

WORK SESSION AGENDA

Monday, January 23, 2023
Immediately following TIDD Board
Meeting

Mayor Ken
Miyagishima

Mayor Pro Tem
Kassandra Gandara

Councilors
Tessa Abeyta
Becki Graham
Johana Bencomo
Becky Corran
Yvonne Flores



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City of Las Cruces

Council Work Session Summary

Meeting: Work Session - Jan 23 2023

TITLE: METROPOLITAN REDEVELOPMENT AREA DESIGNATION

PURPOSE(S) OF DISCUSSION: ☒ Inform/Update ☒ Direction/Guidance ☐ Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City has been working with consultants to designate portions of the City's Infill area as Metropolitan Redevelopment Areas. The consultants will be making a presentation to talk about the status of the designation process.

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None



City of Las Cruces

Council Work Session Summary

Meeting: Work Session - Jan 23 2023

TITLE: MUNICIPAL COURT UPDATE.

PURPOSE(S) OF DISCUSSION: ☒ Inform/Update ☐ Direction/Guidance ☐ Legislative
Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Municipal Court staff will give an update on operations regarding the court and COVID.

SUPPORT INFORMATION:

[Muni Judge Attachment](#)

[Muni Judge Attachment 2](#)

[Muni Judge Attachment 3](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

SOLVING THE PROBLEM OF CRIMINALIZING THE MENTALLY ILL: THE MIAMI MODEL

C. Joseph Boatwright II*

INTRODUCTION

It does not seem plausible that a Harvard-educated psychiatrist and the former head of psychiatry at Jackson Memorial hospital in Miami-Dade County would be homeless and continually cycling through the criminal justice system. However, this was exactly the situation that faced Judge Steven Leifman, a county court judge in Miami-Dade County, Florida in 2000.¹ Early in his career, Judge Leifman met with parents who asked if he could help their son who was scheduled to appear before Judge Leifman in court that day.² They explained that their son was a Harvard-educated psychiatrist and the former head of psychiatry at Jackson Memorial hospital in Miami-Dade County.³ Further, they explained that he was suffering from late-onset schizophrenia, was homeless, and had been arrested numerous times on minor offenses.⁴ As a result, he had been in and out of the county jail system for years.⁵ Although Judge Leifman had not previously dealt with a similar situation, he assured the parents that he would help their son.⁶

The accused man had been arrested on a second-degree misdemeanor for stealing a shopping cart.⁷ As Judge Leifman began to speak to him, the accused man had a psychotic episode in the courtroom.⁸ This caused Judge Leifman to order a mental competency examination for him.⁹ After the examination, it was determined that he was “incompetent to proceed” in court due to his mental illness and

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1. Ines Novacic, *Treatment or Lockup? Criminal Justice System Grapples with Mentally Ill*, CBS News (July 21, 2015, 5:36 AM), <http://www.cbsnews.com/news/treatment-or-lockup-criminal-justice-system-grapples-with-mentally-ill/>. See Concept Professional Training & CE (Forensic Mental Health), *IAFMHS 2013 Keynote by Judge Steven Leifman*, YOUTUBE (July 13, 2013), <https://www.youtube.com/watch?v=ky8byo3PTyA>.

2. Concept Professional Training & CE, *supra* note 1.

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. See *id.* (“It was some ridiculous minor offense.”)

8. See *id.* (“[C]learly whatever I said triggered a crisis right before my eyes.”)

9. *Id.*

should be involuntarily committed to a facility where he could receive mental-health treatment and be restored to competency.¹⁰ However, Florida law, like the laws of many other states and jurisdictions, did not allow for the involuntary commitment of defendants in misdemeanor cases.¹¹ As a result, he was released from jail without receiving mental health treatment, only to repeat the cycle of being arrested again and going through the same process without any treatment.¹²

Judge Leifman's experience is not uncommon for those in the criminal justice system. It is generally and most commonly described as the "criminalization of mental illness."¹³ The criminalization of mental illness is the process of directing those with mental illnesses, who usually commit minor offenses, through the criminal justice system and then treating their mental illnesses in our jails and prisons.¹⁴ The criminalization of mental illness has become a significant problem in the United States. According to statistics from the National Sheriff's Association, Treatment Advocacy Center, and the Department of Justice, in 2012 there were over ten times as many people with severe mental illnesses in jails and prisons in the United States as there were in all state psychiatric hospitals combined.¹⁵ Twenty percent of all jail detainees experience a severe mental illness.¹⁶ There are nearly 1.5 million individuals with severe mental illnesses who are arrested annually.¹⁷ On any given day there are 360,000 people with severe mental illnesses in jails and prisons throughout the country and over 760,000 people with severe mental illnesses are on community control or probation.¹⁸ People with mental illnesses are on probation or parole two to four times longer than that of the general population on community control or probation.¹⁹ In South Florida, people with mental illnesses remain incarcerated eight times longer than people without mental illnesses for the exact same charge and at seven times the cost.²⁰

10. *Id.*

11. *Id.*

12. *See id.*

13. *See* RISDON N. SLATE ET AL., *THE CRIMINALIZATION OF MENTAL ILLNESS* 42-43 (2d ed. 2013) (summarizing how U.S. society moved away from "its rehabilitative ideals to a more retributive, punitive stance" toward those with mental illnesses).

14. *Id.*

15. The statistics mentioned most likely include all individuals whether they have committed minor or major offenses. E. FULLER TORREY ET AL., *THE TREATMENT OF PERSONS WITH MENTAL ILLNESS IN PRISONS AND JAILS: A STATE SURVEY* 6 (2014), <http://www.treatmentadvocacycenter.org/storage/documents/treatment-behind-bars/treatment-behind-bars.pdf>.

16. *See id.* (finding twenty percent as a "reasonable and possibly overly conservative" estimate).

17. Telephone Interview with Steven Leifman, Associate Administrative Judge, Eleventh Judicial Circuit of Florida (Oct. 19, 2017).

18. *Id.*

19. Jillian Peterson, *Mental Illness Not Usually Linked To Crime, Research Finds*, AM. PSYCHOL. ASS'N (Apr. 21, 2014), <http://www.apa.org/news/press/releases/2014/04/mental-illness-crime.aspx>.

20. MIAMI-DADE COUNTY, OFFICE OF THE MAYOR, MIAMI-DADE COUNTY MAYOR'S MENTAL HEALTH TASK FORCE 16 (2007).

When Judge Leifman initially confronted this problem, South Florida had the highest percentage of individuals suffering from mental illnesses in the nation in its population.²¹ In Miami-Dade County, nine percent of the total population suffered from severe mental illness, which is two to three times the national average.²² At this same time, in the Dade County Jail there were up to 1,200 inmates suffering from mental illnesses that occupied three floors of the jail.²³ In contrast, in 1985 there were only 80 inmates suffering from mental illnesses in the county jail.²⁴ Of the 114,000 bookings in the county jail, 20,000 were for individuals suffering from mental illnesses.²⁵ Therefore, the Dade County jail served as the largest psychiatric institution in Florida.²⁶

During this same time period, Miami-Dade County spent millions of dollars yearly on its mental health crisis. Miami-Dade County spent over one million dollars a year on psychotropic medications.²⁷ In addition, it spent eighteen dollars per day to house inmates at its jail.²⁸ The cost for housing inmates suffering from a mental illness was \$125 per day.²⁹ The total cost to house those suffering from mental illnesses was \$218,000 per day and \$80 million annually.³⁰

Judge Leifman recognized the significance of the criminalization of mental illness first hand due to his experiences as a judge in the criminal justice system. He considered it a crisis situation.³¹ This led him to help develop, with other community leaders, the Eleventh Judicial Circuit Criminal Mental Health Project ("CMHP") in 2000. Now, more than fifteen years later, the CMHP is referred to as the Miami Model.³² The CMHP or Miami Model is a mental health diversion program that consists of a number of distinct parts that have helped eliminate the

21. KATHERINE RUNDLE & DON L. HORN, FINAL REPORT OF THE MIAMI-DADE GRAND JURY: SPRING TERM 2004 6 (Jan. 11, 2005).

22. John K. Iglehart, *Decriminalizing Mental Illness—The Miami Model*, 374 NEW ENG. J. MED. 1701, 1703 (2016).

23. RUNDLE & HORN, *supra* note 21, at 6.

24. *Id.* *Mentally Ill Criminals in Dade County, Florida: A Report On The Problem And How To Deal With It*, Citizens' Crime Commission Report Program at pg. 17, 41 and 51 (March, 1985). http://passthrough.fw-notify.net/download/563748/http://dcjhistory.com/uploads/1985_Mentally_Ill_Criminals_in_Dade_Cty.pdf.

25. MIAMI-DADE COUNTY ELEVENTH JUDICIAL CIRCUIT, CRIMINAL MENTAL HEALTH PROJECT (CMHP), <https://perma.cc/L77V-VHLT> [hereinafter CMHP A].

26. *Id.*

27. RUNDLE & HORN, *supra* note 21, at 7.

28. *Id.*

29. *Id.*

30. CMHP A, *supra* note 25.

31. See Novacic, *supra* note 1, ("We apply a criminal justice model to a public health problem and it doesn't work. It's a disaster.")

32. Iglehart, *supra* note 22.

criminalization of mental illness in Miami-Dade County.³³ The success of the CMHP has been nationally recognized through numerous awards and the CMHP has become a national model of excellence in dealing with mental illness in the criminal justice system.³⁴

This article, which is divided into six parts, seeks to examine the success of the Miami Model or the CMHP. Part I describes the history of deinstitutionalization, which has contributed to the criminalization of mental illness. Part II describes the concept and problems associated with the criminalization of mental illness. Part III discusses the problems Miami-Dade County faces in its mental health crisis, the institution of the CMHP, and the success of the CMHP. Part IV describes the experiences of other jurisdictions throughout the United States that have implemented programs patterned after or adopted key parts of the CMHP. Part V describes the weaknesses of programs like the CMHP including the need for more legislation and funding to assist courts and communities in combating the criminalization of mental illness. Part VI discusses the success of judicial and community intervention in dealing with mental health issues in the criminal justice system. Finally, this article concludes that the CMHP has been successful and is a model for other jurisdictions to follow in their struggles against the criminalization of mental illness.

I. DEINSTITUTIONALIZATION: A HISTORICAL PERSPECTIVE

The criminalization of mental illness is not a recent concept. In the early years of our country, jails and prisons were commonly used to house people suffering from mental illnesses because there were no psychiatric hospitals in existence at that time.³⁵ It is estimated that twenty percent of the jail population during this time period included those suffering from severe mental illnesses.³⁶ In the early 1800s, Reverend Louis Dwight, a Yale graduate and Congregationalist minister, while delivering bibles to local jails in Massachusetts, noticed how poorly people suffering from mental illnesses were being treated in these jails.³⁷ As a result, he lobbied the Commonwealth of Massachusetts for better treatment of the mentally ill.³⁸ This led to the creation of the first publicly funded psychiatric hospital, which was opened in Massachusetts in 1833.³⁹

33. CMHP A, *supra* note 25.

34. *Id.*

35. SUP. CT. OF FLA., MENTAL HEALTH: TRANSFORMING FLORIDA'S MENTAL HEALTH SYSTEM 9 (2007) http://www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf.

36. E. FULLER TORREY ET AL., MORE MENTALLY ILL PERSONS ARE IN JAILS AND PRISONS THAN HOSPITALS: A SURVEY OF THE STATES 13 (2010).

37. E. FULLER TORREY, OUT OF THE SHADOWS: CONFRONTING AMERICA'S MENTAL ILLNESS CRISIS (1997), as reprinted in *Frontline, Deinstitutionalization: A Psychiatric "Titanic,"* PBS (May 10, 2005), <http://www.pbs.org/wgbh/pages/frontline/shows/asylums/special/excerpt.html>.

38. *Id.*

39. *Id.*

The most notable activist in this area was Dorothy Dix. She also lobbied for better treatment of people suffering from mental illnesses that were being housed in jails.⁴⁰ Her advocacy led to the creation of numerous publicly funded psychiatric hospitals.⁴¹ In fact, by 1880, there were more than seventy-five publicly-funded hospitals in the United States.⁴²

Efforts by activists such as Dwight and Dix led the United States government in 1880 to perform a census of people suffering from mental illnesses.⁴³ The census located roughly 90,000 individuals suffering from mental illnesses in the United States.⁴⁴ There were 58,609 prisoners in local jails and prisons but only 397 of those were classified as having severe mental illnesses.⁴⁵ Thus, persons with severe mental illnesses made up only 0.7% of the prison and jail populations at that time.⁴⁶

By the mid-1900s, there were nearly 350 state psychiatric hospitals across the United States.⁴⁷ In addition, there were nearly 560,000 mentally ill patients in the nation's psychiatric hospitals.⁴⁸ As the numbers of patients in psychiatric hospitals began to rise, the level of care began to decline.⁴⁹ Further, the cost to run the institutions was increasingly rising and these hospitals were becoming inefficient to operate.⁵⁰

In 1955, the drug Thorazine began to be used to control the symptoms of psychosis associated with mental illness. The mental health community proposed that mental health patients could receive better treatment in their local communities with the use of Thorazine.⁵¹ It was believed that with proper medication and humane treatment, those suffering from mental illnesses would be treated more humanely and effectively in their own community.⁵² Thus, the policy of the deinstitutionalization of people with mental illnesses began.

Deinstitutionalization is the name given to the policy of moving severely mentally ill individuals out of state hospitals and back into their communities where they received community-based treatment.⁵³ The result of this would ultimately lead to the closing of all or part of the state-run institutions.⁵⁴ This idea was

40. *Id.*

41. *Id.*; see also *Module 2: A Brief History of Mental Illness and the U.S. Mental Health Care System*, Unite For Sight 1, <http://www.uniteforsight.org/mental-health/module2>.

42. TORREY, *supra* note 37.

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. SUP. CT. OF FLA., *supra* note 35, at 16.

48. *Module 2*, *supra* note 41, at 2.

49. *Id.* at 1.

50. *Id.*

51. See, e.g., TORREY, *supra* note 37.

52. SUP. CT. FLA., *supra* note 35, at 16–17.

53. See TORREY, *supra* note 37.

54. *Id.* See also SUP. CT. OF FLA., *supra* note 35, at 17.

accepted by the federal government which led to the enactment of the Community Mental Health Centers Act in 1963.⁵⁵

The Community Mental Health Centers Act “was intended to create a network of community-based mental health providers that would replace failing and costly state hospitals, and integrate people with mental illnesses back into their home communities with comprehensive treatment and services.”⁵⁶ “In what would be his last public bill signing, President Kennedy signed a \$3 billion authorization to support this movement from institutional to community-based treatment.”⁵⁷ However, President Kennedy was assassinated, and with the distraction of the Vietnam War, none of the \$3 billion was ever appropriated.⁵⁸

After the passage of the act, a number of federal tort and class action lawsuits were filed against the states.⁵⁹ As the courts ruled against the state-run facilities, the judgments led to the closing of the institutions or the release of patients with mental illnesses.⁶⁰ These closings contributed to the deinstitutionalization of people with mental illnesses because there was no organized or adequate network of community mental health centers to receive the released patients.⁶¹

One of the landmark cases that contributed to deinstitutionalization was *Wyatt v. Stickney*.⁶² In *Wyatt*, a challenge was made to the conditions and treatment provided to the patients at Bryce Hospital in Alabama.⁶³ The challenges were prompted when funding for mental health services was decreased statewide and about 100 employees’ employment was terminated at the hospital.⁶⁴ Bryce Hospital serviced primarily patients who were involuntarily committed due to their mental illness.⁶⁵

The court held that individuals involuntarily committed through the civil commitment process had a constitutional right to adequate and effective treatment that would allow them the opportunity to be cured or improve their mental condition.⁶⁶ In its reasoning, the court stated:

55. See SUP. CT. OF FLA., *supra* note 35, at 17.

56. *Id.*

57. *Id.* It is thought that President Kennedy had a personal motivation behind signing this bill because his sister Rosemary Kennedy, while suffering from a severe mental illness, received a botched lobotomy that left her permanently mentally and physically incapacitated. *Reflecting on JFK’s Legacy of Community-based Care*, Substance Abuse and Mental Health Services Administration (Apr. 19, 2016), <https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/jfk%E2%80%99s-legacy-community-based-care>.

58. See SUP. CT. OF FLA., *supra* note 35, at 17.

59. See *id.* at 19.

60. See Daniel Yohanna, *Deinstitutionalization of People with Mental Illness: Causes and Consequences*, 15 AMA J. OF ETHICS 886, 887 (2013).

61. See *id.* at 888.

62. 325 F. Supp. 781 (M.D. Ala. 1971).

63. *Id.*

64. *Id.* at 783.

65. *Id.* at 784.

66. *Id.*

The patients at Bryce Hospital, for the most part, were involuntarily committed through noncriminal procedures and without the constitutional protections that are afforded defendants in criminal proceedings. When patients are so committed for treatment purposes they unquestionably have a constitutional right to receive such individual treatment as will give each of them a realistic opportunity to be cured or to improve his or her mental condition. . . . Adequate and effective treatment is constitutionally required because, absent treatment, the hospital is transformed into a penitentiary where one could be held indefinitely for no convicted offense. The purpose of involuntary hospitalization for treatment purposes is *treatment* and not mere custodial care or punishment. This is the only justification, from a constitutional standpoint, that allows civil commitments to mental institutions such as Bryce.⁶⁷

As a result, the court held that even though the failure to provide adequate treatment was due to a lack of operating funds resulting in a lack of staff and facilities, this could not be used to justify not providing suitable and adequate care to people with mental illnesses.⁶⁸ According to the court, this failure to provide the adequate and suitable care was a violation of the individual's due process rights.⁶⁹

The court gave the defendants six months to establish treatment plans and implement a compliant treatment program.⁷⁰ In doing so, the court outlined three fundamental conditions for adequate and effective treatment programs in public mental institutions. "These three fundamental conditions [were]: (1) a humane psychological and physical environment, (2) qualified staff in numbers sufficient to administer adequate treatment, and (3) individualized treatment plans."⁷¹ As a result, if the state could not meet these standards, then the patients were to be released.⁷²

These factors of compliance became known as the "Wyatt Standards."⁷³ Relying on these standards, similar litigation began in numerous other states. Many states were unable to meet these requirements.⁷⁴ As a result, patients with mental illnesses were rapidly released from hospitals all over the country.⁷⁵

Several other "court cases . . . further defined the legal requirements for admission to or retention in a hospital setting" and contributed to deinstitutionalization.⁷⁶ For example, the District of Columbia Court of Appeals in 1966 "requir[ed] hospitals to discharge patients to an environment less restrictive than a hospital if at all

67. *Wyatt*, 325 F. Supp. at 784 (internal quotation marks omitted) (emphasis in original).

68. *Id.*

69. *Id.* at 785.

70. *Wyatt v. Stickney*, 334 F. Supp. 1341, 1342 (M.D. Ala. 1971).

71. *Id.* at 1343.

72. *Id.*

73. See Comment on *Wyatt v. Stickney* 25 F. Supp. 781 (M.D. Ala. 1971), 334 F. Supp. 1341 (M.D. Ala. 1971), 344 F. Supp. 373 (M.D. Ala. 1972), *aff'd in part, rev'd in part sub nom. Wyatt v. Aderholt*, 503 F.2d 1305 (5th Cir. 1974), MENTAL ILLNESS POL'Y ORG., <https://mentalillnesspolicy.org/legal/wyatt-stickney-right-treatment.html> (last visited Sept. 6, 2018).

