I was...living in the wrong direction...I wasn't able to make good choices, and by making the choices I did, it led to being afraid of personal responsibility. So when I became homeless after losing everything I ever had or loved, I had a moment of clarity. And that was to get help by joining the Salvation Army Rehabilitation Center. When I joined the Program, I had a few legal matters still pending, which I had no way of being able to take care of...For me personally, my legal 'problems' were resolved. With this goal accomplished, I have been able to continue with my program in recovery. To finish the program, knowing that when I do so, I will have a fresh start, means a great deal to me.”

Male, Participant

“Even the D.A. was pleasant.”

Male, Participant

FACING JUSTICE, RECONCILING THE PAST: ONE MAN MOVES FORWARD

BACKGROUND

I was born on April 20, 1940 in Chicago. I lived and attended school in Pacific Beach, CA. I served as an active duty Marine for four years. I received an Honorable discharge and recommendation for re-enlistment. I was a family man, homeowner, and held a degree in business management, graduating with a 4.0-grade average. I was on the Deans list for two years. I lead a successful career in electronics and real estate industries.

In 1994 my drinking got out of control. I walked out on my family and came to San Diego. Collecting unemployment, I was able to rent a cheap downtown hotel room. After paying rent, I would drink until my money ran dry. This cycle continued until the checks ran out. I became homeless.

By that time, I had lost my self-respect, self-esteem, dignity, and hope. My only focus was the next drink. I made the rounds of food lines and pan handled for money to drink. This cycle continued until January 28, 1999.

On that morning, I awakened in my alley, physically and emotionally spent. I prayed. I asked a friend to help me. He asked me "How much do you want sobriety?" My answer, "I will do whatever it takes." From that day on, he has been my A.A. sponsor.

The next day, he took me to the V.A. Hospital, La Jolla. I spent the next four days with an i.v. in my arm being treated for alcohol poisoning and d.t.'s.

One week later I started the 28-day drug and alcohol program at the V.A. On March 5, 1999, I began the extended program at V.V.S.D. At V.V.S.D., I learned of the Homeless Court Program.

I had four outstanding warrants for sleeping on the beach and open containers of alcohol. In May 1999, I stood before Judge Valentine. My defense attorney was Steve Binder. I was surprised by the Court's willingness to work with me and allow me to continue my program without the burden of legal problems.

In time and with guidance from some very special people, I regained my self-respect, self-esteem, dignity, and found there was hope for my future.

In February 2000, I left V.V.S.D. gainfully employed, sober and with an award signed by the C.E.O. and C.O.O. at V.V.S.D, another prized possession. The award states:

To John MacKanin
"For being an exemplary role model."

I share this award with all the people who believed in me.

TO THE PRESENT

Now in my sixth year of sobriety and retired since October 2003, I travel and spend time with family and friends. But the most important thing I do is service to others new in the program of recovery.

If I do not remain active, I will one day drink again.

- John MacKanin



National Alliance to End Homelessness

Homelessness and How to End It: Implementing a Plan

The National Alliance to End Homelessness is a nonprofit organization whose mission is to mobilize the nonprofit, public and private sectors of society in an alliance to end homelessness. The Alliance represents a united effort to address the root causes of homelessness and challenge society's acceptance of homelessness as an inevitable by-product of American life.

Around the country, the way people think about homelessness is beginning to change. For years, the public had moved more and more toward regarding homelessness as an unfortunate but inevitable byproduct of our system, something we can't do anything about. But in the past few years, the talk has been different. Now mayors, governors, business leaders and ordinary citizens are talking about ending homelessness, about homelessness as a problem with a solution. Why the change, and who is right?

The National Alliance to End Homelessness made public a Ten Year Plan to End Homelessness in July of 2000. We believe our Ten Year Plan and the simple ideas it contains have captured the imagination of leaders in many communities. We believe it is having an impact. This article describes what led us to make the audacious claim that homelessness could be ended, what a solution would require, and what progress the country has made.

THE BACKGROUND OF THE PLAN

The Alliance began the work of constructing a plan to end homelessness out of a conviction that our nation's efforts on this issue were at a critical juncture. Essentially, we became convinced that we were losing, not winning, the fight against homelessness, and that we were on the verge of institutionalizing homelessness as a permanent part of the American landscape.

Running Faster, Falling Further Behind

Twenty-five years ago there was not widespread homelessness in America. Tonight as many as 850,000 people will be homeless, up from about 600,000 in the late 1980s. The continued growth comes despite an infrastructure of 40,000 programs, spending two billion dollars a year on the problem.

When we carefully examined the numbers we saw that we had a system that besides caring reasonably well for people when they were homeless, also moved most people who became homeless back into housing in relatively short order. But the homeless assistance system neither prevented people from becoming homeless nor changed the overall availability of housing, income and services that will truly end homelessness.

Mainstream social programs, on the other hand, did have the ability to prevent and end homelessness. These are programs like welfare, health care, mental health care, substance abuse treatment, subsidized housing, veterans assistance and so on. These programs, however, were oversubscribed, a situation that has only become worse in the past few years. Perversely, the very existence of the homeless assistance system can encourage these mainstream systems to shift the cost and responsibility for helping the most vulnerable people to the homeless assistance system. The number of people who become homeless each day continues to rise, leaving homeless assistance providers on an ever-accelerating treadmill.

The Dilemma about How to Respond

Those concerned about homelessness faced two equally unsatisfactory strategies for addressing this dysfunctional situation. One approach, building a larger and larger homeless assistance system to make up for the continuing failure of “safety net” programs, had clearly failed to bring about the desired result. The alternative, trying to make serious inroads against deep poverty through universal programs of housing and income, had a huge price tag that the country as a whole appeared and still appears unwilling to accept.