74. *Id.*

75. *Id.*

76. See Yohanna, *supra* note 60, at 887.

possible,” and the burden was placed on the government to find alternative courses of treatment.⁷⁷ Also, in 1975, the United States Supreme Court held that “a finding of ‘mental illness’ alone cannot justify a state confining a person against his will and holding him indefinitely in simple custodial confinement.”⁷⁸ The Court held further that a state cannot constitutionally confine a non-dangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends solely because he suffers from a mental illness.⁷⁹ Finally, in 1999, the Court held that a mental illness could be defined as a disability, and thus could be covered under the Americans with Disabilities Act.⁸⁰ Thereafter, all governmental agencies, not just state hospitals, would be required to make “reasonabl[e] accommodat[ions]” to move people with mental illnesses into community-based treatment to end unnecessary institutionalization.⁸¹ However, many states and communities lacked adequate community-based treatment and this led to further deinstitutionalization.

As deinstitutionalization began, the number of patients in state mental hospitals began to decline. From 1955 until 1995, the number of patients in state hospitals fell from approximately 560,000 to 72,000 patients, which was a decrease of over 90 percent.⁸² Further, in 2009, with the onset of the Great Recession, states spent less money on mental health facilities by cutting spending by \$4.35 billion.⁸³ This led to an even greater decrease in facilities for those suffering from mental illnesses.⁸⁴ As a result, in 2010, there were only 43,000 beds in psychiatric facilities available for use in the United States.⁸⁵ This was fourteen beds for every 100,000 people.⁸⁶ This was the same ratio that existed in 1850 before the work of activists Dix and Dwight.⁸⁷

Deinstitutionalization was meant to help those suffering from mental illnesses. Individuals suffering from severe mental illnesses were supposed to be freed from the confines of state mental hospitals and receive treatment back in their communities through a community-based health system. However, because of the lack of funding for community-based health systems, the vast majority of these individuals were left with no way of being ensured that they would receive proper medication or treatment. Further, there are now very few psychiatric hospitals left in the

77. Yohanna, *supra* note 60, at 887; Lake v. Cameron, 364 F.2d 657, 660-661 (D.C. Cir. 1966).

78. O'Connor v. Donaldson, 422 U.S. 563, 575 (1975).

79. *Id.*

80. Olmstead v. L.C., 527 U.S. 581, 597-598 (1999).

81. *Id.* at 607.

82. Brief for the Am. Psychiatric Ass'n et al. as Amici Curiae Supporting Respondents at 21 n.5, Olmstead v. L.C., 527 U.S. 563 (1999) (No. 98-536).

83. Deanna Pan, *Timeline: Deinstitutionalization and Its Consequences*, MOTHER JONES (April 29, 2013, 10:00 AM), <http://www.motherjones.com/politics/2013/04/timeline-mental-health-america>.

84. *See id.*

85. *Id.*

86. *Id.*

87. *Id.*

country and even fewer beds in the remaining hospitals for those who suffer from mental illnesses. This has led many to call deinstitutionalization the major cause of the mental health crisis in the United States.⁸⁸

II. THE CONCEPT OF THE CRIMINALIZATION OF MENTAL ILLNESS

Deinstitutionalization contributed significantly to the criminalization of mental illness. As people with mental illnesses left the psychiatric hospitals, they were turned out into the communities at large. However, since there was inadequate funding for the community-based programs, those with mental illnesses suffered from a lack of adequate treatment. As a result, many ended up in local jails and state prisons. This is likely the reason why, “over the next four decades [as the patients in the state psychiatric hospitals] decreased by 90 percent, the prison population grew by 400 percent.”⁸⁹

The term criminalization of mental illness was coined by Dr. Marc F. Abramson as he noticed the large rise of those suffering from mental illnesses in the prison population after the start of deinstitutionalization.⁹⁰ Criminalization of mental illness is used to describe people with mental illnesses who are arrested and prosecuted, with or without jail detention, for minor offenses rather than being placed in the mental health system.⁹¹ Some scholars in the area include in this term individuals who commit serious offenses, but the overwhelming majority of experts in this area apply the term to minor offenses only.⁹² The difference between minor offenses and serious offenses is important.⁹³ Those who commit serious offenses are normally directed to the criminal justice system and housed in forensic state institutions. Alternatively, those who commit minor offenses will be directed to a civil facility if there is adequate space available.⁹⁴ Due to the closing of the psychiatric hospitals and the lack of community-based programs, those who have committed minor offenses are released, only to be re-arrested for the same or similar offenses.⁹⁵ As a result, they continually cycle in and out of state and local jail facilities.⁹⁶

According to recent data collected by the Department of Justice, Bureau of Justice Statistics, there are more than 1.2 million people with some type of reported

88. TORREY, *supra* note 37.

89. RUNDLE & HORN, *supra* note 21, at 5.

90. SLATE ET AL., *supra* note 13, at 43.

91. *Id.*; see also H. Richard Lamb and Linda E. Weinberger, *Persons With Severe Mental Illness in Jails and Prison: A Review*, 49 PSYCHIATRIC SERVS. 483, 484 (1998)483 (arguing term “criminalization” should be applied to mentally ill persons arrested for minor, but not serious, offenses).

92. Telephone Interview with Steven Leifman, Associate Administrative Judge, Eleventh Judicial Circuit of Florida (Oct. 19, 2017).

93. Lamb & Weinberger, *supra* note 91.

94. *Id.*

95. *Id.* at 490 (arguing that insufficiency of community treatment can result in later reincarceration of patients).

96. *Id.*

mental illness incarcerated in jails and prisons throughout the United States.⁹⁷ Of these, people with mental illnesses are on probation or parole two to four times more often than the general population.⁹⁸ On any given day there are about 360,000 people with severe mental illnesses in jails and prisons throughout the country and over 760,000 people with severe mental illnesses are on community control or probation.⁹⁹ There are also roughly 35,000 individuals with severe mental illnesses in state psychiatric hospitals.¹⁰⁰ Most of these individuals are in the hospitals in response to court orders in criminal cases.¹⁰¹ “In forty-four of the fifty states and the District of Columbia, a single prison or county jail in that state holds more people with severe mental illnesses than the largest remaining . . . psychiatric hospital” in that state.¹⁰² Thus, the number of those with severe mental illnesses in prisons and jails is nearly ten times the number remaining in state hospitals.¹⁰³

“The United States ranks number one in the world in [both] the number of people suffering from mental illnesses . . . [and the] number of untreated cases of mental illnesses.”¹⁰⁴ “Further, nearly half the inmates with mental illnesses in state or federal custody in the United States are incarcerated for committing a nonviolent crime.”¹⁰⁵ According to recent statistics by the United States Department of Justice (“DOJ”), nearly 20 percent of all jail detainees experience severe mental illnesses and are incarcerated four to eight times longer than people without mental illnesses for the exact same charge.¹⁰⁶

According to the DOJ, \$15 billion is spent annually on housing those with mental illnesses in prisons and jails throughout the country.¹⁰⁷ State prisons spend \$5

97. Jillian Peterson, *Mental Illness Not Usually Linked To Crime, Research Finds*, AM. PSYCHOL. ASS'N (April 21, 2014), <http://www.apa.org/news/press/releases/2014/04/mental-illness-crime.aspx>; see also DORRIS J. JAMES AND LAUREN E. GLA, BUREAU OF JUST. STATISTICS, MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES 1 (September 2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf> (estimating that in 2005 1.2 million inmates of state prisons, federal prisons, and local jails had a mental health problem). As explained earlier the term criminalization of mental illness is traditionally applied to those who commit minor offenses. The 1.2 million individuals documented by the Department of Justice most likely include all individuals whether they have committed minor or major offenses.

98. Peterson, *supra* note 97.

99. Telephone Interview with Steven Leifman, Associate Administrative Judge, Eleventh Judicial Circuit of Florida (Oct. 19, 2017); see also TORREY ET AL., *supra* note 15, at 6 (estimating 356,268 inmates with severe mental illness in 2012).

100. TORREY ET AL. *supra* note 15, at 6.

101. *Id.* at 23.

102. *Id.* at 7.

103. *Id.* at 6.

104. RUNDLE & HORN, *supra* note 21, at 5.

105. *Id.*

106. MIAMI-DADE CNTY. MAYOR'S MENTAL HEALTH TASK FORCE, *supra* note 20, at 16.

107. E. Fuller Torrey, *Criminalization of Individuals with Severe Psychiatric Disorders*, MENTAL ILLNESS POL'Y ORG., <https://mentalillnesspolicy.org/consequences/criminalization.html> (last visited Sept. 6, 2018).

billion annually to house non-violent inmates with mental illnesses.¹⁰⁸ On average it costs more to house those with mental illnesses than those without.¹⁰⁹

Although this is a national problem, each state has its own unique challenges. For example, in Texas it costs \$22,000 a year to house an inmate without mental illness, but those with mental illnesses cost the state \$30,000 to \$50,000 a year.¹¹⁰ In some areas of Florida, it costs the state \$80 per day to house inmates, but those with mental illnesses cost the state \$130 a day.¹¹¹ In Cook County, Illinois, it costs \$143 a day on average to house an inmate but costs twice that amount if the individual has severe mental illnesses.¹¹² In Arkansas, the cost to process an individual through the court system and keep them incarcerated is \$6,300 per year, but the cost for an individual with mental illness is \$30,000 a year.¹¹³ These are just a few of the examples of the nationwide consequences of the criminalization of mental illness.

In regard to the State of Florida, Judge Leifman, who is the chair of the Florida Supreme Court Task Force on Substance Abuse and Mental Issues, recently presented a study before the Subcommittee on the Oversight and Investigations of the Energy and Commerce Committee of the United States House of Representatives.¹¹⁴ According to his study, the prison population in Florida has increased by fifty-six percent since 1996.¹¹⁵ By contrast, the number of inmates receiving mental health treatment has increased by 160%.¹¹⁶ The total cost to house people with mental illnesses in Florida's prisons and forensic treatment facilities is \$625 million annually and an additional \$400 million is spent housing people with mental illnesses in local jails.¹¹⁷ State expenditures are expected to increase as much as one billion dollars annually over the next decade.¹¹⁸

These costs to house those suffering from mental illnesses are higher because of the costs associated with special care that is needed for these inmates. This

108. Allen Frances, *Prison or Treatment for the Mentally Ill*, HUFF POST (May 11, 2013) https://www.huffingtonpost.com/allen-frances/prison-prison-population-_b_2811448.html.

109. *Serious Mental Illness Prevalence in Jails and Prisons*, TREATMENT ADVOC. CTR. (Sept. 2016), <http://www.treatmentadvocacycenter.org/evidence-and-research/learn-more-about/3695>.

110. TORREY, *supra* note 37, at 10.

111. *Id.* at 9-10.

112. Deborah L. Shelton, *How Sending the Mentally Ill to Jail Is a Cost to Us All*, TAKEPART (May 15, 2015), <http://www.takepart.com/article/2015/05/18/when-sickness-crime> (defining severe as having "a psychiatric condition and require[ing] a doctor's care, medication, and extra security").

113. *Report: Incarcerating the Mentally Ill 20 Times More Costly Than Treatment*, ARK. NEWS (June 18, 2015), <http://www.arkansasnews.com/news/arkansas/report-incarcerating-mentally-ill-people-20-times-more-costly-treatment>.

114. *Where Have All the Patients Gone? Examining the Psychiatric Bed Shortage: Hearing Before the Subcomm. on Oversight and Investigations of the H. Comm. on Energy and Commerce*, 113th Cong. 74-77 (2014) (testimony of Judge Steve Leifman, Chair, Supreme Court of Florida Task Force on Substance Abuse and Mental Health Issues in the Courts).

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

includes special medical treatment, costs for special medication, i.e., psychotropic drugs, and additional supervision costs. For example, the Los Angeles County Jail spends ten million dollars per year on psychiatric medications.¹¹⁹ In the Oklahoma prison system, the number of psychiatric drugs prescribed increased almost fifty percent over a five-year period from 1996 to 2001.¹²⁰ In Portland, Oregon, the local county jail spends half of its medication budget on psychiatric drugs for those suffering from mental illness.¹²¹

In addition, inmates with mental illnesses spend, on average, a longer amount of time in jail. This increased jail stay results in higher costs for inmates suffering from mental illnesses compared to those without mental illnesses. For example, in Florida, inmates in the Orange County Jail stay for a period of twenty-one days, but inmates suffering from mental illnesses are there for an average of fifty-one days.¹²² Further, in New York, inmates in Riker's Island stay for an average of forty-two days, but those with mental illnesses stay for an average of 215 days.¹²³ In Denver, Colorado, inmates suffering from mental illnesses stay in jail five-and-one-half times longer than other inmates.¹²⁴

Furthermore, the costs associated with lawsuits from injuries sustained relating to inmates suffering from mental illnesses while in jail facilities are not usually included in the costs of housing them.¹²⁵ However, these costs can be substantial. For example, in a recent six-year period, the State of Washington spent over \$1.2 million in judgments from lawsuits involving the care of inmates with mental illnesses.¹²⁶ Monetary amounts are not available in most instances due to confidential settlements, but one only has to read the numerous accounts of negligence to know how costly these lawsuits can be to the states and local jurisdictions.¹²⁷

As a result of deinstitutionalization, jails have become the new mental hospitals.¹²⁸ Not only do jails house people with mental illnesses that are accused of committing crimes, they also house those not accused of committing crimes. In a

119. Torrey, *supra* note 107.

120. *Id.*

121. Matt Davis, *The Criminalization of Mental Illness: Why Are Oregon's Jails the Biggest Providers of Mental Health Services?*, PORTLAND MERCURY (Jan. 14, 2010), <http://www.portlandmercury.com/portland/the-criminalization-of-mental-illness/Content?oid=2090110>.

122. Stephanie Mencimer, *There Are 10 Times More Mentally Ill People Behind Bars Than in State Hospitals*, MOTHER JONES (April 8, 2014, 10:00 AM), <http://www.motherjones.com/mojo/2014/04/record-numbers-mentally-ill-prisons-and-jails>.

123. *Id.*

124. Sidney M. Wolfe, *Criminalizing the Seriously Mentally Ill: Two Decades Later*, 27 PUB. CITIZEN 1, 1 (July 2011).

125. Mencimer, *supra* note 122.

126. CHAD KINSELLA, THE COUNCIL OF ST. GOV'TS, CORRECTIONS HEALTH CARE COSTS 3, (Jan. 2004), <https://www.prisonpolicy.org/scans/csg/Corrections+Health+Care+Costs+1-21-04.pdf>.

127. Mencimer, *supra* note 122 (explaining how a schizophrenic man housed in a Texas state prison gouged out his eye and ate it, while another man in a Florida prison cut open his abdomen and repeatedly vomited into the open wound).

128. TORREY ET AL., *supra* note 15, at 12.

1992 study, it was found that twenty-nine percent of jails nationwide housed those suffering from mental illnesses that were not accused of committing crimes.¹²⁹ These individuals not accused of crimes are housed while they await mental health evaluations pursuant to civil commitment proceedings.¹³⁰ Jails have to house these individuals because they have become the only receiving facilities for civil commitments in these areas.¹³¹ These numbers are not decreasing. In fact, Public Citizen's Health Research Group and the National Alliance for the Mentally Ill reviewed these statistics over a twenty-year period and found that the numbers increased for this period.¹³²

A major problem caused by deinstitutionalization is that prisons, and especially local jails, are ill-equipped to deal with inmates suffering from mental illnesses.¹³³ Jails and prisons are not prepared to provide adequate psychiatric and medical treatment for people suffering from mental illnesses.¹³⁴ Jail staffs are often not adequately trained in handling those suffering from mental illnesses.¹³⁵ In addition, inmates suffering from mental illnesses are more likely to physically attack correctional staff and other inmates and also are subject to victimization by other inmates in disproportionate numbers.¹³⁶ Finally, deterioration of their psychiatric condition occurs when they are denied adequate treatment, which often leads to a disproportionate number of suicides.¹³⁷

The criminalization of mental illness is a major problem in this country. As jails and prisons have become the main holding facilities for those suffering from mental illnesses, the results for society include significant financial costs to the taxpayers and inadequate care and treatment for people suffering from mental illnesses. There was and is a great need for a solution to this problem.

III. A SOLUTION TO THE CRIMINALIZATION OF MENTAL ILLNESS: THE MIAMI MODEL

A. Miami-Dade County's Problem

In the early 2000s, south Florida had the highest number of people in its population suffering from mental illnesses in the country.¹³⁸ In Miami-Dade County, nine percent of the population suffered from mental illnesses which is two to three times

129. AZZA ABUDAOGA ET AL., PUB. CITIZENS' HEALTH RES. GROUP AND TREATMENT ADVOC. CTR., INDIVIDUALS WITH SERIOUS MENTAL ILLNESSES IN COUNTY JAILS: A SURVEY OF JAIL STAFF'S PERSPECTIVES 3 (2016), <http://www.citizen.org/documents/2330.pdf>.

130. *Id.*

131. *See id.* (explaining that the individuals are those being held for involuntary examinations based on civil commitment statutes in the differing states).

132. *Id.*

133. TORREY ET AL., *supra* note 15, at 7.

134. *Id.*

135. *Id.*

136. *Id.*

137. *Id.*

138. RUNDLE & HORN, *supra* note 21, at 6.

the national average.¹³⁹ However, Florida ranked 48th in the nation in state funding for mental health services.¹⁴⁰ Miami-Dade County had the largest percentage of mental illness among large U.S. communities.¹⁴¹ In the Dade County Jail, there were up to 1,200 inmates suffering from mental illnesses and they took up three floors of the jail.¹⁴² Contrast this with 1985 when there were only eighty inmates suffering from severe mental illnesses in the county jail.¹⁴³ Of the 114,000 bookings in the county jail, 20,000 were for individuals suffering from mental illnesses.¹⁴⁴ Thus, the Dade County jail served as the largest psychiatric institution in Florida.¹⁴⁵

During this time period, Miami-Dade County spent over one million dollars a year on psychotropic medications.¹⁴⁶ Miami-Dade County spent \$18 per day to house inmates without mental illnesses at its jail.¹⁴⁷ However, the cost for housing inmates with mental illnesses was \$125 a day.¹⁴⁸ The total cost to house those with mental illnesses was \$218,000 a day and \$80 million annually.¹⁴⁹ People suffering from mental illnesses were incarcerated eight times longer than those without and at seven times the cost.¹⁵⁰

B. The Solution: The Creation of the CMHP

These were the issues facing Judge Leifman. He saw the problem of the criminalization of mental illness firsthand. This led him to help develop the Eleventh Judicial Circuit Criminal Mental Health Project ("CMHP") in 2000. Fifteen years later, it is called the Miami Model.¹⁵¹ The Miami Model contains a number of distinct parts that have helped to substantially eliminate the criminalization of mental illness in Miami-Dade County.

Certain core elements are necessary to ensure that any mental health diversion project is successful.¹⁵² These core elements are included in the CMHP and make up the essential system of care that is necessary for any program to be successful and provide the proper treatment.¹⁵³ According to Tim Coffey, the Eleventh Judicial Circuit's project coordinator, "it's not about following or using the exact

139. Iglehart, *supra* note 22, at 1701-03.

140. *Id.*

141. *Id.*

142. RUNDLE & HORN, *supra* note 21, at 6.

143. *Id.*

144. CMHP A, *supra* note 25, at 2.

145. *Id.*

146. RUNDLE & HORN, *supra* note 21, at 7.

147. *Id.*

148. *Id.*

149. CMHP A, *supra* note 25, at 2.

150. MAYOR'S MENTAL HEALTH TASK FORCE, *supra* note 20, at 16.

151. Iglehart, *supra* note 21, at 1703.

152. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Nov. 23, 2016).

153. *Id.*

model of the Eleventh Judicial Circuit. The success of the program has been due to implementation or following of certain core elements which any community can follow.”¹⁵⁴

These core elements are described by the National Leadership Forum on Behavioral Health/Criminal Justice Services to include “forensic intensive case management, supportive housing, peer support, accessible and appropriated medication, . . . integrated dual diagnosis treatment, . . . supported employment, . . . assertive community treatment/ forensic assertive community treatment . . . and cognitive-behavioral interventions targeted to risk factors.”¹⁵⁵ In addition, Coffey stated:

Judge Leifman identified the following other elements that would be essential to a successful program and they include: proper diagnosis and treatment for both mental illnesses and co-occurring substance use disorders; trauma related services; meaningful day activities (e.g., clubhouses, drop-in centers) that can provide opportunities for development of social and employment skills; coordinated criminal justice responses (e.g., problem solving courts, diversion programs, and Crisis Intervention Training); and use of advances in information technology to reduce system fragmentation and enhance care coordination.¹⁵⁶

The CMHP was established with the primary goal of diverting individuals with serious mental illnesses (“SMI”) or co-occurring serious mental illnesses and substance use disorders out of the criminal justice system and into comprehensive community-based treatment and support services.¹⁵⁷ The object was to establish a solution to the problem of the criminalization of mental illness by providing essential services to those in need and bridging a gap between the community partners and stakeholders who had an interest in eliminating or reducing the problem of criminalization of mental illness.¹⁵⁸ The short-term goals were to reduce the number of individuals with SMI in county jails and provide sufficient help with housing, treatment, and other essential medical services so that those re-entering the community would not reoffend and would have the proper treatment for a successful mental health recovery.¹⁵⁹ The program’s long term goals included: “reduced demand for costly acute care services in jails, prisons, forensic mental health treatment facilities, emergency rooms, and other crisis settings; decreased crime and improved public safety; improved public health; decreased injuries to law enforcement officers and people with mental illnesses; and decreased rates of chronic

154. *Id.*

155. NAT’L LEADERSHIP F. ON BEHAV. HEALTH/CRIM. JUST. SERVS., ENDING AN AMERICAN TRAGEDY: ADDRESSING THE NEEDS OF JUSTICE-INVOLVED PEOPLE WITH MENTAL ILLNESSES AND CO-OCCURRING DISORDERS (Sept. 2009).

156. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Dec. 13, 2016).

157. CMHP A, *supra* note 25.

158. *Id.*

159. *Id.*

homelessness.”¹⁶⁰ Most important, the CMHP’s main goal was “to close the revolving door which results in the devastation of families and the community, the breakdown of the criminal justice system, and wasteful government spending.”¹⁶¹

The CMHP has been in operation for eighteen years. It functions to divert nonviolent misdemeanor defendants suffering from SMI or those with SMI who commit less serious felonies, or those with co-occurring SMI and substance use disorders, from the criminal justice system into community-based treatment and support services.¹⁶² The program has two main components. First, there is a pre-booking process that relies heavily on crisis intervention training (“CIT”) with law enforcement officers.¹⁶³ Second, there is a post-booking diversion program that seeks to divert those arrested and awaiting adjudication out of the criminal justice system.¹⁶⁴ Both components seek to divert the individuals out of the criminal justice system and place them in community-based treatment and support programs.¹⁶⁵

The success of the CMHP depends on the participation and cooperation of community stakeholders.¹⁶⁶ Without the support of the community stakeholders, the CMHP would have no chance of success.¹⁶⁷ The community stakeholders for the CMHP include: “the State Attorney’s Office, the Public Defender’s Office, the Miami-Dade County Department of Corrections and Rehabilitation, the Florida Department of Children and Families, the Social Security Administration, public and private community mental health providers, Jackson Memorial Hospital-Public Health Trust, law enforcement agencies, family members, and mental health consumers.”¹⁶⁸ These community leaders have a vested interest in making sure each of the following programs is successful in order to help alleviate the societal problems associated with the criminalization of mental illness.

1. Pre-Booking Diversion

CIT is the key component of the pre-booking diversion. CIT was modeled after training developed in Memphis, Tennessee, in the 1980s and is currently known as the Memphis Model.¹⁶⁹ The basis of CIT is to equip and train law enforcement officers to appropriately deal with those suffering from mental illnesses.¹⁷⁰ Law enforcement officers on a regular basis are the first responders to deal with those suffering from mental illnesses. Thus, proper training is essential.

160. *Id.* at 1.

161. *Id.*

162. CMHP A, *supra* note 25.

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.* at 2.

169. *Id.* at 3.

170. *Id.*

CIT requires that officers receive “40 hours of specialized training in psychiatric diagnoses, suicide intervention, substance abuse issues, behavioral de-escalation techniques, the role of the family in the care of a person with a mental illness, mental health and substance abuse laws, and local resources for those in crisis.”¹⁷¹ “The training is designed to educate and prepare officers to recognize the signs and symptoms of mental illnesses, and to respond more effectively and appropriately to individuals in crisis.”¹⁷² CIT officers are trained and have expertise in de-escalating crises involving people suffering from mental illnesses and provide an understanding and compassion in dealing with those with SMI in difficult situations.¹⁷³ As a result, officers dealing with those suffering from SMI can often divert them to proper mental health services rather than taking them to jail.¹⁷⁴

This training is important because it can divert individuals with SMI out of the criminal justice system and into programs that are designed to address their needs.¹⁷⁵ For example, an individual with SMI may habitually trespass at a convenience store. An officer with CIT can ascertain that the individual’s conduct is based on his SMI and divert him to a proper mental health facility. In this way, the officer can provide services that may help alleviate the problem rather than to arrest the individual and continue the cycle of the individual being repeatedly incarcerated because of the mental illness.

The CMHP has been very successful in its CIT. Through the history of the program the CMHP has provided training free of charge to over 4,600 law enforcement officers and to all thirty-six local municipalities in Miami-Dade County, as well as to Miami-Dade Public Schools and the Department of Corrections and Rehabilitation.¹⁷⁶ Between 2006 and 2010, these officers from the Miami-Dade Police Department and City of Miami Police Department who have received CIT “have responded to nearly 38,000 mental health crisis calls resulting in over 9,000 diversions to crisis units and just 85 arrests.”¹⁷⁷ “Last year alone, [2016] CIT officers from the Miami-Dade Police Department and City of Miami Police Department responded to more than 11,000 calls, resulting in nearly 1,700 diversions to crisis units and just 19 arrests. Since 2010, these two agencies have responded to nearly 72,000 mental health crisis calls resulting

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.*

175. *See id.* (“Last year alone, CIT officers from the Miami-Dade Police Department and City of Miami Police Department responded to more than 10,000 calls, resulting in over 1,200 diversions to crisis units and just 9 arrests.”)

176. *Id.*; *see also* MIAMI-DADE COUNTY ELEVENTH JUDICIAL CIRCUIT, CRIMINAL MENTAL HEALTH PROJECT (CMHP): CRIM. JUST./MENTAL HEALTH STAT. AND PROJECT OUTCOMES (JUNE 8, 2016), available at <https://perma.cc/BT65-A2GX> [hereinafter CMHP STATISTICS AND OUTCOMES]; *see also* Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

177. CMHP A, *supra* note 25, at 3; *see also* Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

Table 1: Results of Annual CIT Calls¹⁸⁵

	Annual Calls	Arrests	Diversions from Jail	Crisis Center Placements
2010	7,779	4	1,940	3,307
2011	9,399	45	3,563	4,642
2012	10,404	27	2,118	5,527
2013	10,626	9	1,215	3,946
2014	11,042	24	1,871	5,155
2015	10,579	10	1,633	7,417
2016	11,799	19	1,694	8,303
Total	71,628	138	14,034	38,297
		0.20%	19.60%	53.50%

in 38,000 diversions to crisis units and 138 arrests.”¹⁷⁸ Statistically, this is one arrest per every 519 calls for service dealing with people with mental illnesses, one diversion for every five calls, and one transport for treatment for every 1.8 calls.¹⁷⁹ As a result of CIT, the average daily population in the county jail system has dropped from 7800 to 4,800 inmates and the county has closed one entire jail facility.¹⁸⁰ This has produced a savings to the taxpayers of \$12 million per year.¹⁸¹ There has also been a reduction in fatal shootings and injuries of people with mental illnesses by police officers.¹⁸² From 1999 through 2005, there were nineteen persons with mental illnesses who died as the result of incidents with law enforcement officers in Miami-Dade County.¹⁸³ Since 2005, this figure has dropped significantly.¹⁸⁴ The following statistics indicate the success of the CIT program.

178. MIAMI-DADE COUNTY ELEVENTH JUDICIAL CIRCUIT, CRIMINAL MENTAL HEALTH PROJECT (CMHP), <https://perma.cc/5H3U-ZF83> [hereinafter CMHP B].

179. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

180. CMHP A, *supra* note 25, at 3.

181. *Id.*

182. *Id.*

183. *Id.*

184. *Id.*

185. CMHP STATISTICS AND OUTCOMES, *supra* note 176; *see also* Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

Table 2: Reduction in Fatal Shootings and Injuries¹⁸⁶

	Annual Calls	Use of Force	Officer Injuries	Consumer Injuries
2010	7,779	29	-	-
2011	9,399	75	-	-
2012	10,404	72	-	-
2013	10,626	59	11	127
2014	11,042	79	21	262
2015	10,579	69	26	211
2016	11,799	58	12	203
Total	71,628	441	70	803
		0.60%	0.10%	1.10%

2. Post-Booking Jail Diversion Program

The CMHP was created to divert non-violent misdemeanor offenders with SMI and co-occurring substance abuse disorders out of the criminal justice system and into community-based treatment and service programs.¹⁸⁷ In 2008, the program was expanded to address certain non-violent felony offenses in the diversion program.¹⁸⁸ On average, 500 individuals annually are diverted out of the criminal justice system.¹⁸⁹ However, that number has increased as the program has developed over the years. For example, in 2015, there were 831 referrals.¹⁹⁰ Over the past ten years, roughly 4,000 individuals have been diverted out of county jails and into community-based programs and services for treating mental illnesses.¹⁹¹ The misdemeanor and felony jail diversion programs are the main parts of the Post-Booking Jail Diversion program.

186. CMHP STATISTICS AND OUTCOMES, *supra* note 176. See also Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

187. CMHP A, *supra* note 25.

188. *Id.*

189. CMHP A, *supra* note 25, at 3.

190. CMHP STATISTICS AND OUTCOMES, *supra* note 176.

191. CMHP A, *supra* note 25, at 3.

a. Misdemeanor Jail Diversion Program

The misdemeanor diversion program has 300 referrals annually.¹⁹² The post-arrest diversion program requires that defendants who are booked into the jail are screened for signs and symptoms of mental illnesses by correctional officers.¹⁹³ Defendants charged with misdemeanors and who satisfy the program admission criteria are transferred from the jail to a community-based crisis stabilization unit within twenty-four to forty-eight hours of booking.¹⁹⁴ Once the defendant is stabilized, the criminal charges may be dismissed or modified according to the type of further treatment that is needed.¹⁹⁵ If further treatment is needed, then defendants who agree to further services are assisted by matching them with a comprehensive array of community-based treatment, support, and housing services that are essential for successful community re-entry and recovery outcomes.¹⁹⁶ “Program participants are monitored by the CMHP for up to one year following community re-entry” to ensure that they are continuing with their treatment and are in contact with necessary supports and services.¹⁹⁷

Seventy-five to eighty percent of the defendants in the misdemeanor diversion program are homeless at the time of arrest.¹⁹⁸ In addition, they tend to be those who suffer from the most severe forms of mental illnesses and also have co-occurring substance abuse issues.¹⁹⁹ The program has been very successful as the recidivism rates among program participants have decreased from about seventy-five percent to twenty percent annually.²⁰⁰

b. Felony Jail Diversion Program

There are roughly 200 defendants that are referred to the felony diversion program each year.²⁰¹ The defendants in the felony jail diversion program are referred to the CMHP through a number of community sources “including the Public Defender’s Office, the State Attorney’s Office, private attorneys, judges, corrections health services, and family members.”²⁰² The defendants must meet mental health diagnostic criteria to qualify to enter the program.²⁰³ They must also meet the legal criteria of entering the program with a third-degree felony and cannot

192. *Id.* at 4. That number has been growing each year as the program has grown.

193. CMHP A, *supra* note 25, at 4.

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.*

198. *Id.*

199. *Id.*

200. *Id.*

201. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

202. CMHP A, *supra* note 25, at 4.

203. *Id.*

have more than three prior felony convictions.²⁰⁴ In addition, they must be eligible to apply for entitlement benefits such as Supplemental Security Income ("SSI"), Social Security Disability Insurance ("SSDI"), and Medicaid.²⁰⁵

Once the person is accepted into the felony jail diversion program, the assistant state attorney prosecuting the case will inform the court of the plea offer to the defendant and any subsequent plea conditions that will be offered contingent upon successful program completion.²⁰⁶ Similar to the misdemeanor program, legal charges may be dismissed or modified based on treatment engagement.²⁰⁷ All defendants are assisted in accessing community-based services and supports, and their progress is monitored and reported back to the court by CMHP staff.²⁰⁸

Of those participating in the felony diversion program, sixty-five percent complete the program.²⁰⁹ While those who completed and did not complete the program both demonstrated improvements in criminal justice outcomes, those who completed it did much better.²¹⁰ Recidivism rates were twenty-five percent for completers and seventy-three percent for non-completers within one year of finishing or leaving the program. Within two years of leaving the program, recidivism rates were thirty-five percent for completers and seventy-nine percent for non-completers.²¹¹ Non-completers of the program returned to jail twice as often as those who completed the program.²¹² Those who completed the program demonstrated an eighty-two percent reduction in jail bookings and a ninety percent reduction in jail days within one year.²¹³ For every 100 completers of the program, there was over \$750,000 dollars in cost avoidance to the jail in the year following admission.²¹⁴ "Since 2008, the felony jail program alone is estimated to have saved the county over 15,000 days of housing costs in the county jail," which is more than thirty-five years of costly jail time.²¹⁵ Overall, participants in the program demonstrated continued reductions in criminal justice involvement during the two years following discharge from the program.²¹⁶

204. *Id.*

205. *Id.*

206. *Id.*

207. *Id.*

208. *Id.*

209. Telephone interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

210. *Id.*

211. *Id.*

212. *Id.*

213. *Id.*

214. *Id.*

215. CMHPA, *supra* note 25, at 4.

216. Telephone interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017).

3. *Forensic Hospital Diversion Program*

In 2009, the CMHP implemented a pilot project funded by the State of Florida to develop the Miami-Dade Forensic Alternative Center ("MD-FAC"). The MD-FAC is a ten-bed receiving facility which was implemented to "demonstrate the feasibility of establishing a program to divert individuals with mental illnesses committed to the Florida Department of Children and Families from placement in state forensic hospitals to placement in community-based treatment and forensic services."²¹⁷ Individuals participating in the program are those that have been charged with second and third degree felonies but who do not have significant histories of violent felony offenses.²¹⁸ In addition, they must not be likely to face incarceration if convicted of their alleged offenses.²¹⁹ Finally, they must have been adjudicated incompetent to proceed to trial or not guilty by reason of insanity.²²⁰ Individuals meeting these requirements qualify for the community-based treatment program.²²¹

"The community-based treatment provider for the pilot project is responsible for providing a full array of residential treatment and community re-entry services including crisis stabilization, competency restoration, development of community living skills, assistance with community re-entry, and community monitoring to ensure ongoing treatment following discharge."²²² In addition, the treatment provider will help individuals in accessing "entitlement benefits and other means of economic self-sufficiency to ensure ongoing and timely access to services and supports after re-entering the community."²²³ Unlike individuals admitted to state hospitals, individuals served by MD-FAC are not returned to jail upon restoration of competency.²²⁴ This is an advantage because, unlike state facilities, the program is able to keep individuals whose competency has been restored in the program rather than in jail while awaiting trial.²²⁵ As a result, this decreases the burdens on the jail and eliminates the possibility that a person may decompensate while in jail and or lose his ability to maintain normal psychological functioning and be declared incompetent to proceed again.²²⁶

To date, the project has demonstrated a

more cost effective delivery of forensic mental health services, reduced burdens on the county jail system in terms of housing and transporting defendants with forensic mental health needs, and [has provided a] more effective

217. FLA. SENATE INTERIM REP., THE FORENSIC MENTAL HEALTH SYSTEM, 2012-108, at 3 (2011).

218. CMHP A, *supra* note 25, at 4.

219. *Id.*

220. *Id.*

221. *See id.*

222. *Id.* at 4-5.

223. *Id.* at 5.

224. *Id.*

225. *Id.*

226. *Id.*

community re-entry and monitoring of individuals who, historically, have been at high risk for recidivism to the justice system and other acute care settings.²²⁷

Additionally, “[i]ndividuals admitted to the MD-FAC program are identified as ready for discharge from forensic commitment an average of fifty-two days (thirty-five percent) sooner than individuals who complete competency restoration services in forensic treatment facilities, and spend an average of thirty-one fewer days (eighteen percent) under forensic commitment.”²²⁸ And “[t]he average cost to provide services in the MD-FAC program is roughly thirty-two percent less expensive than services provided in state forensic treatment facilities.”²²⁹

4. *Access to Entitlement Benefits*

Stakeholders in the criminal justice and behavioral health communities consistently identify lack of access to public entitlement benefits such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), and Medicaid as among the most significant and persistent barriers to successful community re-integration and recovery for individuals who experience serious mental illnesses and co-occurring substance use disorders.²³⁰

The majority of individuals involved in the CMHP programs do not receive any entitlement benefits at the time they enter a CMHP program.²³¹ As a result, many of the participants do not have sufficient funds to obtain “adequate housing, treatment, or support services in the community.”²³²

In order to address this barrier and maximize limited resources, the CMHP developed an innovative plan to improve the ability to transition individuals from the criminal justice system to the community.²³³ Funding is essential to the success of the program. Therefore, “all participants in the program who are eligible to apply for Social Security benefits are provided with assistance utilizing a best practice model referred to as SOAR (SSI/SSDI, Outreach, Access and Recovery).”²³⁴ SOAR is an approach that was developed as a federal technical assistance initiative to expedite access to social security entitlement benefits for individuals with mental illnesses who are homeless.²³⁵ The result of obtaining SSI and/or SSDI for the program participants is essential in that it provides a “steady income and health care coverage which enables individuals to access basic needs including housing.

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. *Id.*

232. *Id.*

233. *Id.*

234. *Id.*

235. *Id.*

food, medical care, and psychiatric treatment.”²³⁶ “This significantly reduces recidivism to the criminal justice system, prevents homelessness, and is an essential element in the process of recovery” for the CMHP participants.²³⁷

The CMHP has developed a good working relationship with the Social Security Administration, which helps expedite and ensure approvals for entitlement benefits in the shortest time possible.²³⁸ The process begins when all CMHP participants are initially screened for eligibility for federal entitlement benefits, with CMHP staff initiating applications as early as possible utilizing the SOAR model.²³⁹ Program data demonstrates that ninety percent of the individuals are approved on the initial application.²⁴⁰ By contrast, the national average across all disability groups for approval on initial application is twenty-nine percent.²⁴¹ In addition, the average time until approval for CMHP participants is forty days.²⁴² This quick turnaround time is remarkable when compared to the ordinary approval process, which typically takes between nine and twelve months.²⁴³

Based on the success of the CMHP, Miami-Dade County was awarded a three-year, \$1.2 million grant from the State of Florida in 2010.²⁴⁴ The grant was for the purpose of implementing and expanding applications for access to entitlement benefit services to include individuals with SMI re-entering the community after completing jail sentences.²⁴⁵ This would be done by implementing a specialized entitlement benefits unit utilizing the SOAR model to expedite access to Social Security and Medicaid benefits for individuals served by the CMHP programs.²⁴⁶

5. *Recovery Peer Specialists*

Recovery Peer Specialists are another essential element of the CMHP. Recovery Peer Specialists are individuals who suffered from mental illnesses and have recovered or are in recovery and who work as members of the jail diversion team.²⁴⁷ Based on their life experiences, they are able to better relate in some instances and provide invaluable help to those they are serving. “The primary function of the Recovery Peer Specialist is to assist jail diversion program participants

236. *Id.*

237. *Id.*

238. *Id.*

239. *Id.* at 6.