The urgency to escape this dilemma we and others in the homeless assistance system felt cannot be overstated. The general public increasingly viewed homelessness as inevitable. At the same time, we saw tremendous opportunities that were ready to slip away if not grasped immediately. These included:

- *New research* allowing us to target specific interventions to specific institutions that create homelessness and to specific groups of homeless people.
- *Programmatic know-how* at an all-time high – the country is full of programs that end homelessness for everyone from the family needing a short-term place to stay, to the chronically homeless person with schizophrenia who has lived out of doors for decades.
- *A high regard in Congress and the Administration* for programs for homeless people, demonstrated by funding increases under two Administrations and both Republican and Democratic Congresses.

Our response was the Ten Year Plan to End Homelessness. Based on careful reviews of research, consultation with people involved in the issue across the country, and understanding of different pieces that were already in effect, the Ten Year Plan set off a movement in cities and states across the country. Starting with a clear understanding of the state of the problem, it set out the basic tasks that had to be undertaken in order to succeed.

A SNAPSHOT OF HOMELESSNESS

Between 700,000 and 800,000 people are homeless on any given night. Over the course of a year between 2.5 and 3.5 million people will experience homelessness in this country. In order to end homelessness, it is necessary to understand the needs and characteristics of the sub-populations of this large group. The most significant sub-groups are people who experience homelessness as part of a family group, and those who are single adults.

Families

Most families become homeless because they are having a housing crisis. Their primary, immediate need is for housing. Certainly they are likely to have other needs -- for services and to increase their incomes. However, these needs are best met, once the family is in permanent housing – not while they are temporarily housed in shelter or transitional housing. Most homeless families get themselves back into housing as quickly as they can after they become homeless.

- About half of the individuals who experience homelessness over the course of a year live in family units
- About 38% of people who are homeless in the course of a year are children.
- Most people in homeless families have personal problems to overcome, but these problems are not appreciably different from those of poor, housed families.
- Services delivered in the homeless system seem to have little effect on eventual stability of these families in housing.

Single Homeless People

About half of the people who experience homelessness over the course of a year are single adults. Most enter and exit the system fairly quickly. The remainder essentially live in the homeless assistance system, or in a combination of shelters, hospitals, the streets, and jails and prisons.

- 80% of single adult shelter users enter the homeless system only once or twice, stay just over a month, and do not return. 9% enter nearly five times a year and stay nearly two months each time. This group utilizes 18% of the system's resources. The remaining 10% enters the system just over twice a year and spends an average of 280 days per stay – virtually living in the system and utilizing nearly half its resources.
- The main types of help homeless single adults felt they needed were help finding a job, help finding affordable housing, and help paying for housing. The major types of assistance they received were clothing, transportation and help with public benefits. Only 7% reported receiving help finding housing.

There are also single homeless people who are not adults – runaway and throwaway youth. This population is of indeterminate size, and is often not included in counts of homeless people. One study that interviewed youth found that 1.6 million had an episode of homelessness lasting at least one night over the course of a year.

THE COST OF HOMELESSNESS

For mayors, city councils and even homeless providers it often seems that placing homeless people in shelters, while not the most desirable course, is at least the most inexpensive way of meeting basic needs. This is deceptive. The cost of homelessness can be quite high, particularly for those with chronic illnesses. Because they have no regular place to stay, people who are homeless use a variety of public systems in an inefficient and costly way. Preventing a homeless

episode, or ensuring a speedy transition into stable permanent housing can result in a significant cost savings.

Following are some of the ways in which homelessness can be costly.

Hospitalization and Medical Treatment

People who are homeless are more likely to access costly health care services.

- According to a report in the New England Journal of Medicine, homeless people spent an average of four days longer per hospital visit than did comparable non-homeless people. This extra cost, approximately \$2,414 per hospitalization, is attributable to homelessness.
- A study of hospital admissions of homeless people in Hawaii revealed that 1,751 adults were responsible for 564 hospitalizations and \$4 million in admission cost. Their rate of psychiatric hospitalization was over 100 times their non-homeless cohort. The researchers conducting the study estimate that the excess cost for treating these homeless individuals was \$3.5 million or about \$2,000 per person.

Homelessness both causes and results from serious health care issues, including addictive disorders. Treating homeless people for drug and alcohol related illnesses in less than optimal conditions is expensive. Substance abuse increases the risk of incarceration and HIV exposure, and it is itself a substantial cost to our medical system.

- Physician and health care expert Michael Siegel found that the average cost to cure an alcohol related illness is approximately \$10,660. Another study found that the average cost to California Hospitals of treating a substance abuser is about \$8,360 for those in treatment, and \$14,740 for those who are not.

Prisons and Jails

People who are homeless spend more time in jail or prison -- sometimes for crimes such as loitering -- which is tremendously costly.

- According to a University of Texas two-year survey of homeless individuals, each person cost the taxpayers \$14,480 per year, primarily for overnight jail.
- A typical cost of a prison bed in a state or federal prison is \$20,000 per year.

Emergency Shelter

Emergency shelter is a costly alternative to permanent housing. While it is sometimes necessary for short-term crises, it too often serves as long-term housing. The cost of an emergency shelter bed funded by HUD's Emergency Shelter Grants program is more than the average annual cost of a federal housing subsidy (Section 8 Housing Certificate).