240. *Id.*

241. CMHP B, *supra* note 178.

242. *Id.*

243. *Id.*

244. *Id.*

245. *Id.*

246. *Id.*

247. *Id.*; see also *The Florida Certification Board, Available Certifications*, <http://flcertificationboard.org/certifications/certified-recovery-peer-specialist-adult-family-or-veteran>. One can receive a certificate of training as a Recovery Peer Specialist from the State of Florida.

with community re-entry and engagement in continuing treatment and services.”²⁴⁸ “This is accomplished by working with participants, caregivers, family members, and other sources of support to minimize barriers to treatment engagement and to model and facilitate the development of adaptive coping skills and behaviors.”²⁴⁹ Recovery Peer Specialists also serve as consultants and faculty to the CMHP’s CIT training program.²⁵⁰

6. *Bristol-Myers Squibb Foundation Project*

The South Florida Behavioral Health Network, with coordination from CMHP, “which is contracted by the Florida Department of Children and Families to manage the substance abuse and mental health system of care in Miami-Dade and Monroe counties, was awarded a three-year, \$1.2 million grant from the Bristol-Myers Squibb Foundation.”²⁵¹ The purpose of the grant is to develop and implement a “first-of-its-kind coordinated system of care,” targeting the needs of individuals with serious mental illnesses who are at highest risk for involvement in the criminal justice system and other institutional settings.²⁵² The project coordinates and works with CMHP’s Misdemeanor and Felony Jail Diversion programs.²⁵³ “A primary goal of the project is to ensure timely and efficient access to a comprehensive array of services based on enhanced, individualized assessment of clinical and criminogenic needs and risk factors.”²⁵⁴ The services are to be delivered by a “coordinated network of community-based treatment providers and justice system stakeholders involved in cross-systems and cross-disciplinary treatment planning, service coordination, and information sharing.”²⁵⁵ Although in its infancy, the project will be evaluated by comparisons of behavioral health and criminal justice outcomes among individuals enrolled in the new program versus individuals participating in traditional community-based services.²⁵⁶

7. *Mental Health Diversion Facility*

Another important aspect of the CMHP is its development of a dedicated mental health diversion facility. Since 2006, the courts and stakeholders from Miami-Dade County have worked on a capital improvement project to develop a mental health diversion and treatment facility. Currently, the county has begun building a dedicated mental health diversion facility, which will cost taxpayers over \$42

248. CMHP B, *supra* note 178, at 6.

249. *Id.*

250. *Id.*

251. CMHP A, *supra* note 25, at 6.

252. *Id.*

253. *Id.*

254. *Id.*

255. *Id.*

256. *Id.*

million.²⁵⁷ The facility will service individuals who are diverted from the county jail system into a “seamless continuum of comprehensive community-based treatment programs that leverage local, state, and federal resources.”²⁵⁸ The project’s main goal is to “build on the successful work of the CMHP with the goal of creating an effective and cost efficient alternative treatment setting to which individuals awaiting trial may be diverted.”²⁵⁹

“The diversion facility will be housed in a former state forensic hospital which . . . is in the process of being renovated to include programs operated by community-based treatment and social services providers.”²⁶⁰ The services offered at the facility will include “crisis stabilization, short-term residential treatment, day treatment and day activities programs, intensive case management, outpatient behavioral health and primary care treatment services, and vocational rehabilitation/supportive employment services.”²⁶¹ The facility will also include “space for the courts and for social service agencies such as housing providers, legal services, and immigration services so that the comprehensive needs of individuals can be served.”²⁶²

The goal for the mental health diversion facility and expansion of the CMHP’s diversion programs is to “create a centralized, coordinated, and seamless continuum of care for individuals who are diverted from the criminal justice system either pre-booking or post-booking.”²⁶³ By providing a comprehensive array of services and supports in one facility, it is likely that “individuals who are currently recycling through the criminal justice system will be more likely to engage treatment and recovery services.”²⁶⁴ The new facility will also allow individuals who spend extended amounts of time in the county jail to move more quickly and seamlessly into residential treatment programs and supervised outpatient services.²⁶⁵

It is estimated that the new diversion facility will save \$8.2 million each year.²⁶⁶ In addition, it is estimated that there will be a reduction in almost 1,200 jail

257. Telephone interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017); see also David Ovalle, *In Miami-Dade, hope, help for offenders with mental illness*, MIAMI HERALD (Sept. 29, 2014, 10:31 PM), <http://www.miamiherald.com/news/local/community/miami-dade/article2319144.html>

258. CMHP B, *supra* note 178, at 6.

259. *Id.*

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.*

264. *Id.* at 7.

265. *Id.*

266. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Oct. 25, 2017); see also MENTAL HEALTH DIVERSION FACILITY, SERVICE AND FISCAL IMPACT ESTIMATES (Jun. 9, 2016).

bookings each year.²⁶⁷ Further, it is estimated that the county will save over 36,000 annual jail days, which is equivalent to more than ninety beds every year.²⁶⁸

8. *Typical or Troubled? Program*

Recently, the CMHP partnered with the American Psychiatric Foundation (“APF”) and Miami-Dade County Public Schools (“MDCPS”) to implement the *Typical or Troubled?* School Mental Health Education Program for all public junior high and high schools in the Miami-Dade County school system.²⁶⁹ “The program will train over 500 teachers, school psychologists, social workers and guidance counselors on early identification of potential mental health problems, will educate and engage parents, and will ultimately link students with mental health services when needed.”²⁷⁰ The program “helps school personnel distinguish between typical teenage behavior and evidence of mental health warning signs that would warrant intervention.”²⁷¹ The goal will be to proactively confront mental health in the school system “through partnerships and targeted training” that identify and provide “effective treatment of mental health problems before those problems manifest through increased truancy, substance abuse,” criminal activity, violence, or tragedy.²⁷²

C. *CMHP: A Model of Success*

The success of the CMHP has been immense in the fight against the criminalization of mental illness. “The CMHP has demonstrated substantial gains in the effort to reverse the criminalization of people with mental illnesses.”²⁷³ This is accomplished because “the CMHP offers the promise of hope and recovery for individuals with SMI [who] have often been misunderstood and discriminated against” through a wide variety of services and programs that are absent from most communities.²⁷⁴ Once a person is “engaged in [the proper] treatment and community support services,” the individual has “the opportunity to achieve successful recovery” and community integration, as well as reduce his recidivism to jail.²⁷⁵

The success of the CMHP has been nationally recognized and is a national model of excellence in dealing with mental illness in the criminal justice system.²⁷⁶

267. *Id.*

268. *Id.*

269. John Schuster, *Miami-Dade County Public Schools and American Psychiatric Foundation Bring Early-Intervention Mental Health Program to Schools*, AM. PSYCHOL. FOUND. (Jan. 23, 2013), <http://www.americanpsychiatricfoundation.org/what-we-do/public-education/typical-or-troubled>.

270. *Id.*

271. *Id.*

272. *Id.*

273. CMHP A, *supra* note 25, at 7.

274. *Id.*

275. *Id.*

276. *Id.*

The CMHP has received numerous recognitions and awards including the 2010 Prudential Davis Productivity Award for implementation of SOAR, 2010 Eli Lilly Reintegration Award for Advocacy, the 2008 Center for Mental Health Services/ National GAINS Center Impact Award, the 2007 National Association of Counties Achievement Award, the 2006 United States Department of Housing & Urban Development's HMIS National Visionary Award, the 2006 Prudential Financial Davis Productivity Award, and the 2003 National Association of Counties Distinguished Service Award.²⁷⁷ In addition, for Judge Leifman's incredible work in this area, he was honored in 2015 by the United States Supreme Court when he received the National Center for State Courts' William H. Rehnquist Award for Judicial Excellence.²⁷⁸

"The CMHP provides an effective and cost-efficient solution to a community problem."²⁷⁹ As previously noted, over CMHP's fifteen-year history, "[p]rogram results demonstrate that individualized transition planning to access necessary community based treatment and services upon release from jail will ensure successful community re-entry and recovery for individuals with mental illnesses, and possible co-occurring substance use disorders that are involved in the criminal justice system."²⁸⁰ This truly innovative program has seen incredible results.

The CMHP is estimated to have saved the county millions of dollars since its inception.²⁸¹ Its diversion programs alone save the taxpayers nearly \$6 million a year.²⁸² In addition, the population in the local jails has dropped from 7,800 to 4,800, which allowed for the closing of one of the county jails and has saved the taxpayers \$12 million per year.²⁸³ The savings alone would seem to most to be a success, but the real success is that recidivism rates of those treated and participating in the program dropped from seventy-five percent to twenty percent annually.²⁸⁴ This decline shows that the fight against the criminalization of mental illness is working as individuals suffering from SMI are not being repeatedly recycled through the criminal justice system. In addition, they are receiving the necessary treatments and services to help them lead a productive life.

The Chief Justice of the Florida Supreme Court, Jorge Labarga, summed up the work of Judge Leifman and the CMHP:

Judge Leifman epitomizes judicial excellence: "Troubled by people with mental illnesses cycling through his Miami courtroom, Judge Leifman

277. *Id.*

278. Press Release, National Center for State Courts, Miami Judge Steve Leifman Wins William H. Rehnquist Award, (Aug. 12, 2015), http://www.floridasupremecourt.org/pub_info/documents/pressreleases/2015/08-12-2015_Leifman-Wins-Rehnquist-Award.pdf.

279. CMHP A, *supra* note 25, at 8.

280. *Id.*

281. *Id.* at 3.

282. CMHP STATISTICS AND OUTCOMES, *supra* note 176, at 6.

283. CMHP A, *supra* note 25, at 3.

284. *Id.* at 4.

decided to take action. His unwavering commitment and compassion in the years since that moment have brought astounding results, changing and saving lives, and bringing families back together. He has made our courts more just and our society more humane.”²⁸⁵

IV. DO THE PRINCIPLES OR PARTS OF THE CMHP WORK IN OTHER JURISDICTIONS?

The CMHP has been shown to be an innovative program that helps solve the problem of the criminalization of mental illness. It is clear that the problem of the criminalization of mental illness occurs across the nation. If the problem is so widespread, the question is whether other areas or jurisdictions have adopted the CMHP’s program or similar components of the program. If these areas or jurisdictions have adopted the programs or components of the program, then the question becomes whether these areas or jurisdictions are seeing similar successes.

In making this determination, research was conducted on eighteen different jurisdictions suffering from the effects of the criminalization of mental illness that are utilizing diversionary programs similar to the CMHP.²⁸⁶ Fifteen of these jurisdictions made site visits to Miami, Florida to view the CMHP.²⁸⁷ One jurisdiction worked closely with Judge Leifman and his staff in developing their programs but did not make a site visit.²⁸⁸ Interviews were done with representatives of seventeen of the eighteen jurisdictions.²⁸⁹

A. Site Visits

Fifteen of the eighteen jurisdictions researched made site visits to the CMHP and viewed the CMHP’s programs. One jurisdiction did not make a site visit but has worked closely with the Judge Leifman and the staff of the CMHP in developing its programs.²⁹⁰ Seventy-five percent of the jurisdictions making visits or working directly with Judge Leifman and his staff adopted parts of the CMHP.²⁹¹ None

285. Press Release, National Center for State Courts, *supra* note 278.

286. The jurisdictions researched were as follows: Duval Cnty., Fla.; Shelby Cnty., Tenn.; Broward Cnty., Fla.; Pinellas Cnty., Fla.; 19th Judicial Circuit, Fla.; Franklin Cnty., Ohio; Cook Cnty., Ill.; Orange Cnty., Fla.; 20th Judicial Circuit, Fla.; Bexar County, Tex.; Hillsborough Cnty., Fla.; Alachua Cnty., Fla.; Harris Cnty., Tex.; Cuyahoga Cnty., Ohio; Palm Beach Cnty., Fla.; King Cnty., Wash.; Douglas Cnty., Kan.; Los Angeles Cnty., Cal.

287. Telephone interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017).

288. 19th Judicial Circuit, Fla.; King Cnty., Wash.; and Douglas Cnty., Kan., did not make site visits.

289. Only King Cnty., Wash., was not interviewed. They did not visit the CMHP. Information on their program was gathered by web-based sources.

290. Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017).

291. *See id.*; Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview

of those jurisdictions adopted the entire CMHP program and all cited lack of financial resources as the major reason.²⁹² Twenty-five percent of the jurisdictions did not adopt parts of the program after their visit because they already had similar programs in place. Only one of the sixteen jurisdictions did not adopt any parts of the CMHP because their studies on the subject area showed that their program worked better, although they had some similar components in place.²⁹³ All those that visited the CMHP stated that the visit was valuable and that they gained valuable ideas that could be helpful in the future for solving the problem of the criminalization of mental illness in their jurisdictions.²⁹⁴

B. Main Components

All of the eighteen researched jurisdictions utilize CIT.²⁹⁵ However, only 66 percent of those had a triage or crisis stabilization center similar to that of the CMHP.

with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

292. See Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosini, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

293. Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017).

294. See *id.*; Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosini, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

295. See Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosini, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter

This crisis stabilization center is an important component because it gives CIT officers a place away from the county or local jail to which individuals suffering from SMI can be diverted. A representative of one of the jurisdictions stated, “[i]t is frustrating when CIT has been completed but there is no facility to divert individuals to other than the county jail.”²⁹⁶

In regard to mental health diversion, 66 percent of the jurisdictions had a pre-trial diversion program for those suffering from SMI.²⁹⁷ Eight-three percent of the jurisdictions had a mental health court system in place. Sixty-six percent of the jurisdictions used their pre-trial diversion program as their main diversionary component for people with mental illnesses.²⁹⁸ Twenty-six percent of those operating a mental health court used this court as their main diversionary program for those suffering from SMI.²⁹⁹

Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep’t (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

296. Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

297. *Blueprint for Success: The Bexar County Model, How To Set Up A Jail Diversion Program In Your Community*, <http://passthrough.fw-notify.net/download/318528/http://www.fairfaxcounty.gov/policecommission/subcommittees/materials/jail-diversion-toolkit.pdf>; Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017).

298. See Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep’t (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

299. See Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep’t (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

In regards to the CMHP's other components, only 38 percent were utilizing SOAR.³⁰⁰ Only one jurisdiction had adopted a school program to target those in schools suffering from SMI.³⁰¹ No jurisdiction had developed a dedicated mental health diversion facility.³⁰²

All of the jurisdictions interviewed cited two major problems in limiting the success of their programs. All of the jurisdictions stated that financial resources are the biggest barrier in limiting their success.³⁰³ For example, many interviewed cited the fact that the CMHP was spending \$42 million on a dedicated mental health diversion facility,³⁰⁴ which they would never be able to do in their jurisdiction. Further, all of the jurisdictions cited the need for changes in legislation or new legislation to provide help and tools in the fight against the criminalization of mental illness.³⁰⁵

300. Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017).

301. Times-Union Editorial Board, *JCCI Mental Health Study has produced lasting impact*, FLA. TIMES UNION (Dec. 23, 2016, 6:02 PM), <http://jacksonville.com/opinion/2016-12-23/jcci-mental-health-study-has-produced-lasting-impact>.

302. See Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

303. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

304. Ovalle, *supra* note 257.

305. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with

From the visits, all of the representatives of the jurisdictions stated that they gained valuable ideas on how to implement or make their diversion programs better.³⁰⁶ Further, they stated that it helped bring community leaders together.³⁰⁷ For the majority of these jurisdictions, their programs had not been in place long enough to gain valuable statistics as to whether the ideas they implemented had been successful. However, the perception by these representatives was that they had made strides in the right direction and that their programs were going to be successful.³⁰⁸

C. Examples and Models

It is clear from the interviews and web-based resources that areas and jurisdictions that suffer from the criminalization of mental illness have attempted to solve their problem by adopting parts of the CMHP's programs or by adopting similar components. Some have been very successful. Others have just started to implement programs so that there are no concrete numbers with which to measure success. Most have financial restrictions but are using creative methods to craft

Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

306. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

307. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017); Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017); Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017); Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017); Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017); Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017); Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts, (July 31, 2017); Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017); Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017); Telephone Interview with Kelly Steele, Manager, Ninth Circuit Problem Solving Court Programs, (July 18, 2017).

308. Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry (Feb. 17, 2017); Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017).

successful programs. Below are models from other areas and jurisdictions and their successes.

1. Duval County, Florida

In 2015, community leaders who were part of the Jacksonville Community Council Inc. ("JCCI") realized they had a mental health crisis.³⁰⁹ JCCI commissioned a study on the mental health crisis in Duval County. As part of that study, community leaders visited the CMHP.³¹⁰ As a result of the study and the visit, several programs were put in place.

In 2016, First Schools Plus, a mental health service program in Duval County schools, began to put licensed mental health professionals in selected schools.³¹¹ In 2016, there were nearly 1,000 referrals and sixty-one percent of those students received services.³¹² This program has been seen as an immense success based on the number of individuals receiving services.

In 2017, a mental health central receiving system was opened to divert people suffering from mental illnesses from the local jail to receive mental health services.³¹³ All officers receive CIT training through the Jacksonville Sheriff's Office.³¹⁴ These officers now have a way to divert individuals suffering from SMI rather than taking them to the county jail. This is important because the Duval County Jail is the largest mental health provider in the county.³¹⁵

Duval County also uses some similar components of the CMHP. The county operates a mental health court.³¹⁶ In addition, Duval County, through some of its non-profit hospitals, provides training to 10,000 individuals in the community for recognizing signs of severe mental illness and to help connect high risk individuals to services faster.³¹⁷ This is a way of trying to keep people suffering from mental illnesses from entering the court system by recognizing their mental health issues and stabilizing them before they would enter the court system.³¹⁸

Judge Karen Cole has been an instrumental figure in helping solve the mental health crisis in Duval County. She along with community leaders made a site visit

309. See Times-Union Editorial Page, *Florida's mental health crisis deserves to be a high priority*, FLA. TIMES UNION (Feb. 18, 2015, 4:23 PM), <http://jacksonville.com/opinion/editorials/2015-02-18/story/floridas-mental-health-crisis-deserves-be-high-priority> (describing two panel discussions emphasizing the high priority for prevention, adequate resources, and to remove stigma).

310. Telephone Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017).

311. Editorial Board, *JCCI Mental Health Study has produced lasting impact*, *supra* note 301.

312. *Id.*

313. Jessica Palombo, *Duval Needs \$1.5 Million to Open Mental Health Care 'Central Receiving System'*, WJCT PUB. MEDIA (Nov. 23, 2016), <http://news.wjct.org/post/duval-needs-15-million-open-mental-health-care-central-receiving-system>.

314. *Id.*

315. *Id.*

316. Telephone Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017).

317. Ryan Benk, *10k to Receive Mental Health Training in Jacksonville*, WJCT PUB. MEDIA (Jan. 26, 2017), <http://news.wjct.org/post/10k-receive-mental-health-training-jacksonville>.

318. *Id.*

to the CMHP. Judge Cole stated that the visit was a huge success.³¹⁹ It brought community leaders together and helped with the development of a number of programs.³²⁰ The county's program is still in its inception and pieces are being borrowed from the CMHP.³²¹ However, the county does not have the same type of funding as Miami-Dade County. There are no statistics as to the success of the programs as it is in its inception, but it is perceived in the coming years that the statistics will justify the program's funding.³²²

2. Pinellas County, Florida

Pinellas County visited the CMHP in December 2013.³²³ Pinellas County operates a unique mental health jail diversion program.³²⁴ The program was started in 2004.³²⁵ The program has diverted nearly 6,000 individuals suffering from mental illnesses out of the criminal justice system.³²⁶ There has been a ninety percent reduction in recidivism among those that have completed the program.³²⁷ The jail diversion program diverts individuals out of the criminal justice system into community-based treatment.³²⁸ The program lasts ninety days.³²⁹ The program acts in the place of a mental health court.³³⁰

The ninety-day program provides services which include "face-to-face assessments, transportation, transitional housing, psychiatric evaluations, treatment plans, prescription medication therapy, intensive case management, court liaisons, and finding additional community resources."³³¹ "The program provides access to community-based health and substance-abuse treatment services."³³² "Clients receive treatment services, case management, housing, and medications."³³³

Pinellas County has CIT training but lacks a triage or central receiving facility and adequate housing for placement of individuals once they have completed the program.³³⁴ This is due to a lack of funding.³³⁵ However, it is estimated that the jail

319. Telephone Interview with Karen Cole, Circuit Judge, Fourth Judicial Circuit (July 17, 2017).

320. *Id.*

321. *Id.*

322. *Id.*

323. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (May 25, 2017).

324. Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017). *See also, Jail Diversion Program*, PUB. DEF. SIXTH JUDICIAL CIRCUIT, http://www.wearethehope.org/jail_diversion.htm (last visited Aug. 26, 2018).

325. *Jail Diversion Program*, *supra* note 324.

326. *Id.*

327. *Id.*

328. *Id.*

329. Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017).

330. *Id.*

331. *Jail Diversion Program*, *supra* note 324.

332. *Id.*

333. *Id.*

334. Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017).

335. *Id.*

diversion program saves the taxpayers millions of dollars each year.³³⁶ For example, in 2004, it was estimated the program saved the taxpayers over \$5 million.³³⁷

Pinellas County has not adopted all of the CMHP programs because of a lack of funding.³³⁸ However, it has become creative by instituting the Safe Harbor homeless facility and a chronic inebriation program that helps with those suffering from mental illness and co-occurring substance abuse issues.³³⁹ Although the county does not have the same financial resources as Miami-Dade County, it has become creative and successful with the programs it has initiated.

3. Nineteenth Judicial Circuit, St. Lucie and Indian River County, Florida

The Nineteenth Judicial Circuit, which includes St. Lucie and Indian River counties, deals with the problem of the criminalization of mental illness.³⁴⁰ Although no representative has visited the CMHP from the Nineteenth Circuit, Circuit Court Judge Cynthia Cox has worked closely with Judge Leifman on issues dealing with mental illnesses in the criminal justice system.³⁴¹ She has been the administrative judge for the mental health courts in the Nineteenth Circuit and has been instrumental in their success.³⁴² The Nineteenth Circuit does have CIT training but does not have a central receiving system due to a lack of funding.³⁴³ As a result, mental health diversion and services are provided through the mental health courts.³⁴⁴

The mental health courts were started in the early 2000s.³⁴⁵ Currently, there are roughly 500 participants in the mental health courts in St. Lucie and Indian River counties.³⁴⁶ The mental health courts have adopted many of the principles of the CMHP.³⁴⁷ Inside the mental health courts, there is a misdemeanor and felony diversion program.³⁴⁸ The mental health courts also offer services and programs similar to those in the CMHP to those found not guilty by reason of insanity and with competency issues.³⁴⁹ In addition, there is a traditional track through which participants are placed on probation.³⁵⁰ Finally, the courts also utilize the SOAR

336. *Id.*

337. *Jail Diversion Program*, *supra* note 324.

338. Telephone Interview with Bob Dillinger, Public Defender, Sixth Judicial Circuit (July 18, 2017).

339. *Id.*

340. Telephone Interview with Cynthia Cox, Circuit Judge, Nineteenth Judicial Circuit, Fla. (July 26, 2017).

341. *Id.*

342. *Id.*

343. *Id.*

344. *Id.*

345. *Id.*

346. *Id.*

347. *Id.*

348. *Id.*

349. *Id.*

350. *Id.*

program to help the participants receive the government benefits they need for housing and treatment.³⁵¹

Lack of funding is a major reason for not adopting all of the CMHP.³⁵² However, the program in place has been very successful and saves the circuit an average of \$3 million a year in jail costs.³⁵³ According to Judge Cox, this is due to the creative use of funds and building programs within the mental health court system.³⁵⁴

4. *Franklin County, Ohio*

Franklin County, Ohio, has problems with the criminalization of mental illness.³⁵⁵ The county currently houses 2,300 inmates in its county jail with forty-five percent suffering from some type of mental illness.³⁵⁶ Representatives from the county visited the CMHP in October 2015.³⁵⁷ Based on the visit, the county developed a number of programs to help with their mental health crisis.³⁵⁸ First, the county instituted CIT training for law enforcement officers and developed a mental health crisis center where law enforcement officers could divert individuals with SMI to provide mental health and co-occurring substance abuse services.³⁵⁹ In addition, a program was developed to place individuals with SMI, who have been deemed frequent users of the system, in social service programs to obtain the needed services.³⁶⁰ In 2016, a misdemeanor and felony diversion program was started for individuals involved in the criminal justice system who suffered SMI.³⁶¹ Finally, a mental health court was instituted. Funding mental health diversion programs is an issue. However, the county has tried to be creative in using the key components of the CMHP that are financially feasible in order to reduce the criminalization of mental illness in the county.

5. *Cook County, Illinois*

Cook County, Illinois, has adopted some components of the CMHP. In particular, it uses a combination of supportive housing, which includes community mental health treatment services and rent subsidies.³⁶² In addition, Cook County utilizes

351. *Id.*

352. *Id.*

353. *Id.*

354. *Id.*

355. Telephone Interview with Michael Daniels, Justice Policy Coordinator, Franklin Cnty., Ohio (July 26, 2017).

356. *Id.*

357. *Id.*

358. *Id.*

359. *Id.*

360. *Id.*

361. *Id.*

362. Michael Ollove, *New Efforts Aim To Keep The Mentally Ill Out Of Jail*, HUFF POST (May 19, 2015), http://www.huffingtonpost.com/2015/05/19/mentally-ill-jail_n_7316246.html.

Assistive Community Treatment (“ACT”) teams composed of mental health specialists who help coordinate treatment, housing, and employment.³⁶³ Finally, Cook County utilizes CIT training and has adopted a mental health court for felony offenders.³⁶⁴

In fact, Cook County has a successful mental health diversion program which operates through its mental health court.³⁶⁵ Unlike the CMHP, the diversion program only focuses on felony offenders.³⁶⁶ According to Judge Lawrence Fox, Director of Problem Solving Courts in Cook County, the county’s studies show that misdemeanor diversion does not work as well as focusing on felony offenders.³⁶⁷ According to Fox, the idea is to target high risk offenders and the model has been a success.³⁶⁸

In using these components and strategies, Cook County has experienced success in combating the criminalization of mental illness. There has been an eighty-six percent reduction in arrests of those with mental illnesses.³⁶⁹ Further, there has been an eighty-six percent reduction in jail time for those suffering from mental illnesses.³⁷⁰ Finally, there has been a seventy-six percent reduction in hospitalizations for those participating in the programs.³⁷¹

6. King County, Washington

King County, Washington, utilizes several components of the CMHP in its mental health diversion programs. King County utilizes supportive housing and ACT which has provided for intensive community-based mental health treatments.³⁷² This is done through jail diversion programs that utilize CIT training and a crisis solutions center.³⁷³ These programs have led to a forty-five percent reduction in jail booking for those participating in the programs.³⁷⁴

363. *Id.*

364. Thomas J. Dart, *Mental Health Template*, COOK CTY. SHERIFF’S OFF., <https://www.cookcountysheriff.org/mental-health-template/> (last visited Sept. 9, 2018); see also, *Eliminating Barriers To The Treatment of Mental Illness*, TREATMENT ADVOC. CTR., <http://www.treatmentadvocacycenter.org/browse-by-state/illinois> (last visited Sept. 9, 2018).

365. Telephone Interview with Lawrence Fox, Director, Cook Cnty., Ill., Problem Solving Courts (July 31, 2017).

366. *Id.*

367. *Id.*

368. *Id.*

369. Ollove, *supra* note 362.

370. *Id.*

371. *Id.*

372. *Id.*

373. *Crisis Diversion Programs*, KINGCOUNTY.GOV, <http://www.kingcounty.gov/depts/community-human-services/mental-health-substance-abuse/diversion-reentry-services/crisis-diversion-programs.aspx> (last updated Oct. 27, 2017).

374. *Id.*

One of the unique features of King County program is the development of a crisis solutions center, which has three linked programs.³⁷⁵ First, there is a crisis diversion facility “for adults in crisis who need stabilization and referral to appropriate community-based services.”³⁷⁶ Second, there are crisis diversion interim services “for individuals who need intensive case management to identify and engage in available housing and support options upon returning to their home community.”³⁷⁷ Finally, there is a mobile crisis team “that responds with police and other first responders in the community to provide . . . crisis stabilization and linkage to appropriate services and supports” in moments of crisis.³⁷⁸

King County also utilizes a mental health court program.³⁷⁹ This program provides a diversionary court for those whose crimes are linked to a mental illness.³⁸⁰ The diversionary court is open to individuals with both misdemeanor and felony charges.³⁸¹

King County’s diversion program was evaluated by researchers at Seattle University, who concluded that the program was successful.³⁸² The evaluation results suggest that the program is relieving an otherwise substantial and unnecessary burden on law enforcement officers.³⁸³ This is done by diverting individuals with SMI out of the criminal justice system to mental health professionals who can triage cases and divert the individuals to more appropriate treatment.³⁸⁴

7. Bexar County, Texas

Bexar County, Texas, utilizes a complex jail diversion program in its fight against the criminalization of mental illness that incorporates a number of the components of the CMHP.³⁸⁵ First, the county utilizes a pre-arrest diversion program which includes CIT training and the use of a crisis center to provide needed mental health and substance abuse services.³⁸⁶ In addition, there is a pre-trial diversion

375. *Id.*

376. *Id.*

377. *Id.*

378. *Id.*

379. *Welcome to the King County District Court Regional Mental Health Court*, KINGCOUNTY.GOV, <https://www.kingcounty.gov/courts/district-court/regional-mental-health-court.aspx> (last updated Jan. 24, 2017).

380. *Id.*

381. *Id.*

382. Jacqueline B. Helfgott et al., *A Descriptive Evaluation of the Seattle Police Department’s Crisis Intervention Team/Mental Health Partnership Pilot Project*, SEATTLE UNIVERSITY (2012); see also Sarah C. Walker et al., *Washington State Mental Health Diversion Guidebook: A Guide for Juvenile Courts*, UNIV. OF WASH. & CTR. FOR CHILD. & YOUTH JUST., http://www.modelsforchange.net/publications/765/Washington_State_Mental_Health_Diversion_Guidebook.pdf.

383. *Id.*

384. *Id.*

385. Leo Evans, *Blueprint for Success: The Bexar County Model, How To Set Up A Jail Diversion Program In Your Community*, <http://www.naco.org/sites/default/files/documents/Bexar-County-Model-report.pdf>.

386. *Id.* at 11–21.

program offering pre-trial mental health services and a court diversion program.³⁸⁷ Finally, the county has adopted a collaboration model involving different agencies and different members of the community to cooperate in facilitating proper services.³⁸⁸

The program has seen immense success. On average, the program diverts 4,000 individuals annually from incarceration to treatment and has diverted 20,000 individuals since the program's inception.³⁸⁹ In addition, the county saves \$5 million for jail costs and \$4 million annually for inappropriate admissions to the emergency room.³⁹⁰ Finally, before the program, physical force was required at least fifty times each year in taking the mentally ill into custody.³⁹¹ Since the inception of the program, only three incidents of physical force have been used in dealing with the mentally ill.³⁹² The program has had immense success as there is only a four percent recidivism rate for those completing programs and seventy to eighty percent of the participants complete the program.³⁹³ Based on its success, Bexar County has become a national model for success in the area of fighting criminalization of mental illness.³⁹⁴

Even with its immense success, representatives from Bexar County visited the CMHP.³⁹⁵ The reason for the visit was to see how the CMHP's diversion programs worked within the court system.³⁹⁶ Bexar County's programs focus on the law enforcement side and in particular its CIT and pre-arrest diversion.³⁹⁷ They viewed the CMHP to help develop their court programs.³⁹⁸ The reason for this, according to Gilbert Gonzalez, Director of the Mental Health Department for Bexar County, is that the CMHP approach is different in that Bexar County's programs focus on law enforcement diversion where Judge Leifman brings "great experience in fighting the criminalization of mental illness through the court system."³⁹⁹ Gonzalez said the greatest challenge for Bexar County's programs, other than that of funding, is that of "educating those within the court system of the value and need for mental health diversion."⁴⁰⁰

387. *Id.*

388. *Id.*

389. *Id.* See also Susan Parmerleau, *Jail Diversion Program A Huge Success*, MY SAN ANTONIO (January 22, 2016, 3:54 PM), <http://www.mysanantonio.com/opinion/commentary/article/>.

390. Evans, *supra* note 385, at 1.

391. *Id.*; see also Parmerleau, *supra* note 389.

392. *Id.*

393. Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017).

394. Parmerleau, *supra* note 389.

395. Telephone Interview with Gilbert Gonzalez, Director, Bexar Cnty., Tex., Mental Health Dep't (Aug. 22, 2017).

396. *Id.*

397. *Id.*

398. *Id.*

399. *Id.*

400. *Id.*

8. *Douglas County, Kansas*

Douglas County, Kansas faces the problem of the criminalization of mental illness. The county has adopted a number of components similar to those of the CMHP in its fight against the criminalization of mental illness. Douglas County has provided CIT training to law enforcement officers throughout the county.⁴⁰¹ The county and municipal courts in Lawrence, Kansas have developed a mental health diversion program that includes both pre-booking and post-booking diversion programs for misdemeanors.⁴⁰² As part of the post-booking diversion program, the county has created mental health courts.⁴⁰³ Finally, the county has a goal in the near future of creating a mental health crisis stabilization and treatment center.⁴⁰⁴

Douglas County's program is in its infancy and there are no statistics available concerning the success of the program at this time.⁴⁰⁵ However, the county is unique in that it has hired a special consultant from the academic community, Margaret E. Severson, to help with the creation of its program.⁴⁰⁶ Ms. Severson is a professor at the University of Kansas and has studied mental illness in the court systems for many years.⁴⁰⁷ Based on her studies, she recommended the current components for Douglas County's program.⁴⁰⁸ According to Professor Severson, she is "optimistic that the Douglas County program is a successful approach to combating the criminalization of mental illness and that in the future the statistics will provide proof of this successful approach."⁴⁰⁹

9. *Los Angeles County, California*

In 2015, Los Angeles County, California, instituted a mental health diversion program to help reduce the number of individuals suffering from SMI who are housed in the county jail.⁴¹⁰ Los Angeles County currently has over 16,000 inmates housed in its jail system, which ranks as one of the largest in the United States.⁴¹¹ Roughly 4,000 of those inmates suffer from SMI.⁴¹²

The mental health diversion program, which is called the Office of Diversion and Reentry, is headed by retired Superior Court Judge Peter Espinoza.⁴¹³ In

401. Rick Cagan, *Mental Illness & Jails*, JUST. MATTERS IN KAN., http://www.justicemattersinkansas.org/mental_illness_jails (last visited on Sept. 9, 2018).

402. *Id.*

403. *Id.*

404. *Id.*

405. Telephone Interview with Margaret E. Severson, Professor, Univ. of Kan. (Feb. 17, 2017).

406. *Id.*

407. *Id.*

408. *Id.*

409. *Id.*

410. Telephone Interview with Peter Espinoza, Director, Los Angeles Cnty. Office of Diversion and Reentry.

411. *Id.*

412. *Id.*

413. *Id.*

addition to the fact that key roles are played by judges in both the CMHP and the Office of Diversion and Reentry, the Los Angeles County program shares a number of other characteristics with those of the CMHP. First, the Los Angeles County program has a pre-booking diversion program which includes CIT training for law enforcement and four urgent care centers to provide mental health services to those diverted.⁴¹⁴ In addition, the program has a post-booking diversion program which consists of a misdemeanor diversion program that aims to place those diverted in community based treatment.⁴¹⁵ Finally, the program consists of a pre-trial felony diversion program which currently provides 1,000 beds for those experiencing mental health and co-occurring substance abuse issues.⁴¹⁶

According to Judge Espinoza, the program has been in place for a year and “we are starting to see some success.”⁴¹⁷ Currently, there are no concrete statistics available for the pre-booking diversion program due to the number of agencies involved and the age of the program.⁴¹⁸ However, at least 291 inmates have been diverted from the county jail to community-based treatment through the misdemeanor diversion program and eighty percent of the individuals have successfully completed or continue to receive services.⁴¹⁹ In addition, 127 individuals have been diverted through the felony diversion for case management services and 209 have been placed in the community re-entry program.⁴²⁰

Judge Espinoza is very optimistic that the program will be successful.⁴²¹ According to Espinoza, “we are already seeing positive results even though the program is just in its inception.”⁴²² “However, the success of the program will ultimately be based on the development of resources to provide resources to those suffering from severe mental illness within the county.”⁴²³

10. Lee County, Florida

Lee County, Florida suffers from the effects of the criminalization of mental illness like many other areas.⁴²⁴ Lee County has implemented some of the major components of the CMHP.⁴²⁵ There has been CIT training in the county since 2005.⁴²⁶ Eighty percent of Ft. Meyers police officers, forty percent of Cape Coral

414. *Id.*

415. *Id.*

416. *Id.*

417. *Id.*

418. *Id.*

419. *Id.*

420. *Id.*

421. *Id.*

422. *Id.*

423. *Id.*

424. Telephone Interview with Belinda Smith, Administrative Services Coordinator for Specialty Courts, Lee Cnty., Fla. (Aug. 22, 2017).

425. *Id.*

426. *Id.*

police officers, twenty-five percent of the deputies at the Lee County Sheriff's Office, and five percent of the county's correctional officers have been trained.⁴²⁷ Similar to the CMHP, the county uses the CIT training to divert individuals to a triage center which was started in 2008.⁴²⁸

The main component of mental health diversion is managed through the mental health courts in Lee County.⁴²⁹ The court handles both misdemeanor and felony cases.⁴³⁰ The court diverts about seventy percent of the participants while thirty percent enter pleas and are placed on probation or community control.⁴³¹ Seventy-two percent of the participants graduate from the program and, of those graduates, only six percent reoffend within a year of graduation.⁴³² Those in the program tend to be those with higher risks of reoffending and have greater mental health needs.⁴³³ Lower level offenders are diverted through the triage center.⁴³⁴ The county utilizes the SOAR program.⁴³⁵ Thus, Lee County has been successful in its use and implementation of the mental health diversion programs.

D. Conclusion of Jurisdictional Study

Jurisdictions and areas across the country suffer from the criminalization of mental illness. Some of these jurisdictions have been proactive by developing programs to combat the criminalization of mental illness. At least fifteen different jurisdictions have visited the CMHP to gain ideas and most have implemented programs based on some of those ideas. Reports from the previously identified jurisdictions indicate that these implemented programs have been a success. They also provide examples of how different areas have been creative due to financial limitations in combating the criminalization of mental illness. They also provide a good framework of ideas for other jurisdictions trying to implement similar programs. In all, the research described in this thesis indicates that the CMHP has had a positive influence on other jurisdictions and that other jurisdictions are finding success in implementing parts of the CMHP or utilizing similar components to those of the CMHP.

V. THE NEED FOR IMPROVEMENT

Programs like the CMHP have been tremendously successful. However, programs like these also have weaknesses. First, programs like the CMHP do not address every issue that the communities and court systems face in regard to the

^{427.} *Id.*

^{428.} *Id.*

^{429.} *Id.*

^{430.} *Id.*

^{431.} *Id.*

^{432.} *Id.*

^{433.} *Id.*

^{434.} *Id.*

^{435.} *Id.*

criminalization of mental illness. This is often the case because there is a lack of legislation to adequately address mental health issues in the court system and the community. Further, in order for programs like the CMHP to operate effectively, they must be adequately funded. Many communities do not have the resources to effectively run programs like the CMHP and thus, they are not as successful. The lack of funding and effective legislation are two of the major issues cited by all jurisdictions dealing with the issue of the criminalization of mental illness.