Lost Opportunity

Perhaps the most difficult cost to quantify is the loss of future productivity. Decreased health and more time spent in jails or prisons, means that homeless people have more obstacles to contributing to society through their work and creativity. Homeless children also face barriers to education.

Because many homeless children have such poor education experiences, their future productivity and career prospects may suffer. This makes the effects of homelessness much longer lasting than just the time spent in shelters.

THE SUBSTANCE OF THE PLAN

The plan developed by the Alliance builds on successful practices around the country to go beyond the unsatisfactory options of doing more of the same or waiting for an end to poverty before homelessness can be eradicated. To end homelessness in ten years, all sectors of society need to move forward simultaneously on four fronts:

1. Plan for Outcomes

Most American communities plan how to manage homelessness, but more and more are beginning to plan how to end it. In fact, new data has shown that most localities could help homeless people much more effectively by changing the mix of assistance they provide. Using much better **data** collected at the local level, communities can create a **planning process that focuses on the outcome of ending homelessness** – and then must bring to the table not just the homeless assistance providers, but **the mainstream state and local agencies and organizations** whose clients are homeless or at risk of becoming homeless.

Examples:

Getting Housed, Staying Housed: A Collaborative Plan to End Homelessness (Chicago, Illinois) – Chicago Mayor Richard Daley has officially endorsed this citywide plan to end homelessness in ten years. The Chicago Continuum of Care led the process of developing the plan, involving a comprehensive array of stakeholders from the public, private and nonprofit sectors. The plan includes major strategies, five-year initiatives and initial action steps. For more detail, go to: <http://www.endhomelessness.org/localplans/chicago.pdf>

The Blueprint to End Homelessness (Indianapolis, Indiana) – Indianapolis Mayor Bart Peterson personally initiated the development process for this plan to end homelessness citywide in ten years. He commissioned a task force that engaged approximately 450 people and over 150 organizations representing all relevant stakeholders. The plan includes detailed strategies, recommendations and action steps, as well as preliminary timelines for the first five years of the plan. For more information, go to: <http://www.endhomelessness.org/localplans/indianapolis.pdf>

Philadelphia (Pennsylvania) – In 1991 Philadelphia initiated a data system to provide more specific data on shelter use and to improve program design. Data are used to allocate resources, to conduct performance based contracting (and thus to look at client outcomes), and to look at

trends in numbers and demographic characteristics. Information is attached. A brief profile of this system is at: www.endhomelessness.org/best/PhillyHMIS.htm

2. Close the Front Door

The homeless assistance system ends homelessness for thousands of people every day, but others quickly replace them. People who become homeless are almost always clients of public systems of care and assistance. These include the mental health system, the public health system, the welfare system, and the veterans system, as well as the criminal justice and the child protective service systems (including foster care). The more effective the homeless assistance system is in caring for people, the less incentive these other systems have to deal with the most troubled people – and the more incentive they have to shift the cost of serving them to the homeless assistance system.

This situation must be reversed. The flow of **incentives** can favor helping the people with the most complex problems. There must be **zero tolerance** for discharges into the homeless system from public institutions. **Outcome measures** should include housing stability. As in many other social areas, investment in **prevention holds the promise of saving money** on expensive systems of remedial care.

Examples:

Illinois Department of Children and Families Youth Housing Assistance Program.

The Illinois Department of Children and Family Services developed a housing advocacy program to provide youth aging out of foster care with housing assistance. The program helps young people locate housing and provides youth with cash assistance and partial housing subsidies. For additional information on this program, go to <http://www.endhomelessness.org/best/ILyouth.htm>

The Philadelphia Housing Support Center (Philadelphia, Pennsylvania) – The Housing Support Center coordinates housing and service resources from various City social service departments through one central gateway. Pulling together diverse resources, the Center serves as a "one-stop shop" to meet housing needs—providing both prevention and re-housing assistance. To complement its prevention services, PHSC participates in the Youth Housing Continuum Task Force to ensure that youth aging out of foster care have safe and adequate housing plans. A description is on line at: <http://www.endhomelessness.org/best/SupportCenter.htm>

3. Open the Back Door

Most people who become homeless enter and exit homelessness relatively quickly. Although there is a housing shortage, they accommodate this shortage and find housing. There is a much smaller group of people, the majority of whom are chronically homeless and chronically ill, who virtually live in the shelter system and are heavy users of other expensive public systems such as hospitals and jails.

People should be helped to exit homelessness as quickly as possible through a **housing first approach**. For chronically homeless people, this means **permanent supportive housing** (housing with services) – a solution that will save public funds as it reduces the use of other public systems. For families and less disabled single adults it means getting people very quickly into permanent housing and linking them with services – and ultimately developing systems that rehouse people in crisis before they ever become homeless. People should **not spend years in homeless systems**.

Examples:

Beyond Shelter (Los Angeles, California) – Since 1988, Beyond Shelter has been assisting homeless families with children move into permanent housing. Housing search staff help families negotiate leases, access move-in funds, and overcome the barriers of poor credit history, prior evictions, and discrimination based on ethnicity, family size and income source. Approximately half of the 400 families served each year are headed by a parent in recovery. For more information, see: <http://www.endhomelessness.org/best/beyondshelter.htm>

Pathways to Housing (New York, New York) — Pathways offers scattered-site permanent housing to homeless individuals with psychiatric disabilities and addictions. Despite the challenges this population presents, Pathways is unique in that it does not require of its residents: “graduation” from other transitional programs, sobriety, or acceptance of supportive services. Data from 2000 showed that 88% of the program’s tenants remained housed after five years. Pathways staff report that its residents have greater satisfaction with their housing, and greater psychological well-being because they were given a choice of where to live, and what activities to engage in. For more information, see: <http://www.endhomelessness.org/best/pathways.htm>

Anishinabe Wakiagun (Minneapolis, Minnesota) – This program provides permanent supportive housing to late stage chronic inebriates, targeting the Native American population. The program is intended to “minimize the negative consequences of the residents’ drinking patterns, while providing a stable, culturally appropriate living environment which encourages a reduction in alcohol consumption.” The program also intends to reduce the public costs of providing services to their population. For more information, see: <http://www.endhomelessness.org/best/anishinabe.htm>

The Maryland SSI Outreach Project (Baltimore, Maryland) – This project assists homeless people with disabilities in establishing their eligibility for Supplemental Security Income benefits. The project helps compile medical records and packages them with an eye to demonstrating compliance with SSI eligibility requirements. A profile is at: <http://www.endhomelessness.org/best/mdssioutrch.htm>.

4. Build the Antipoverty Infrastructure

Attempts to change the homeless assistance system must take place within the context of larger efforts to help very poor people. Pressure on the homelessness system can be reduced through broader-scale efforts to increase the supply of affordable **housing**; make **incomes** of the poor

adequate to pay for necessities such as food, shelter and health care; and enhance the ability of disadvantaged people to receive the **services** they need.

Examples:

Los Angeles Affordable Housing Trust Fund (Los Angeles, California) -- In June of 2000, the Mayor of Los Angeles and the City Council established the Los Angeles Affordable Housing Trust Fund through the city's budget process. The Trust Fund was provided with \$5 million to support proposed housing developments that the City hadn't funded. In 2002, the Mayor announced a \$100 million multi-year funding plan to help meet the critical housing needs in Los Angeles. See the Los Angeles Housing Department's website for more information: <http://www.ci.la.ca.us/lahd/afhsgtrstfd.htm>

Inclusionary Zoning (Montgomery County, Maryland) – Cities and Counties have used inclusionary zoning policies to help develop affordable housing for low-income families. A discussion of inclusionary zoning policies in the Washington DC area—including one of the longest running and most successful, in Montgomery County, Maryland—can be found at: <http://www.brookings.org/dybdocroot/es/urban/publications/inclusionary.pdf>.

THE CORRECTIONS SYSTEM

Homeless people often find their way into the corrections system, many times for relatively minor offenses that are related to being homeless. At the same time, many people in custody find themselves homeless when released.

Preventing homelessness is an important part of any initiative to improve the system for prisoners reentering mainstream society. Material released by the White House along with President Bush's State of the Union Address earlier this year pointed clearly to housing as a crucial problem that must be addressed when people leave prison. Local experience suggests that people who leave jail or prison without stable housing are many times more likely to commit a new crime and return to custody than are people who have adequate discharge plans that include stable housing.

Another key element of the relationship between homelessness and corrections is the ill effect of criminal records and outstanding criminal charges. An all-too-typical situation is a homeless person who is charged with a misdemeanor offense, then never receives notice of a court date. The individual then finds himself with a felony charge of Failure to Appear, and an arrest warrant. All these entanglements make it more difficult to find a job, find housing, or apply for government assistance or housing subsidy programs.

THE ROAD AHEAD

According to the U.S. Interagency Council on Homelessness, more than 130 communities, including all of the largest cities, are working on plans to end homelessness. Nearly all States have newly formed State Councils on homelessness. At the local, State and Federal levels, policy makers are intent on finding an end to homelessness, a doable goal for this great and

prosperous nation. The quest remains as urgent as ever, but the outlook becomes increasingly hopeful.

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Founded in the early 1980's, the National Coalition for the Homeless (NCH) is a private, non-profit, national advocacy organization that exists to educate all levels of society in order to identify and put to an end the social and economic causes of homelessness. NCH is the nation's oldest and largest national homelessness advocacy organization, comprised of activists, service providers, and persons who are, or have been, homeless striving toward a single goal – to end homelessness. It is the mission of NCH to create the systemic and attitudinal changes necessary to prevent and end homelessness, while concurrently working to increase the capacity of local supportive housing and service providers to better meet the urgent needs of those families and individuals now homeless in their communities.

NCH focuses its work on four policy areas: civil rights of those who are without homes, housing that is affordable to those with the lowest incomes, accessible/comprehensive health care and other needed support services, and livable incomes that make it possible to afford the basic necessities of life. The strategies we use to implement our mission are: litigation, lobbying, public education, policy analysis, community organizing, research and providing technical assistance.

One of our major projects is the National Homeless Civil Rights Organizing Project (NHCROP). We publish an annual report on the criminalization of homelessness called *Illegal to Be Homeless: The Criminalization of Homelessness in the U.S.* We have published two annual reports in 2002 and 2003. The 2004 report will be published in the fall.

The Homeless Court Program is a proven and effective way to help homeless people clear up their outstanding warrants.

For more information, please contact:

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NATIONAL COALITION *for* HOMELESS VETERANS

HOMELESS COURTS RISE AS INSTITUTIONS OF REDEMPTION

Founded in 1990 by a group of community-based homeless veteran service providers, the National Coalition for Homeless Veterans (NCHV) is a nonprofit, tax exempt, 501(c)3 corporation. NCHV seeks to eliminate homelessness in the veteran community and work its way out of business. NCHV serves as a liaison between branches of the federal government and community-based homeless veteran service providers. Today, NCHV remains steadfast to its original goal of advocating for the elimination of homelessness among veterans.