A. The Need for More Legislation

1. Legislative Help for Court Systems

The CMHP and other similar programs have been extremely successful. But even with their success, the CMHP and other similar programs do not adequately address every issue and cannot solve every problem relating to the criminalization of mental illness. A major weakness is the lack of legislation to help court systems and communities battle this problem.

One of the major problems facing courts is the lack of legal remedies to help alleviate the problems associated with the criminalization of mental illness. In most cases, it is the lower courts that deal with the problems of criminalization of mental illness. The reason for this is that these courts are usually the courts that are assigned or have jurisdiction over misdemeanor-type cases. The problem arises because most states will not allow a county court judge presiding over misdemeanor cases to order an involuntary forensic commitment. As a result, the defendant is normally released from custody as soon as he is found incompetent to proceed only to be repeatedly recycled through the court system after each arrest.

In Florida, for example, the Florida Supreme Court has held that a judge cannot order a defendant charged with a misdemeanor in a criminal case to be involuntarily committed to a forensic mental health facility.⁴³⁶ In *Onwu v. State*, a county court judge presiding over a misdemeanor case ordered a mental evaluation of the defendant to determine his competency to proceed in the criminal case.⁴³⁷ After receiving the competency evaluations, the defendant was found to be incompetent to proceed.⁴³⁸ As a result, the judge moved to initiate proceedings in order to involuntarily commit the defendant to a state forensic mental health facility.⁴³⁹ The defendant challenged the judge's authority claiming that under chapter 916, Florida Statutes, only a circuit court judge has the authority to involuntarily commit the defendant to a state forensic mental health facility.⁴⁴⁰

436. *Onwu v. State*, 692 So. 2d 881, 883 (Fla. 1997).

437. *Id.* at 882.

438. *Id.*

439. *Id.*

440. *Id.*

The Florida Supreme Court held that the county court judge did not have the authority to commit the defendant to a state forensic mental health facility.⁴⁴¹ The court relied on the statutory language which provides that only a circuit court judge can make the necessary findings to order a forensic commitment.⁴⁴² As a result, the court reasoned that a judge did not have the authority to order an involuntary forensic commitment in a misdemeanor case.⁴⁴³

Most states follow the same approach as provided for in Florida law and do not allow forensic commitment in misdemeanor cases.⁴⁴⁴ As argued in *Onwu*, the main reason for this is that there is usually a shortage of bed space in state forensic facilities and a forensic commitment of misdemeanants would only exacerbate the situation.⁴⁴⁵ Due to the lack of bed space, the states are concerned with the fiscal impact of flooding the forensic hospitals with misdemeanants.⁴⁴⁶ However, as the court noted in *Onwu*, it only takes the legislature to amend the statute or draft new legislation that would allow misdemeanants to be committed to forensic hospitals.⁴⁴⁷

The Florida legislature has recently passed legislation that will help county courts combat the criminalization of mental illness. The amended portions fall under the civil mental health laws commonly called Baker Act proceedings. In particular, the legislature recently amended statutory provisions that allow a criminal county court judge to make an ex-parte order requiring an involuntary examination if the judge believes the person is suffering from mental illness.⁴⁴⁸ Further, under Fla. Stat. § 394.4655, a criminal county court judge can now order the individual to involuntary outpatient treatment services.⁴⁴⁹ However, the statutes still will not allow the criminal county court judge to order and require involuntary inpatient placement.⁴⁵⁰

These amended provisions do not address the problem discussed in the *Onwu* decision. However, they do provide a tool for criminal county court judges when facing mental health issues in their courts. In particular, in the event that a defendant is found incompetent to proceed, rather than just releasing the defendant, the county court judge could enter an order under Fla. Stat. § 394.4655 requiring an involuntary mental health examination and if appropriate, could order outpatient treatment. Although not perfect, this provides a significant tool for a criminal

441. *Id.* at 883.

442. *Id.*

443. *Id.*

444. See Symposium: *The Criminal Defense Lawyer's Fiduciary Duty to Clients With Mental Disability*, 68 FORDHAM L. REV. 1581, 1624 (2000).

445. *Onwu*, 692 So. 2d at 882.

446. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Apr. 28, 2017).

447. *Onwu*, 692 So. 2d at 883.

448. FLA. STAT. § 394.463(2)(a)(1) (2016).

449. FLA. STAT. § 394.4655(2) (2016) (stating that "a person may be ordered to involuntary outpatient services" by the court if the person is at 18 years old, has a mental illness, is unlikely to survive safely in the community without supervision, and has a history of lack of compliance with treatment for their mental illness).

450. FLA. STAT. § 394.467 (2016); FLA. STAT. § 394.455(10) (2016).

county court judge that did not previously exist. Further, these types of legislation can be a model for other jurisdictions to follow.

2. *Legislation for Communities at Large*

The National Alliance for Mental Illness (“NAMI”) recently “warned the U.S. Senate Judiciary Committee that the criminalization of people living with mental illnesses has reached crisis proportions and called for support of federal, state, and local reforms to overcome failings in both the mental health care and criminal justice systems.”⁴⁵¹ NAMI has urged for more legislation to help in the fight against the criminalization of mental illness.⁴⁵² In particular, NAMI supports bills like the Mental Health and Safe Communities Act, introduced by Senator John Cornyn of Texas, and similar bills that would help in combating the criminalization of the mentally ill.⁴⁵³

Bills like the Mental Health and Safe Communities Act are essential in solving the problem of criminalizing the mentally ill.⁴⁵⁴ If passed, the Mental Health and Safe Communities Act will provide more funding for mental health care especially in the area of the criminal justice system.⁴⁵⁵ It will provide for the collection of data concerning the role of mental illness in homicides.⁴⁵⁶ Also, it will provide funding for training of law enforcement officers in active shooter scenarios especially when dealing with those that have mental illnesses.⁴⁵⁷ Finally, it will correct errors in background checks and qualifications for gun ownership in order to keep those with severe mental illnesses from owning guns.⁴⁵⁸

These are just examples of current legislation that will help both the court systems and communities combat the criminalization of mental illness. It is clear that this type of legislation will help fill in gaps that cannot otherwise be handled by programs such as the CMHP. It is also evident that these types of legislative helps will be very successful in alleviating the problems associated with the criminalization of mental illness.

451. Press Release, National Alliance for Mental Illness, NAMI Warns Senate about Criminalization of Mental Illness; Supports Cornyn Bill (Feb. 2016), <https://www.nami.org/Press-Media/Press-Releases/2016/NAMI-Warns-Senate-about-Criminalization-of-Mental-Illness>.

452. *Id.*

453. *Id.* In February 2016, NAMI Senior Policy Advisor Ronald S. Honberg presented NAMI’s support of the Mental Health and Safe Communities Act, introduced by Senator John Cornyn of Texas, before the Senate Judiciary Committee.

454. Mental Health and Safe Communities Act of 2015, S. 2002, 114th Cong. (2015).

455. *Id.* at § 105(a)(2)(A)-(B); see also Sarah Trumble, *Mental Health and Safe Communities Act: The Good, the Bad, and the Fixable*, THIRD WAY (Oct. 30, 2015), <http://www.thirdway.org/memo/mental-health-and-safe-communities-act-the-good-the-bad-and-the-fixable>.

456. Mental Health and Safe Communities Act of 2015, S. 2002, 114th Cong. § 2992(c)(6) (2015).

457. *Id.* at § 2992(c).

458. *Id.* at § 305(f) (correcting system errors that previously prevented individuals from purchasing a firearm); see also Sarah Orick, *Guns and Mental Health*, CONG. DIGEST (Apr. 9, 2016), <http://congressionaldigest.com/guns-and-mental-health/>.

B. Lack of Funding

The CMHP is an incredible program. However, many communities cannot establish such a program or even parts of the program because of a lack of resources. The monetary limitations keep most communities from experiencing the type of success that has been experienced by Miami-Dade County.

The CMHP initially started its program with a \$50,000 grant and later secured a \$300,000 federal grant to help build its program.⁴⁵⁹ However, the CMHP now spends nearly \$1.2 million each year on its program.⁴⁶⁰ In addition, Miami-Dade County is in the process of building a dedicated mental health diversion facility which will cost taxpayers over \$40 million.⁴⁶¹

Funds such as those spent by Miami-Dade County are not always available to other counties. Many counties resort to grants and other government aids in order to institute mental health programs that work with the criminal justice system. Many communities do not even have a dedicated facility or funds for treatment programs in order to divert individuals with SMI out of the criminal justice system. Thus, funding is a major issue for smaller communities.

Larger communities are not immune to the problem of limited funding. Los Angeles County has based the success of its program on the development of resources.⁴⁶² Bexar County, which promotes one of the best mental illness diversion programs in the country, faces funding issues. Officials in Bexar County noted that with budget cuts, the lack of resources makes it hard to service individuals with SMI in the criminal justice system.⁴⁶³ Thus, funding of mental health diversion programs is an issue for counties both large and small.

However, some jurisdictions are learning how to cope with less funding. For example, in Florida's Seventh Judicial Circuit, SMA Behavioral, which is the mental health provider for the circuit, has begun to develop pilot programs using grant money.⁴⁶⁴ Currently, they are using grant money to create crisis treatment units in the circuit's smaller counties to service individuals with episodes of severe mental illness.⁴⁶⁵ In addition, they have started a FACT program with non-recurring state funds to identify, target and service individuals in the circuit with a history of severe mental illness.⁴⁶⁶ It is the hope of SMA to continue to build programs and services with grant money in order to fund necessary programs. Other jurisdictions

459. Telephone Interview with Tim Coffey, Coordinator, Eleventh Judicial Circuit Mental Health Project (Apr. 28, 2017).

460. CMHP STATISTICS AND OUTCOMES, *supra* note 176, at 5.

461. Ovalle, *supra* note 257.

462. See *Jail Diversion Program*, *supra* note 324.

463. Matt Clarke, *Bexar County, Texas Fails to Properly Evaluate Mentally Ill Jail Prisoners*, PRISON LEGAL NEWS (Apr. 15, 2011), <https://www.prisonlegalnews.org/news/2011/apr/15/bexar-county-texas-fails-to-properly-evaluate-mentally-ill-jail-prisoners>.

464. Telephone Interview with Ivan Cosimi, CEO, SMA Behavioral Healthcare (Apr. 26, 2017).

465. *Id.*

466. *Id.*

could follow these examples to help build programs to service those with severe mental illness.

VI. JUDICIAL INTERVENTION AND COMMUNITY SUPPORT

The criminalization of mental illness is a real problem in our country. It is important that communities and their stakeholders come together to solve this problem. Judges seem to be the catalysts in raising community awareness of this issue and helping coordinate efforts in counties, states, and throughout the country. The majority of programs researched and cited above include participation by a representative of the judiciary as a key component of the program's success. It seems that the judiciary has a unique way of bringing attention to the problem of the criminalization of mental illness. As one judge stated, "When I was a public defender trying to address this problem, I called a meeting of all the key stakeholders, and no one came. When I became a judge, I called the same meeting. Everyone was five minutes early."⁴⁶⁷

Two programs or organizations which have been developed through coordinated efforts of judges have helped to bring attention to and help solve the problem of the criminalization of mental illness. The first of these is the Judges Criminal Justice/Mental Health Leadership Initiative. The second is the Stepping Up Initiative. Both programs have been instrumental in educating and helping solve the problem of the criminalization of mental illness.

A. *Judges Criminal Justice and Mental Health Leadership Initiative*

The Judges Leadership Initiative ("JLI") was founded to help harness the leadership skills of the judiciary in order to combat the criminalization of mental illness.⁴⁶⁸ The organization is funded by the JEHT Foundation, the United States Department of Justice and the United States Department of Health and Human Services Administration, and Center for Mental Health Services.⁴⁶⁹ The goal of the JLI is to support and enhance the efforts of judges who have already taken leadership roles in their communities fighting against the criminalization of mental illness.⁴⁷⁰ In addition, the goal is to promote leadership among more judges that will improve the response to people with mental illnesses that are in the criminal justice system.⁴⁷¹ This is done by providing activities and resources to judges who wish to participate. Thus far, the JLI has provided help in addressing 400 to 500 issues that deal with mental health in the criminal justice system.⁴⁷²

⁴⁶⁷ *Judges' Criminal Justice/ Mental Health Leadership Initiative* (Sept. 6, 2018), <https://www.bja.gov/publications/jli.pdf>.

⁴⁶⁸ *Id.*

⁴⁶⁹ *Id.*

⁴⁷⁰ *Id.*

⁴⁷¹ *Id.*

⁴⁷² Telephone Interview with Steven Leifman, Associate Administrative Judge, Eleventh Judicial Circuit of Florida (Oct. 19, 2017).

The JLI, led by one its co-founders and chairpersons, Judge Leifman, has recently partnered with Psychiatric Leadership Group to form the Judges and Psychiatrist's Leadership Initiative ("JPLI").⁴⁷³ The goal of the JPLI is to stimulate, support, and enhance efforts by judges and psychiatrists to improve judicial, community, and systemic responses to people with behavioral health needs who are involved in the justice system.⁴⁷⁴ This is done by creating a community of judges and psychiatrists through web-based and in-person training.⁴⁷⁵ In addition, the JPLI seeks to increase the reach of trainings in order to build the non-clinical skills of court professionals which will help improve individual and public safety outcomes.⁴⁷⁶ For example, the JLI recently provided training to effectively identify and manage individuals with mental illnesses within the Illinois court system.⁴⁷⁷ Finally, the JPLI's goal is to develop educational resources to increase judges' and psychiatrists' understanding of the latest research and best practices for people with mental illnesses involved in the justice system.⁴⁷⁸

B. Stepping Up Initiative

In 2015, the National Association of Counties, the Council of State Governments Justice Center, and the American Psychiatric Association Foundation launched the Stepping Up Initiative.⁴⁷⁹ The goal of the Stepping Up Initiative is to advance counties' efforts in reducing the number of adults with mental illnesses and co-occurring substance abuse disorders in jails.⁴⁸⁰ As part of this, elected officials of counties are being called upon to pass a resolution and "work with other leaders (e.g., the sheriff, judges, district attorney, treatment providers, and state and local policymakers), people with mental illnesses and their advocates, and other stakeholders to reduce the number of people with mental illnesses in jails."⁴⁸¹

As part of this resolution, the counties' stakeholders are asked to take the following six actions. First, convene or draw on a diverse team of leaders and decision makers from multiple agencies committed to safely reducing the number of people with mental illnesses in jails. Second, collect and review prevalence numbers and assess individuals' needs to better identify adults entering jails with mental

473. *Judges' and Psychiatrists' Leadership Initiative*, JUST. CTR.: COUNCIL OF ST. GOV'TS, <https://csgjusticecenter.org/courts/judges-leadership-initiative/> (last visited Sept. 6, 2018).

474. *Id.*

475. *Id.*

476. *Id.*

477. *Judges and Psychiatrists Partner to Deliver Training in Illinois on Individuals with Mental Illnesses in the Courts*, JUST. CTR.: COUNCIL OF ST. GOV'TS (June 29, 2011), <https://csgjusticecenter.org/cp/posts/judges-and-psychiatrists-partner-to-deliver-training-in-illinois-on-individuals-with-mental-illnesses-in-the-courts/>

478. *Judges' and Psychiatrists' Leadership Initiative*, *supra* note 473.

479. Nastassia Walsh, *The Stepping Up Initiative Overview*, NAT'L ASS'N OF COUNTIES, <http://www.naco.org/resources/programs-and-services/stepping-initiative> (last visited Sept. 6, 2018).

480. *Id.*

481. *Id.*

illnesses and their recidivism risk and use that baseline information to guide decision making at the system, program, and case levels. Third, examine treatment and service capacity to determine which programs and services are available in the county for people with mental illnesses and co-occurring substance use disorders. Then, identify state and local policy and funding barriers to minimize contact with the justice system and providing treatment and supports in the community. Fourth, develop a plan with measurable outcomes that draws on the jail assessment and prevalence data and the examination of available treatment and service capacity while considering identified barriers. Fifth, implement research-based approaches that advance the plan. Finally, create a process to track progress using data and information systems and to report on successes.

The Initiative has been very successful in that over 360 counties nationwide have adopted the resolution. A summit was held in 2016 to help refine strategies to implement the six-step plan. Further, the initiative is providing resources to counties in order to help them reduce their jail populations of those with mental illnesses and co-occurring substance abuse orders.

CONCLUSION

The CMHP has enjoyed tremendous success in its fight against the criminalization of mental illness. This is evident not only from the numerous statistics showing its success but also from the lives it has touched and the placement of individuals on the successful road to recovery. The CMHP has been nationally recognized and it is a model that has been followed by other jurisdictions and communities. These communities and jurisdictions have experienced successes the CMHP. The CMHP and other similar programs have provided a catalyst for other judges and community leaders to form national programs to combat the criminalization of mental illness like the Judges Leadership Initiative and the Stepping Up Initiative.

The only weakness is that the CMHP does not address every issue that encompasses the criminalization of mental illness. As a result, legislation is needed to address the problems of the criminalization of mental illness in the court systems and in communities. In addition, many communities lack the funding to experience the success of the CHMP. It is important for these jurisdictions to have proper funding or become creative in their use of funds. However, in light of these weaknesses, the CMHP is still the gold standard in providing an effective solution to the problem of criminalizing the mentally ill.

The Homeless Court Program: Taking the Court to the Streets

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Law Offices of the Public Defender of San Diego County

*Bringing the law to the streets, the court to the shelters
and the homeless back into society.*

**American Bar Association Commission on Homelessness & Poverty
740 15th Street, NW • Washington, DC 20005**

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ISBN: 1-59031-102-7

The Homeless Court Program: Taking the Court to the Streets
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Washington, DC

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To obtain additional copies of *The Homeless Court Program: Taking the Court to the Streets*, please call 202-662-1694.

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ACKNOWLEDGMENTS

I had a great deal of help in the creation and development of the Homeless Court Program and this manual. I thank all the people who gave their time and energy, insights and comments, proving that a community can make a difference when working together for the common good.

Many, many thanks to San Diego's Public Defender, Steve Carroll, and the staff in the Office of the Public Defender for San Diego County, (the administration, attorneys, investigators, and support staff) who built a center for justice that extends across the wide spectrum of defendants, their cases, and our criminal justice system. The HCP is but one of many innovative programs in the office; to Susan Clemens and Stacie Patterson for their review and comments on this text; to Fred Small and Tara Jones, my supervisor and coworker, for their tireless efforts defending those accused of welfare fraud.

I wish to also thank the tremendous efforts and dedication of the key players that comprise the HCP; the staff at our local shelters and service agencies, the San Diego City Attorney's office, the Superior Court clerks, judges and bailiffs. I want also to thank and acknowledge the people who have experienced homelessness, who provide hope for us all, who have shared their strength and fortitude, facing and overcoming seemingly insurmountable obstacles.

I could not have written this manual without the help of my dear and trusted friends, Ellen Geis (who supported me through thick and thin), Jonathan Freedman (who pulled together some powerful interviews), Peter Rowe (whose friendship remained constant) and Andre Simpson (who challenged me throughout).

I want to thank the American Bar Association Commission on Homelessness and Poverty, with a special thanks to staff director Amy Horton-Newell—her patience, support and editing were critical to shepherding this manual to publication; commission chair, William Hoch, members Patricia Hanrahan, Clare Pastore and Maureen Essex whose comments and suggestions brought order and clarification to this manual. To Nina Targovnik, ABA John J. Curtin, Jr. Fellowship Summer Intern's work was essential.

To Michael Stoops, Director of Community Organizing at the National Coalition for the Homeless, for his valuable insight to the plight of homeless people. To Pallavi Rai, Civil Rights Attorney at the National Law Center on Homelessness & Poverty, for her thoughtful comments and suggestions. To Linda Boone, Executive Director at the National Coalition for Homeless Veterans, for helping to expand the Homeless Court Program to Stand Down events across the country.