What would you do if you were homeless – clutching a dirty bedroll and wearing soiled clothes; needing a shower, a shave and a haircut; your stomach aching from hunger and your muscles and joints stiff from sleeping in a damp, cold stairwell; your sense of self worth draining away like rainwater in a gutter – and you were suddenly taken to a police station, booked for disorderly conduct, and given a summons to appear in court?

Chances are, when the hearing date arrives, you won't be at the courthouse. You're scared, tired, hungry, frustrated and sick. If you suffer the humiliation of appearing in court and the charges are dismissed, you're still homeless and without a job. If you plead guilty, that's just another fine you can't pay or jail time, and another black mark on a record that already bars you from most housing, employment and public assistance programs.

That cycle of hopelessness was first addressed by the judicial system in San Diego, Calif., after the nation's first Stand Down in 1988. Stand Down is a military term for removing personnel from combat operations for a few days and offering them a place of relative security for rest, cooked meals, showers, mail, health check-ups and clean uniforms – a place of healing. Today, in communities across the nation, Stand Down is a temporary safe haven where America's more than 275,000 homeless veterans may access a wide range of services to rekindle their sense of self worth and the belief that they can reclaim their rightful place in society as productive citizens.

Vietnam Veterans of San Diego (VVSD) staged that first Stand Down for homeless veterans. On hand to give life, energy and direction to the movement were Stand Down co-founders Robert Van Keuren and Dr. Jon Nachison, VVSD Executive Director Al Pavich and his staff, volunteers from the community, local businesses, government services agencies, veterans groups, representatives of the Department of Veterans Affairs (VA) and Department of Labor, and an attorney with the San Diego Office of the Public Defender, Steve Binder.

Experienced in innovative approaches to combating homelessness among San Diego's veteran community, VVSD was able to plan, coordinate and build a three-day tent city that offered

homeless veterans health and hygiene services, food, clothing, referrals to supportive housing programs, veterans benefits counseling, access to substance abuse and mental health treatment programs, employment assistance services, and personal development counseling – all in one place. It was a monumental undertaking; and before it was over, more than 500 homeless veterans had received help that no single agency in the region could have provided.

As homeless veterans prepared to leave the encampment, they were asked to fill out a survey for the VA about their homelessness and experiences at the Stand Down. The last question on the survey asked them to identify their greatest need.

“Surprisingly,” Steve Binder said in a recent interview with the National Coalition for Homeless Veterans (NCHV), “we found that 116 of the nearly 500 veterans said they needed help with legal problems the most. That was more than double the number of the next highest request. It was a shock.”

Actually, it was a deafening wake-up call. Service providers and experienced advocates were so focused on immediate supportive services like housing, health care and employment, few were dealing with the grim reality that most of those necessities were beyond the reach of a large number of their clients – homeless veterans with outstanding criminal warrants.

An analysis of the cases pending against homeless people sheds light on how traditional law enforcement can derail even the most promising programs designed to help them. For the most part, the citations issued to the homeless are for public nuisance offenses – illegal lodging, public drinking and inebriation, littering, urinating in public – or offenses relating to their homelessness, including petty theft, trespass and child support delinquency. Homeless people are often burdened with several outstanding warrants, and failure to appear in court only deepens the abyss.

“The large majority [of homeless people] are a nonviolent group who just want to be left alone,” Binder said. “But each citation is like kicking sand in his face, and the psychological impact is as damaging to the person as the charges against him. Even when someone enters and completes a homeless assistance program, if those unresolved cases are still out there, they’ll lose everything they’ve gained.”

Bringing Justice to the Homeless

After the 1988 San Diego Stand Down, the San Diego County Bar Association Homeless Subcommittee invited Van Keuren and Dr. Nachison to one of its monthly meetings to discuss the Stand Down program and the VA survey results. Before long, a meeting had been set up with San Diego Municipal Court Judge E. Mac Amos Jr. to discuss the possibility of setting up a court for homeless veterans at the next Stand Down.

As Binder recalls: “The meeting brought together a group of people with an unusually cooperative outlook. The clerks assured the presiding judge that a courtroom could be set up and run outside of the courthouse. The judge received confirmation from the event sponsors (VVSD) that the event would uphold the dignity of the court. The prosecution and defense outlined a plea

agreement and guidelines for alternative sentencing to facilitate resolution of cases. And the court promised that no one would be taken into custody against their will.”

After the meeting, prosecutors and public defenders worked on establishing guidelines for adjudicating cases pending against homeless veterans in a way that would satisfy the law, protect the dignity of the Municipal Court, and remove the barriers to housing and employment that outstanding warrants represent. Placing the “outdoor court” at Stand Down was a logical move, since the purpose of the community event is to provide homeless veterans the widest possible range of services in one location, and it was the veterans who had identified legal assistance as one of their greatest needs.

The plea bargain agreement accepted by the court affirms the homeless veterans’ responsibility for their offenses, but recognizes that most of those charges are a result of their homelessness. Homeless veterans have to voluntarily sign up at least a month in advance to have their cases heard in court, which allows the prosecution and defense to review the charges and make recommendations about their disposition. The homeless court proceeding was designed with efficiency in mind – cases are heard, are resolved, and sentences are rendered all in one hearing.

Instead of imposing fines, incarceration or compulsory community service for offenders – which had been common practice – the court accepts homeless veterans’ participation in homeless service providers’ programs as a form of alternative sentencing, recognizing clients’ efforts to re-enter society as productive citizens and their accomplishments. Activities for which defendants receive credit include participation in life skills training, substance abuse treatment programs, employment training, counseling sessions and volunteer work.

At the 1989 San Diego Stand Down, 130 homeless veteran defendants had 451 cases adjudicated by the Municipal Court. Those numbers increased dramatically the following year, with 237 defendants having 967 cases resolved. By the end of the fourth year, the court had resolved 4,895 cases involving 942 homeless veterans, and the program had outgrown its original purpose as an annual service component of Stand Down.

The early success of the Homeless Court and the steady increase in requests from homeless people trying to overcome legal barriers to self-sufficiency fostered rapid growth in the program. The court extended services to battered and homeless women in 1990, and to the general homeless population at San Diego shelters in 1995. A grant from the Department of Justice Bureau of Justice Assistance funded the expansion of the program to monthly sessions at two locations on an alternating basis – Vietnam Veterans of San Diego and St. Vincent de Paul. The San Diego Homeless Court currently handles more than 100 cases involving homeless persons every month.

In California, Homeless Court is now a Superior Court program for homeless defendants, with programs established in Ventura County, Los Angeles, Bakersfield and Sacramento County. It is dependent upon partnerships between the court, local shelters, homeless service providers, the prosecutor’s office and the public defender. A program was recently established in Albuquerque, NM; and Florida and Michigan are considering the implementation of homeless courts in their communities.

Looking to the Future

Lack of affordable housing, unemployment and reduced federal and state funding of supportive services have contributed to the increases in homelessness that have been reported nationwide during the last several years. Homeless people with outstanding warrants and persons transitioning from corrections facilities without adequate preparation and support have very little chance of successful reintegration back into their communities.

According to Peter Dougherty, Director of the Homeless Veterans Programs Office, Department of Veterans Affairs (VA), providing legal services at Stand Downs has become a priority. In 2002, the VA participated in 95 Stand Down programs across the country. Legal services were provided to homeless veterans at 58% of those events, and 90% of three-day Stand Downs offered legal services or hosted homeless court programs.

Dougherty, who has served as a probation officer and court magistrate in West Virginia, is a strong advocate for the homeless court program. He knows firsthand how the program can improve a homeless veteran's access to housing and employment, as well as other supportive services. He also understands the economic imperative to reduce unnecessary incarceration and recidivism.

In the last three years, more than 9,000 homeless veterans assessed by VA's Health Care for Homeless Veterans (HCHV) program had spent one or more days in jail during the month before being interviewed. The Department of Justice estimates that about two-thirds of people who are released from prison will, without supportive services, return to the correctional system within three years.

"If you don't get that stuff [outstanding warrants and criminal histories] resolved, it's going to be extremely difficult to get a good job and a place to live," Dougherty said. He said the cost of the Homeless Court program, and initiatives like the VA-Department of Labor Incarcerated Veterans Transition Program, pale by comparison to the estimated \$25,000 to \$50,000 annual cost of incarcerating someone.

"This isn't just about what the VA or Department of Justice spends," Dougherty said. "It's about what the taxpayers have to spend. More than 6.9 million people are incarcerated. That's a huge cost to our country, and our communities." Without proactive programs that help men and women overcome barriers to housing and employment, including legal issues, that cost will continue to increase.

The National Coalition for Homeless Veterans (NCHV) is a national network of homeless veteran service providers that collaborate with community-based organizations and government agencies to provide the full continuum of care to homeless veterans. Available services include emergency and transitional housing, health care, mental health and substance abuse treatment programs, employment assistance, legal aid and personal counseling.

Most NCHV member organizations sponsor or participate in annual Stand Down events, and most of them provide homeless veterans the kind of self-development programs the Homeless Court recognizes as sentencing alternatives to resolve outstanding criminal warrants. NCHV is a traditional partner of many of the organizations involved in Homeless Court programs. The NCHV website (www.nchv.org) is the nation's most comprehensive source of information about homeless veterans, the organizations that help them, and national policy and legislation that impacts the delivery of supportive services to them. The site provides contact information for Stand Down coordinators and homeless veteran service providers across the country who can help jurisdictions and community-based organizations that want to develop homeless court programs.

“Stand Down is at the center of the Homeless Court program,” Binder said. NCHV members offer homeless veterans housing referrals, employment assistance and access to a wide range of supportive services. They also administer the kind of self-improvement programs the homeless need to satisfy their legal obligations to the court.

The benefits of the Homeless Court program – to individuals in crisis and their communities – have been well-documented. In less than 15 years, the bold initiative launched on a tennis court at the 1989 San Diego Stand Down has become an Institution of Redemption for thousands of homeless veterans who have successfully regained control of their lives and re-entered society as independent, productive citizens. For many, the greatest hope of their ultimate success was first delivered by the presiding judge at a Homeless Court.

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NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

**THE LAW, LAWYERS AND HOMELESS COURTS:
CRITICAL PARTNERS IN PREVENTING AND ENDING HOMELESSNESS**

The National Law Center on Homelessness & Poverty serves as the legal arm of the national movement to end and prevent homelessness in the United States. NLCHP conducts impact litigation, legislative advocacy, legal training, outreach and public education. We work closely with legal and other advocates, as well as service providers, and policymakers, in communities across the country and at the national level.

As the only national legal advocacy organization for homeless people, we work to support and mobilize lawyers to work towards solutions to homelessness. As discussed below, the law is an essential component of such solution, and lawyers, judges and the courts have a crucial and positive role to play. As part of our work with the legal community, we work closely with the American Bar Association, state and local bar associations and, especially, the ABA's Commission on Homelessness & Poverty.