Evaluations of the HCP performed by Kelly Deidel-Johnson, from the Institute on Crime, Justice and Corrections at George Washington University; Susan Pennell and Nancy Kerry from the San Diego Association of Governments, helped us to see the program's strengths and weaknesses.

The contributions of all mentioned have saved me from all forms of embarrassment; in the end, all errors in the manual are of my own responsibility.

I thank my daughters, Kelsey and Leah, who have inspired me for all of their 19 and 16 ½ years.

For those who have yet to experience the HCP, may you all find opportunity, hope and life at the end of the rainbow. There's no place like home.

EXECUTIVE SUMMARY

The Homeless Court Program (HCP) makes concrete the promise of our democracy to provide justice for all. Through a vibrant partnership forged between the county court system, shelter providers and homeless defendants, homeless people are given the opportunity to build a new life out of past mistakes and problems. Successful HCP initiatives currently exist in California, where the judiciary and the bar have recognized their significant contribution to the justice system and the community. This manual guides other jurisdictions and advocates who seek to replicate San Diego's HCP as a way of helping homeless men and women achieve self-sufficiency.

San Diego's HCP relies on nontraditional approaches to adjudicating cases, including holding court in the shelter where the defendants reside. It utilizes the progressive plea bargain, that is, it acknowledges that the defendants have already complied with the court's order before a sentence is imposed; positive efforts undertaken by the defendant are recognized in court orders. Defendants are 'sentenced to' and given credit for time 'served' in educational activities, substance abuse rehabilitation programs, medical care, volunteer and paid work, and other life-building steps.

Trust imbues the HCP with life. The court relies on the shelter providers' testimony to a defendant's recent efforts to embrace a new life. The court and providers believe that the defendant will make good on this promise to rejoin the community. Homeless participants have faith that a system, from which they have been excluded by their indigence and crimes, will help them achieve new goals of reliability and stability.

Establishing an HCP is not easy, and cooperation among 'unusual suspects' is mandatory. A judiciary that seeks to expand access to justice is essential as is a shelter system designed to support homeless residents in their efforts to make the difficult transition off the streets. On the other hand, the benefits to a county that has instituted a successful HCP are extraordinary. HCPs bring about significant reductions in the number of hearings necessary to resolve cases. HCPs lower costs associated with homeless misdemeanants, and significantly raise rates of successful completion of sanctions without incarceration. Recidivism is much lower, and the bulk of the cases handled by an HCP (80% to 90%) are dismissed.

Recently, San Diego's HCP launched its Non-Custodial Parent Program, to bring back into the working class through employment and training, homeless parents who are obligated to support their children. This project will provide parents with the chance to support their children and the opportunity to establish basic parental relationships with them. Through this initiative, homeless parents can build positive and mutually beneficial interactions with their children.

Holding court in the shelter gives judges and attorneys easy access to a defendant's character witnesses and others who can describe the individual's commitment to change. It allows homeless people to participate at a less stressful level than a formal court hearing room fosters. Perhaps most important, though, it illustrates the extent to which the justice system is capable of reaching out to disenfranchised citizens and creating avenues back into the community.

However, the strongest recommendation for creating an HCP is that it is a key element in reintegrating into our society people who have lived long in its shadows. Anecdotes and statistics show that 'graduates' of HCP have the confidence, skills and 'clean slate' that enables them to look for permanent housing (46%), apply for a driver's license (39%) and seek employment (38%). Several participants have commented: "I feel better about myself" and "I feel more positive about the future." That is the gift of the HCP and the strongest reason for launching one.

Laid out in this volume are directions, suggestions and examples of approaches that have worked in San Diego. Testimonies from judges and court personnel as well as from shelter providers and defendants illustrate the benefits of the HCP's components. If you have questions or concerns about establishing an HCP, please contact the ABA Commission on Homelessness and Poverty, in Washington, DC.

ABA COMMISSION ON HOMELESSNESS & POVERTY

The ABA Commission on Homelessness and Poverty, which consists of 13 members appointed by the ABA President, is charged with the following tasks:

- 1) 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;
- 2) 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;
- 3) training lawyers in areas needed to provide *pro bono* legal assistance to homeless and near homeless people;
- 4) working with all ABA entities on issues arising in their jurisdiction that affect poor and homeless people; and
- 5) 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

In 1986 the ABA resolved to "encourage public and private initiatives to increase the supply of habitable low-cost housing in the United States; and ... encourage lawyers to assist the homeless and to help implement this recommendation." The Commission on Homelessness and Poverty, in association with the ABA Governmental Affairs Office, uses its policy as a foundation to lobby Congress for increased support of programs aimed at addressing homelessness and poverty in America. The Commission also educates lawyers about homelessness, trains them in relevant areas, and helps bar associations create programs where lawyers, law students and law firms can donate legal assistance. There are now about 80 programs offering *pro bono* legal help directly to homeless clients or donating business or real estate law services to organizations developing low-income housing. Nationwide, more than 5,000 lawyers and law students volunteer through these programs.

The ABA has policy protecting the due process rights of public housing tenants threatened with eviction (August 1990). Other policy supports community reinvestment programs in financial institutions and placing funds in banks with outstanding or satisfactory programs (February 1991). The ABA adopted policy supporting the Social Security Outreach Act (August 1991), which requires SSA to go to shelters and soup kitchens and help eligible homeless people apply for disability benefits. In 1992 the ABA adopted policy opposing cuts in welfare payments to poor people and any linkage of public assistance to needy persons which infringe upon the right to travel. In 1993 the ABA enunciated its support of efforts that would ensure the participation of homeless people in the electoral process. The recommendation stated that laws, regulations, and policies should not hinder or prevent registration and voting by homeless persons or those residing in non-traditional abodes who are otherwise qualified to vote.

In August 1994 the ABA adopted policy supporting provision of free legal representation to low-income tenants and homeowners facing eviction. It also urged the creation of programs to give

poor families information about social and financial resources available to them to prevent eviction and, ultimately, homelessness.

In 1995 the ABA adopted policy that encourages development of creative and comprehensive measures to address homelessness by eliminating illegal residential segregation, increasing the availability of affordable transitional housing, improving the accessibility of such housing to employment, schools, transportation and human services, and building affordable housing in integrated communities through measures such as density bonuses and incentive zoning, reaffirming in principle policy adopted in 1972.

In 1996 the ABA adopted policy that supports legislative and administrative actions to preserve the earned income tax credit.

In 1998 the ABA adopted policy that recommends that all jurisdictions provide adequate resources to ensure representation by counsel for indigent defendants, at their initial judicial appearance where bail is set. In October 1998, the ABA filed an *amicus curiae* brief in *Anderson v. Roe*, a case before the U.S. Supreme Court, which involved a constitutional challenge to California's limiting the welfare benefits available to new California residents during their first year of residency in the state. On May 17, 1999, the Supreme Court ruled in favor of the position taken by the ABA.

At the 1999 Annual Meeting, the ABA adopted policy that encourages support for utilizing various housing and economic development initiatives to promote self-reliance and sustainability in low- and moderate-income communities.

In 2001, the ABA adopted policy that encourages support for legislation and initiatives to establish and support technology-based access to justice, including free and reduced cost legal services, self-help materials, and other legal resources. This policy addresses the "digital divide" by calling for increased access to technology and technology skills for underserved communities. The ABA also adopted policy calling for due process protections for TANF recipients, particularly notice and an opportunity to be heard before the imposition of financial sanctions against families for noncompliance with program requirements. Finally, the ABA adopted policy supporting the amendment of Title IV-E of the Social Security Act to provide direct access to foster care and adoption services for Native American children.

At the ABA Annual Meeting in 2002, the ABA adopted policy that urges for the creation of federal legislation to curb abusive, deceptive and fraudulent mortgage lending practices employed by predatory lenders.

Publications

The Commission has developed several resources designed to help lawyers who represent homeless and impoverished clients. These publications and films target issues that either affect homeless people or prevent homelessness, and include a videotape series devoted to the production of decent low-income housing, and manuals on microenterprise development, that is, the lawyer's role in representing very small businesses or the nonprofit organizations that offer technical and financial assistance to microentrepreneurs. The Commission has also written a book on the Community Reinvestment Act, federal law that seeks to ensure that low-income and minority borrowers have fair access to home mortgages and other credit programs. In May 1998

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the Commission published a second manual on microenterprise law, *A Legal Guide to Microenterprise Development: Battling Poverty through Self-Employment*. Given recent developments in the field, the Commission plans to release a revised version of the guide in January 2003.

In a joint effort between the Commission and the Steering Committee on the Unmet Legal Needs of Children, the ABA released *NIMBY: A Primer for Lawyers and Advocates*. The primer is designed to help lawyers and advocates working with housing or social service organizations that seek to house organizations that provide services to the homeless or poor in residential neighborhoods.

Most recently, the Commission released *Representing the Poor and Homeless: Innovations in Advocacy*. The book is a compilation of articles written by law professors and advocates that examine a number of issues related to homelessness and poverty, including: the causes of homelessness, affordable housing, microenterprise development, access to health care, etc.

The Commission is proud to release *The Homeless Court Program: Taking the Court to the Streets*, and looks forward to reaching out to advocates across the country to encourage the development of similar collaborative courts aimed at providing access to justice for the most underserved people.

For more information about the ABA Commission on Homelessness and Poverty and its publications, please contact Amy Horton-Newell at (202) 662-1693 or hortona@staff.abanet.org.

I. HISTORY OF SAN DIEGO'S HOMELESS COURT

Stand Down: The First Homeless Court Program for Homeless Veterans

In military parlance, "Stand Down" is the removal of exhausted combat soldiers from battle to provide them with an opportunity to rest and recover in a place of relative safety and security. That term is applied to an event held in San Diego annually since 1988 to help homeless veterans doing battle on the streets.

Jon Nachison and Robert Van Keuren, Vietnam veterans and founders of Stand Down, recognized that homeless veterans required immediate relief from the trauma and isolation of homelessness and access to the basic needs of life before they could begin their reintegration into society. The primary emphasis for Stand Down is to create a community to transform the despair and immobility of homelessness into the momentum necessary to reconnect with the community. At Stand Down, homeless veterans are treated with respect and given the opportunity to relax, interact, and form ties with peers and volunteers while receiving vital services.¹ The Stand Down event provides comprehensive services to homeless veterans, including physical and mental health treatment, access to housing and job training, assistance with applying for public benefits, legal aid, and numerous other social services.

Jon Nachison explains, "in order to fit into the mainstream again, the table needs to be set to begin work on getting off of the street. Taking a shower and wearing clean clothes help, these are the first steps. Getting your head in the right place to leave the streets comes next. If you are homeless for any length of time, you take on the culture of the streets, you need a re-entry period."

Robert Van Keuren defines the original goals which shaped the Stand Down event. Homeless veterans had specific needs, which were:

- 1) Immediate relief from trauma.
- 2) Access to short term resources: food and shelter.
- 3) Access to long-term resources: recovery programs and legal advice.
- 4) Raise community and national awareness of the issue.
- 5) Replication of effort in other communities.

Immediate relief from trauma and the isolation of being homeless was achieved through the bringing together of the participants in a safe, secure environment. The organizers assured the participants that no one would arrest them, steal from or hurt them at Stand Down. Relaxation and much needed relief from the streets allowed the participants to feel safe while their basic needs were being met.

The homeless veterans of Stand Down in San Diego were the first to identify the problem of outstanding criminal cases. At the conclusion of the first Stand Down in 1988, 116 of 500

¹ Jon Nachison, Robert Van Keuren & Dick Talbott, Vietnam Veterans of San Diego, Stand Down, Step by Step Procedural Manual, U.S. Department of Health and Human Services, 2, 1995.

homeless veterans stated that their greatest need was to resolve outstanding bench warrants.² In 1989, criminal agencies began informal proceedings to include court and other necessary legal services to homeless people in an effort to resolve cases and prevent further involvement in the justice system.

In 1989, the San Diego Superior Court set up a special court at Stand Down. The Stand Down court resolved 4,895 cases between 1989 and 1992 for 942 homeless veterans.³ Because of the success and increased demand for a special Homeless Court Program (HCP), court sessions have expanded from annual sessions in 1989, to quarterly sessions in 1995, and are now held every month.

The Program Expands

The success of San Diego's Homeless Court fostered the program's growth. Over the years, the HCP 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 San Diego County Public Defender's Office received a grant (for 18 months) from the Bureau of Justice Assistance (BJA) to create a monthly "HCP" to be conducted at local homeless shelters in San Diego. When the grant funding ended, each participant group incorporated the costs of the program into their annual budget.

San Diego's HCP has received requests for technical assistance from courts across the nation. In July 2000, the Superior Court of California for the County of Ventura started a pilot project Homeless Court where 17 defendants addressed 55 cases. At the conclusion of the nine-month pilot project, the Ventura Superior Court decided to make their Homeless Court an official court program.

Other jurisdictions have replicated the HCP. The Alameda County Superior Court coordinated a three county effort to help homeless veterans resolve cases at their Stand Down in August 2000. The Los Angeles Superior Court recently celebrated the second year of its Homeless Court. The Fresno Superior Court held its first Homeless Court in April 2002. In March of 2002--- after three years of holding court at its annual Stand Down event --- the presiding judge in Bakersfield approved the expansion of its Homeless Court to the general homeless population.

Courts in New Mexico, Florida and Michigan are presently studying the feasibility and logistics for creating a Homeless Court in their communities.

Removing legal obstacles to integration into society provided the philosophical background for Stand Down. That devotion to people experiencing homelessness led to the creation of the HCP and the subsequent implementation of the Non-Custodial Parent Program.

² Stand Down, Veterans Administration Survey, 1988.

³ San Diego Superior Court Reports, 1992.

Amnesty Programs

Although the San Diego HCP had its origins in Stand Down, using an alternative type of justice program has its roots in other areas of law. For those who find themselves hopelessly in debt, there is bankruptcy court where a debtor is released from personal liability after filing for certain types of bankruptcy.⁴ After apartheid, South Africa created Truth and Reconciliation Courts to promote the spirit of national unity and reconciliation. The Truth and Reconciliation Court sought full disclosure of crimes when granting amnesty to those who admitted their past human rights violations.⁵ The Truth and Reconciliation Courts:

- established a way to record the past crimes and put them in their historical context;
- facilitated amnesty to those who made a full disclosure of their crimes; and
- assisted the victims of the crimes and restored their civil rights and human dignity by allowing them to describe their pain and suffering.

San Diego Superior Court Judge Roger Krauel analogizes homeless court to bankruptcy court. In the HCP the participants pay their debt through participation in the necessary programs rather than paying with cash. "The HCP sentence of program activities is a different form of "currency," in the words of Judge David J. Danielsen.

⁴ Public Information Series of the Bankruptcy Judges Division, December 1998. Some types of debts are not dischargeable.

⁵ Justice Center Web Site, Truth and Reconciliation in South Africa, University of Alaska, 1997-2001.

II. WHY A HOMELESS COURT?

The Homeless Court Program brings law to the streets by bringing the court to the shelters and the homeless back into society.

A. What is a Homeless Court and Why Have One?

The Homeless Court Program is a community working together; finding opportunity in adversity. The Homeless Court Program enables homeless individuals who are engaging in an organized program or living in a shelter to participate in a court session at a homeless shelter. The court recognizes the difficulty homeless people face in legal situations and allows the efforts these individuals have made to count for fines and community service sanctions.

Homeless Court is a special Superior Court session for homeless defendants to resolve outstanding misdemeanor offenses and warrants. Several jurisdictions in California have instituted Homeless Court Programs (HCP). San Diego County began the first HCP in the country in 1989. Similar programs were subsequently created in Ventura County, which received the Kleps Award in 2002, and Sacramento County, which received the Chief Justice Award for courtroom efficiency and promoting access to the courts for its Homeless Court in 1997.

HCPs reduce court and jail costs, build community collaboration, improve access to court, and assist homeless people in accessing vital services and jobs. Access to court for people who are homeless is improved by bringing the court to the community. Court sessions are held at local shelters or agencies that serve this population. Many of the homeless have received multiple citations for public disturbance offenses such as illegal lodging, drinking in public, and loitering. This frequent contact with police perpetuates the cycle of homelessness. Others have engaged in more serious misdemeanor offenses such as petty theft, being under the influence of a controlled substance or driving under the influence.

"Why don't they come to court?" For many homeless people, their day is consumed with a search for food, clothing and shelter. For others, they cannot attend court due to mental health issues. And, if they came to the courthouse, where would they leave their belongings? Who would watch their bundles of clothing or shopping carts filled with their possessions? Lastly, and perhaps the most oft-cited reason why homeless people do not show up in court, is fear. Fear of their inability to pay a fine. Fear of incarceration. Fear of the system. There is no single answer as to why homeless people sometimes fail to appear in court. Rather, there are a number of common sense explanations for their absence --- all of which are a result of their condition of being homeless. Yet, court is the only place to resolve these matters, a necessary prerequisite to begin reintegration into society.

When court is held at homeless shelters or service agencies, it helps build trust and confidence in government systems among the population being served. The HCP does not distinguish between people whose offenses contributed to their homelessness or people whose offenses are the result of homelessness. The HCP relies on the homeless service agencies to address the underlying problems homelessness represents, whether they are drugs or alcohol abuse, health problems

(physical or mental illness) or economic calamity. Homeless people voluntarily sign up in the shelters -- the first step in taking responsibility for their offense(s). By taking the initiative of signing up, the participants of the HCP search for justice and a way to reconcile their past with their future. In the HCP, participants integrate their activities in homeless shelters and service agencies with the adjudication of their criminal cases.

Homeless Courts have quickly discovered that many homeless people did not attend court until the court came to them. Ronald M. George, Chief Justice of the California Supreme Court, has made increased access to justice a primary goal. He states:

“Courts, to be successful in performing their mission of providing fair and accessible justice, must be sensitive to the public they serve and its diverse make-up and needs. For our system of justice, that means at a minimum that our courts must be open and accessible to all the constituent parts of our state’s population. And that requires a cooperative, collaborative approach to improving the administration of justice and a broader view of what courts must do to accommodate those needing their services.”⁶

HCP Depends on Collaboration and Organizations

The HCP builds on partnerships between the court, local shelters and service agencies, and the prosecutor and public defender. It attempts 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, both to make sure the offense is eligible for disposition through HCP, and to create appropriate alternative sentencing. Alternative sentencing substitutes participation in agency programs for fines and custody. The HCP is designed for efficiency: cases are heard and resolved, and people are sentenced, in one hearing.

Benefits of HCP

Homeless Court helps the community by engaging homeless people in gainful activity, thereby removing them from the doorways, parks and gathering places where they are unwanted and susceptible to arrest. It helps homeless defendants move back into productive lives because the sentence is most often participation in a work and counseling program that offers help with overcoming social problems, enhancing job seeking skills and locating employment opportunities and affordable housing. In the words of Charles Campbell, past Presiding Judge of the Ventura Superior Court, “Other than providing temporary housing, incarceration of the homeless does nothing to benefit the homeless or the community.” Referrals to specialized alcohol and drug treatment programs, mental health services and training or searching for employment help the community to tackle the problem of homelessness in a meaningful and practical way.

People who are homeless want to participate in society. They say as much when they ask local agencies for help with outstanding criminal cases. They are looking for opportunity, not a handout.

⁶ State of the Judiciary Address published in the November-December 2000 Edition of *Court News*.

For some of the dispossessed, living on the streets has become a series of bad choices offering no way out. Others have hit hard times. Some lack badly needed resources. All lack a permanent place to call home.

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.

We, the participants in the San Diego Homeless Court Program and the members of the American Bar Association Commission on Homelessness and Poverty, hope this manual has information and guidelines that your community finds useful.

B. The Innovative Approach of San Diego's HCP

San Diego's HCP, with its progressive plea bargaining system, alternative sentence structure, assurance of "no custody" and proof of program activities, addresses the full range of misdemeanor offenses. Most offenses occur because, as Jon Nachison, psychologist and veteran, explains, "homeless people live in a different area of society. What we do in private, homeless people must do in public."