Background: Homelessness in America

Recent estimates are that on any given night more than 800,000 people experience homelessness, and that over the course of a year, 2.5 to 3.5 million people will. (Burt 2001)¹ A study published in 1994 indicated that 7 million Americans had experienced homelessness over from 1985 to 1990, and that as many as 12 million Americans, or 6.5% of the U.S. resident population in that year, have been homeless at some point in their lives.² (Link 1995) The current homeless population is diverse, marking a shift from the predominantly middle-aged white male alcoholics that populated skid rows in the post-war era. According to the most comprehensive national survey of U.S. homelessness to date, 34% of homeless people are members of homeless families; 23% are minor children. In addition, 44% of homeless adults worked at some point in any given month. Some 39% reported indicators of serious mental illness. (Interagency Council on the Homeless 1999)

Lack of affordable housing is a primary cause of homelessness in the U.S. (Burt 2000; US Conference of Mayors 2002) The gap between poor households in need of rental housing and available and affordable housing is 4.7 million; some 13.7 million households, or 14% of all households, live in substandard housing or spend more than 50% of their incomes for housing,

¹Such estimates generally define "homeless" to include only people living in shelters or transitional housing, or in public places; they generally do not include people who are doubled-up or in severely inadequate housing.

² This survey may be under-representative because it focuses on adults and U.S. residents.

(Stegman 2001), far in excess of the 30% federal affordability standards, putting them at substantial risk of homelessness. At the same time, fulltime work at the minimum wage is not sufficient to afford fair market rent, based on these affordability guidelines, for an efficiency apartment in any of the 50 largest cities in the United States. (National Low Income Housing Coalition 2003.) Mental and physical illness and addictions--and the lack of services to address them--are also significant contributing factors, along with domestic violence. (US Conference of Mayors 2003) and low levels of education.

Homelessness has a devastating effect, and it is particularly deleterious to families and children. A recent survey of major U.S. cities found that in 40% of the cities surveyed families may have to break up in order to be sheltered. (US Conference of Mayors 2003) Homeless children suffer a number of additional harms. Because they lack a permanent address, homeless children may be denied access to school, and many do not attend school regularly or receive appropriate educational services. (Julianelle and Foscarinis 2003) Numerous studies document the serious emotional and developmental problems that these children suffer; these may persist long past the period of homelessness, and increase the risk of adult homelessness. (Id., and Better Homes Fund 1999)

The Role of Law and Lawyers in Ending and Preventing Homelessness

Lawyers and legal advocacy have played a crucial role in addressing homelessness in the United States. Litigation was a key advocacy strategy in the early local level advocacy for shelter, and legislation and regulatory advocacy, in addition to litigation, have been key to national advocacy efforts. *Pro bono* law firm lawyers have provided important and essential support to public interest lawyers. Bar associations have also helped by spurring the greater involvement of the private bar, supporting public interest lawyers, and adding the clout of the organized bar to legislative advocacy.

Legal advocacy has been carried out in and drawn upon a broader advocacy context. Following legislative successes, for example, fact gathering and monitoring by service providers and other non-lawyers have been crucial to ensuring implementation of the laws and preparing litigation, if necessary, to enforce them. Similarly, outreach to inform local advocates and potential beneficiaries of legal rights has been essential both to permit such monitoring and to ensure that homeless people are able to actually claim their rights. Collaboration with non-lawyers and incorporation of strategies that are not strictly legal ones—such as outreach and monitoring—has become essential. Successful legal advocacy typically integrates a wide variety of partners and approaches.

This broad approach has been especially important in the U.S. context. The most important elements of solutions--long-term and immediate--to homelessness are housing, jobs and social services. (Burt 1992, 2001; US Conference of Mayors 2003) But there is little or no constitutional basis for protecting or creating access to these necessities; and statutory sources are uneven. Indeed, our legal system is commonly described as one that protects civil and political rights, but not economic or social rights. Legislative and regulatory advocacy has thus been crucial, leading to the creation of new laws that can provide substantive aid to homeless people as well as recognize and protect their rights.

Litigation and Legislative Advocacy

For example, beginning in the early 1980s, lawyers and courts have been instrumental in establishing a legal right to basic, overnight shelter for homeless men, women and families. Later, as political sympathy and support for homeless people waned, lawyers and courts have been instrumental in preserving those rights.

Beginning in the mid-1980s, and continuing to the present, lawyers and their professional associations, including the ABA, have been instrumental in drafting and helping to secure passage of legislation to provide aid and protect rights of homeless people, and NLCHP has played a leading role in that effort. Most significantly, the landmark Stewart B. McKinney and Bruce F. Vento Homeless Assistance Act, remains the first and still the only major federal legislation providing solutions to homelessness.

Lawyers and courts have also been instrumental in ensuring the enforcement of the provisions of the McKinney Act, primarily through class action litigation. Major suits undertaken by public interest organizations, often assisted pro bono by private law firms, include cases to enforce the McKinney-Vento guaranteed right of homeless children to equal access to public school education—helping thousands of homeless children to overcome residency, transportation, records and other barriers, and giving them a chance for a better future.

The first federal court case on this issue, brought by NLCHP and a class of homeless parents on behalf of their children, with significant pro bono help from King & Spalding, resulted in a 1995 federal appeals court ruling that established that homeless children have an enforceable right to education. (*Lampkin v. District of Columbia*) Following this precedent setting decision, advocates and service providers across the country, supported by NLCHP, relied on the ruling to help homeless children and their parents across the country vindicate their right to an education—helping to break the cycle of homelessness.

Other important litigation has included a federal court action to enforce a McKinney Act requirement that federal agencies make surplus property available at no cost to agencies serving homeless people. A permanent injunction is still in effect against five federal agencies, and NLCHP (with ongoing pro bono support from Covington & Burling) has been back to court several times to enforce the court's order. (*NLCHP v. VA*) To date, over \$100 million in surplus property has been made available through this program, serving over 100,000 homeless people across the country each year—a result that would not have been possible without the court's intervention.

Beginning in the early 1990s, many cities across the country began enacting and enforcing ordinances designed to “sweep” homeless people out of downtown areas or even out of entire cities. Such ordinances often criminally punish homeless people for activities associated with homelessness, such as sleeping in public. Legal advocates have challenged the constitutionality of such laws, and such challenges have been upheld in several major rulings. Most notably, a federal court in Miami held that punishing otherwise innocent, life-sustaining conduct such as sleeping in public when there is insufficient shelter space violates the eighth amendment, the right to travel, and the due process clause of the U.S. Constitution. (*Pottinger v. Miami*)

In addition to litigation, including amicus briefs in the Miami and other cases, we have worked with other advocates to persuade cities to reject efforts to criminalize homelessness and to adopt instead more constructive approaches to street homelessness. We have published articles (Foscarinis 1996) and numerous national reports documenting the “criminalization” of homelessness problem (NLCHP 2003, 2002, 1999, 1997, 1994, 1993, 1991), as well as reports on constructive alternative models for cities and police departments. (NLCHP 2004) Ultimately, our goal is to work together with cities, police departments and business communities on constructive solutions.

Constructive Alternatives to Criminalization: Solutions to Homelessness

We believe this is possible because we share a common goal: ensuring that homeless people are not living on the streets, in parks and other public places. But we believe that criminalizing the presence of homeless people in public places is the way to achieve this goal. Nationally and in virtually every community across the country, there is simply no alternative to living in public for many homeless people: there is a dire shortage of affordable housing—and even of emergency shelter. Punishing people for living in public places under these circumstances amounts to punishing them for their status.

This is not only morally wrong and constitutionally suspect, at best. It is also poor public policy: because people must be somewhere, such laws at most will force people to move from one city location to another, or from one jurisdiction to another; ultimately, they will not work. As such, they are a waste of precious and scarce public resources—the time and efforts of police, prosecutors, and courts. Further, criminalizing homelessness can make achieving self-sufficiency even harder or impossible. With a criminal record, homeless people are unable to get jobs or access to housing.

Instead of enacting an enforcing such laws, cities and police departments should work with advocates, providers, homeless people and business groups on more constructive approaches that do work. For example, instead of dispatching police officers to arrest homeless people living in public, some cities fund social workers to offer services and support. In addition, they work to create more shelter space and housing so that there are real alternatives to living in public places. Creating more resources—especially more affordable housing—is essential to truly solving the problem of homelessness and ensuring that people are not living in public places.

In addition to housing, other key elements of such solutions include ensuring that homeless people receive the benefits they need and are entitled to. For example, some 40% of homeless people suffer from mental or physical disability—yet only 14% receive Supplemental Security Income (SSI) benefits under the federal Social Security Act. The application process is so complex and burdensome that those most in need are often those least able to navigate it successfully. Yet SSI benefits—which in 38 states also automatically bring Medicaid benefits—can make an enormous difference in ending and preventing homelessness for disabled people. Food stamps can also make a major difference, helping to preserve health while also freeing more resources for housing and other basic needs.

Homeless Courts

Homeless courts can play an important role as part of such constructive approaches. As discussed above, courts have been and are critical to enforcing laws and fashioning remedies that aid and protect this vulnerable population. To be truly constructive, however, it is essential that homeless courts place themselves within the broader context of advocacy for solutions to homelessness.

A primary value of homeless courts is that they perform an outreach function, bringing the court to homeless people; they provide legal representation that can resolve legal problems effectively; and they can help educate judges, prosecutors and the judicial system in general about homelessness. To be truly constructive, it is important to keep in mind these cautionary points:

First, homeless courts should be aware of the nature of the "offenses" with which homeless defendants are typically charged. Often homeless people have been charged with violations of "quality of life" ordinances that punish conduct such as sleeping or "camping" in public that homeless people--because of their status--have no choice but to perform in public. In such cases, homeless people should not be blamed or seen as having been at fault.

Second, courts should be aware of the causes of homelessness and the circumstances that make exiting homelessness extremely challenging. While some homeless people do suffer from disease, and need treatment, some are simply extremely poor and cannot afford housing. Moreover, objective conditions are just as or more relevant than a particular individual's personal mistakes or desire for change or success. The availability of health care and treatment programs is at least as relevant as an individual's desire for personal change.

Third, while homeless courts can provide valuable help by clearing records and thus removing some barriers, they are unlikely by themselves to help people become self-sufficient, given the extreme shortage of affordable housing, work that pays enough to cover housing costs and, for those unable to work, the difficulty in receiving disability benefits. These realities should be addressed, otherwise, the hardships of homelessness are minimized and homeless people themselves patronized.

Finally, some specialized court systems--such as drug courts or community courts--set aside treatment or program slots for their participants. This can result in services being made contingent on submission to the court process. Homeless courts should be careful to avoid replicating that model--otherwise they will simply further exacerbate the shortage of such services.

More broadly, judges and the judicial system can play an important role as advocates in their communities for true solutions to homelessness. By educating themselves on the issue--its causes and solutions--and speaking out, they can make a tremendous difference. Homeless people are among the most vulnerable members of our society today, and by joining forces with lawyers, bar associations, advocates and homeless people, judges and their professional associations can add powerful voices to help end homelessness in America.

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