Contrasting Approaches: The Differences Between the Traditional Court System and San Diego's HCP

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 session (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.

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 takes into consideration the fact that the participant has followed/met the requirements of 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. 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 participants' 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 HCP sentence strengthens and advances the efforts of the participant and agency representatives.

When the participant works 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. He/she may submit proof of activities from agencies outside the HCP.

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.

Proof of Activities/Advocacy Letters

The HCP developed guidelines for alternative sentencing with service providers to ensure meaningful and successful court hearings. Participants stand before the court with advocacy letters (written by agency representatives) and certificates, proof of their activities, accomplishments, and aspirations. The HCP is strongest when participants have detailed advocacy letters and certificates.

Advocacy letters should include: a description of the service provider and its program, the client's start date and accomplishments, programs completed or in progress, insight into the client's efforts and demeanor, and long-term goals. Some examples of positive steps that show affirmative efforts to address the homeless condition are: staying sober, attention to personal hygiene, use of education and job training resources, treatment (physical or mental), completed assessments, obtaining identification card or a driver's license while remaining in shelters or participating in programs.

The guidelines recognize that while many letters follow the same format, the absence of personalized information dilutes their effectiveness. Judges appreciate defendants who appear before the court with personalized letters of recommendation and who are ready to explain their circumstances and current successes. The court cannot fully resolve cases in one hearing when there is a lack of specific information. While generally, more information is better, efforts should also be made to protect a participant's privacy.

With advocacy letters in hand, the court has verification of a participant's activities and can address the particular needs of the person who appears. The court reviews this documentation and, in most cases, sentences the person to ongoing and previously completed activities in his/her shelter program.

Ideally, the court will have the framework to pronounce a sentence and terms and conditions of probation, with "credit for time served." In San Diego's HCP, it is rare when the court continues a case for additional proof of a participant's program activities.

C. Program Goals

The founders of the HCP recognized the difficulty of implementing an alternative justice program. The HCP key players established a list of goals to prepare a smooth transition from irregular quarterly to monthly court sessions. The initial goals of the HCP program were to:

- Conduct outreach sessions to inform potential participants of the program;
- Implement and operate a monthly court hearing for at least ten individuals;
- Resolve a minimum of 20 cases per month;
- Develop alternative sentencing options for program participants;
- Improve homeless individuals' overall satisfaction with the court process;
- Reduce the number of hearings required to resolve cases;
- Reduce costs associated with homeless misdemeanants; and
- Improve rates of successful completion of sanctions without incarceration.

The key to meeting these goals is the HCP builds on the working relationship between the shelter staff and the homeless participants. The judge recognizes that the case managers are most familiar with the participants, their needs, goals, and strengths, and rely on them to provide a basis for fashioning an order tailored to the individual. Participation in the program is the "currency" that fulfills the court order and resolves cases. One of the many reasons why this system is preferable to the traditional sentencing structure is because alternative sentencing involves substantive activities, not just busy work.

When participants stand before the court, they are one more step toward leaving the past behind and moving on with their plans and dreams for the future.

D. Challenges Faced by Homeless People in the Existing Court System

Attendance at a court hearing requires time, planning and financial resources. A court hearing consumes the better part of a day. Numerous hearings are necessary to protect a defendant's rights, explore legal and factual questions, and verify compliance with terms and conditions of probation. Homeless defendants often fail to appear not because of disregard for the court system, but due to their status and condition. They struggle daily for food, clothing, and shelter. Some may not be able to adhere to short-term guidelines, do not carry calendars and lack transportation. Without counsel, most homeless persons are not in a position to fight the procedural or substantive issues a case presents. Furthermore, they often lack the proper documentation and resources to defend themselves.

Many homeless litigants are aware that the courts require a decent appearance. They are sensitive to the decorum of the institution. Not wanting to make a bad first impression, a homeless person who lacks access to hygiene facilities or without a place to store his or her belongings may choose not to appear in court at all. Moreover, homeless people are understandably reluctant to attend court given the uncertainty of court proceedings, their inability to pay fines, and the threat of custody.

Unprocessed cases clog the court calendars. These cases are an obstacle to an individual's reintegration to society as well because they deter (and sometimes preclude) the use of social services and impede access to employment. Homeless people are forced to function outside the realm of conventional society concentrating almost exclusively on finding enough to eat and a safe place to sleep. Their integration into society requires the cooperation of many different organizations, including the courts when altercations with the law create obstacles to moving out of homelessness.

E. How the HCP Can Benefit Homeless People in the Community

The court hearing is an opportunity for the defendant to separate the past, as represented by the cases before the court, with the present (and future) by presenting the accomplishments described in the advocacy letters along with plans and pledges for future improvement. When the client successfully participates in the HCP, the court hearing is the point where the old way on the streets is discarded for new opportunities.

Improving Access to Court

Improving access to the court system for homeless people accounts for its unusual locations. Many people who are homeless have received multiple citations for loitering and illegal lodging. These offenses are not serious, but once a ticket is received, interaction with the justice system begins.

Homeless people live in constant fear of being picked up because of these warrants; they fear doing jail time and losing all of their belongings. They fear they will get into more trouble if they go to court, yet court is the only place to clear their records and get them back into society. When court is held at the homeless shelters there is greater trust and comfort. Homeless people voluntarily sign up in the shelters asking to take responsibility for their past by resolving their legal problems.

The HCP:

- Improves access to court for people experiencing homelessness;
- Provides a critical service;
- Builds community collaboration;
- Reduces court and jail costs; and
- Assists homeless people in accessing vital services and jobs.

The HCP helps get the homeless back into productive lives because the sentence is most often participation in programs that offer help with overcoming social problems, enhancing job seeking skills, finding employment and housing. This, combined with having a clean record, is often the boost a homeless person needs to get off the streets.

Making a Difference: Impact and Effect of the HCP

The benefits of the HCP program extend beyond the process of clearing up outstanding warrants or cases. The evaluation on the HCP conducted by the San Diego Association of Governments (SANDAG) reports, "individuals who participate in HCP are likely to make changes in their behavior that will help them reintegrate faster into society. Their fear of arrest is reduced or eliminated. They feel less apprehensive in filling out applications for employment or obtaining a drivers' license. Most participants said this fear constrained them in the past. They would have waited until they were arrested to handle their case(s) had the HCP program not been available."

Overall, the SANDAG report elaborates, the HCP program exceeded its expected benefits to participants. A substantial number of outstanding cases were resolved, access to courts was improved, participants reported a reduced fear of law enforcement, and collaboration was high among court personnel, the community, and the defendants.

As a result of the successful implementation of HCP, a deputy public defender with the San Diego County Public Defender's Office and a case manager from the Vietnam Veterans of San Diego (VVSD) were awarded the *Unsung Hero Award from the National Coalition of Homeless Veterans* in March of 2001. Later that year, the American Bar Association Government and Public Sector Lawyers Division presented the *Hodson Award* for outstanding service by a

government agency to the San Diego County Public Defender's Office for the HCP. In July 2002, the National Association of Counties presented San Diego County the NACo Award for the HCP as an "innovative program which contributes to and enhances government."

The following are excerpts from the SANDAG evaluation of the HCP:

Impact on Participants

During the HCP hearings held in 2000, all defendants were asked to complete a brief interview with SANDAG research staff. Fifty-nine (59) of the 97 defendants who appeared during these months agreed to participate in the interview process. The following findings related to the impact of the HCP program on participants are based on these interviews.

Satisfaction with the Court Processes

Does participation in the program improve homeless individuals' overall satisfaction with court processes?

HCP participants affirmed in interviews that HCP 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. Respondents also provided a variety of other statements such as the following:

- "It has taken away my fear of going to court."
- "I feel like I can now believe more in the system--- it works."
- "It's good that the court system helps us folks out. I mean, we have nothing."
- "I can't believe that the court system would come to the shelter; it must mean that they care."

Attitudes Towards Law Enforcement

To determine if participation in the HCP program impacted respondent's attitudes toward law enforcement, respondents answered a series of questions about their knowledge of their outstanding cases, and the impact of that knowledge on their behavior. In addition, respondents were asked if their participation in the program would affect their attitude toward law enforcement.

The interviewer asked, "Prior to coming here today, were you aware of your outstanding warrants or criminal cases?" If they responded affirmatively, respondents were also asked, "Did knowing you had outstanding warrants or cases cause you to..."

- be afraid of the police; or
- run from the police?

Sixty-one percent (36 respondents) said their outstanding cases *did* cause them to be afraid of the police. Most said they were afraid of "being arrested." Similarly, 51 percent (30 respondents) said that knowing about their outstanding cases caused them to *run from the police* when they encountered them on the street.

Later in the interview, respondents whose cases were resolved through the HCP were also asked to complete the following sentence: "As a result of my participation in HCP, my fear of police officers..."

- remains the same;
- has increased, or;
- has been reduced

Of the 57 respondents whose cases had been resolved, 75 percent (43 respondents) indicated a reduced incidence of fear due to HCP participation. Data collected from survey responses suggests that individuals' participation in the program may improve their attitude toward law enforcement.

Behavioral Changes

To compare respondents' behavior prior to and after their participation in the HCP program, interviewers asked a series of questions about their knowledge of their outstanding cases and the impact of that knowledge on their actions. Respondents also answered whether they expected to make any changes in their behavior as a result of HCP participation.

Respondents were first asked, "Prior to coming here today, were you aware of your outstanding warrants, or criminal cases?" If they responded affirmatively, respondents were also asked, "Did knowing that you have outstanding warrants..."

- cause you to lose a job;
- cause you to lose your place of residence;
- prevent you from filling out an application for a place to live; or
- prevent you from filling out an application for a job?

Only one respondent said that knowing he had outstanding cases did cause him to lose a job or a place to live. However, nearly all respondents said that knowing they have outstanding cases did prevent them from filling out applications for either a place to live or employment. One respondent explained, "Of course I didn't fill out an application; I was afraid the cops would find me."

A gentleman named Arnold completed an intensive treatment program with VVSD. He went through HCP as well. After graduation, he received a high paying job. He was able to apply for the job after attending the HCP. For two to three years before his HCP appearance, he was afraid to address the issues in the warrant and lived on the street. Afterwards, he participated in a HCP panel presentation at a California State Bar conference.

Bernice could be *the* success story for the Stand Down program. This outspoken black veteran began coming to every Stand Down. In the beginning, she was a drug addict. She came to the Stand Downs every year. After eight years of attending Stand Down, she came clean and sober. She found an apartment to rent. She returned to Stand Down the following year as a volunteer. She is now a valuable member of the central planning committee for Stand Down.

Jon Nachison said, "We want to get across the message that everyone has value --- no one should be cast away. We do not care if the same people come back year after year as participants; we are patient and our volunteers are devoted. More and more formerly homeless people come back to volunteer. The true measure of success at Stand Down is the return of people who were once homeless and return as tent leaders. They stand as proof for everyone that you *can* make it."

When HCP 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. 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). Other comments include the following:

- "I feel better about myself."
- "I feel more positive about the future."
- Only two respondents agreed that as a result of participating in the HCP program, they felt "no different than before."

Impact on the Criminal Justice System

Are defendants able to achieve a high rate of resolution of their court cases?

Overall, 96 percent of cases were resolved between October 1999 and February 2001. Seven hundred and four cases of the seven hundred and thirty six cases presented were resolved at HCP during this time. At over half of the hearings, 100 percent of the cases presented were resolved. Resolution for the other cases came about when the defendant provided documentation to the court of their participation in treatment programs, voluntary service or counseling.

Cost-Benefit of Using Alternative Sentencing

HCP provides a cost-benefit to the criminal justice system, although the actual cost savings may be difficult to calculate monetarily. HCP participants indicated they would not have voluntarily surrendered themselves to the court for prosecution unless the police detained them and then booked them into custody. Thus, the cost of law enforcement booking the defendants into jail (average daily cost in San Diego: \$72.84) does not happen, and the cost of housing a defendant in jail for several days is not incurred. In addition, resolving a large number of cases for multiple defendants in one setting reduces the number of court appearances and therefore reduces court cost and court time.

When comparing participants of the HCP to those with criminal charges who utilized the traditional court system, the SANDAG study concluded that the recidivism rate for the HCP participants showed less interaction with police and peace officers after the court proceedings.⁷

Without the use of alternative sentences, persons living in the shelters would not be able to resolve their cases. Having an outstanding case can preclude homeless individuals from receiving federal or state government financial support. This lack of support can exacerbate their homeless condition. HCP participants (homeless individuals and agencies) believe that resolving their criminal record in exchange for participation in treatment services will reduce criminal conduct and reduce costs to the criminal justice system. Recidivism data collected show that those who appeared for hearings, compared to those who did not, were less likely to have contact with law enforcement 90 days after the hearing. A greater portion of those individuals have no post-hearing criminal activity 90 days after the hearing.⁸

Resolving Cases

Factored into this cost savings is the effective resolution of court cases. Sixty percent of those who participated in HCP had at least one case involving their failure to purchase a valid pass or ticket before riding the trolley. Typically, these types of cases are handled through traffic court or payment made to the City Treasurer. However, given that most homeless individuals are not employed, these fines usually are not paid, which will then result in a bench warrant.

- Over 700 cases were resolved between October 1999 and February 2000.
- Fewer cases are set for a continuance in HCP 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 HCP 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.
- Lower cost of law enforcement and incarceration.
- Higher rate of cases resolved.
- Lower recidivism.
- Greater participation in and satisfaction with the court process.

Summary of Participant Impact

The benefits of the HCP program extend beyond the process of clearing up outstanding cases or warrants. According to the data gathered, individuals who participate in HCP are also willing to make changes 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 HCP they would have waited to be arrested to handle their cases.

⁷ Nancy Kerry & Susan Pennell, San Diego Homeless Court Program: A Process and Impact Evaluation, San Diego Association of Governments, 60, 2001.

⁸ Nancy Kerry & Susan Pennell, San Diego Homeless Court Program: A Process and Impact Evaluation, San Diego Association of Governments, 60, 2001.

Second, respondents indicated that they would be more likely to handle any future criminal charges through a traditional court. This will reduce the possibility of additional penalties and warrants. Respondents concluded that their opinion of the court process has been improved as a result of their participation in the program.

In addition, there was an unexpected benefit for a large percentage of the individuals. About one-third (29 percent) of those who submitted themselves to the court learned that they did not have any pending charges or warrants. A sigh of relief could be heard from these individuals.

*Demographics of an average participant (San Diego)*⁹

- The average age of those who participated in HCP was 43 years, and most (85 percent) of the participants were men.
- A little more than half (54 percent) of the participants were White, more than a third (34 percent) were Black, eight percent were Hispanic, and four percent were Asian.
- Most (92 percent) of the participants had prior experience with the court.
- Participants came to HCP to resolve a variety of offenses. Nearly two thirds (60 percent) had at least one case dealing with an unresolved citation for riding the San Diego Trolley or loitering in the trolley station without a valid ticket. One in five had cases only dealing with vehicle code violations. The remaining proportion had various other case types; penal code violations (eight percent), health and safety code violations (six percent), or municipal code and business and professions code violations (eight percent).
- Most participants had one (41 percent) or two (22 percent) cases. Overall, the average number of cases was 2.77 (range from 1 to 26).

F. The HCP: A Method to Collect Delinquent Child Support

After conducting numerous sessions of the Homeless Court, it came to the attention of the HCP participants that many of the homeless defendants shared a similar problem: they were delinquent in their payment of child support.

Due to the success of HCP program, case managers and shelter staff from the Vietnam Veterans of San Diego (VVSD), the San Diego Office of the Public Defender, and the San Diego Volunteer Lawyer Program approached the San Diego Department of Child Support Services (DCSS) to find a solution to the problem of homeless persons who were delinquent in their child support payments. Andre Simpson, Community Reintegration Director at VVSD has found that "Many homeless veterans who obtain work do so by working under the table. The average salary

⁹ Nancy Kerry & Susan Pennell, San Diego Homeless Court Program: A Process and Impact Evaluation, San Diego Association of Governments, 60, 2001.

of these veterans is \$7 to \$9 per hour. The primary reason for working under the table is to prevent the government from garnishing what little money that person is making. Many of these veterans want to resolve their financial obligations by obtaining legitimate work. These veterans find they cannot provide for themselves when faced with the cost of rent and the amount taken by the government to pay child support and their arrears."

The Non-Custodial Parent Program, which began in March 2001, brings another segment of the homeless population back into the working class through employment/training programs, treatment services, and acceptance of financial responsibility.

The Non-Custodial Parent Program was developed to offer homeless parents a chance to provide financial support for their children. Participants must live in a shelter, attend treatment programs, enroll at the Employment Development Department and seek full-time employment. The DCSS agreed to reduce the amount of the arrearages to a payment of about \$50 per month, develop a payment schedule based on current income, and reinstate (or not suspend) the drivers licenses for those who had one.

"The objective of this program," says certified family law specialist, Kate Yavenditti, senior staff attorney with the San Diego Volunteer Lawyer Program, "is to help non-custodial parents become more financially and emotionally involved in their children's lives, while allowing the homeless veterans to become more independent and achieve job success." This program allows homeless veterans to mend their past and move forward through positive interaction with their children. The VVSD program is modeled after the "Father's Program," a successful Los Angeles endeavor.

The VVSD Non-Custodial Parent Program requires the participants to obtain full-time employment after completing vocational training or Phase 1 of the treatment program. VVSD's treatment program is divided into three phases:

- Phase I develops a personal recovery plan for the participant and assigns clients with psychological issues to therapy.
- Phase II emphasizes employment, job training and other skills required to lead a self-supporting life.
- Phase III enables the client to successfully transition from program living to independent living accommodations.

Thus far, 71 cases have been referred to the Department of Child Support Services. According to Andre Simpson of VVSD, 32 cases have resulted in signed stipulation agreements, and 12 cases have resulted in parent/child reunification.

G. Taking the HCP to Ventura County, California

Tina Rasnow, Self Help Legal Access Center Coordinator for the Superior Court of Ventura County, explains, "I saw the *And Justice for All* video, and brought the video, and the concept of HCP, back to Ventura County. We were fortunate to have a supportive judge, deputy district attorney, and deputy public defender willing to give HCP a try. Our deputy district attorney who

handles the HCP calendar served in Vietnam and understands many of the special needs and issues within the homeless veteran community. Working with him, and with the other "founders" of our HCP, has been a wonderful experience. Most of the cases handled in HCP fall within the stipulated categories, however special cases are sometimes included after discussion between the prosecution, defense and the judge."

"This program is connected with the pulse of the community and the community sees the direct benefits of the program. Everyone connected with the program works together, from the public defender to the prosecutor."

"One of the HCP defendants had accumulated 32 prior cases. If he went before a judge in regular court he would have been ordered to pay thousands of dollars in fines, which being unemployed and homeless, he could not afford to pay. Instead, with the HCP option, he attended AA meetings seven days a week and performed community service. He continues to attend AA meetings even after his cases were cleared. The court recognized that this person was able to stay clean and sober, get transitional housing, and was making great strides to improve his life. Rather than taking the easy way out by clearing the fines and fees through jail time, this individual was willing to examine his life, try and solve his homeless problem, and contribute back to his community. The HCP recognizes that criminalizing acts that are due to living circumstances does not benefit society or the homeless individual being penalized."

"The key Ventura County HCP players include: Judge John Dobroth, awarded Judge of the Year for his participation in HCP; Michael Planet, the court's executive officer, and its former executive officer, Sheila Gonzalez; the former presiding judge, Charles Campbell, who encouraged his colleagues to give HCP a try; and the current judges and commissioner who support the HCP. The Office of the Public Defender and Office of the District Attorney, and each of the deputy public defenders and deputy district attorneys who assist with the HCP calendar, make the program possible. Often public defenders seek constructive alternatives to incarceration, but in order for the HCP to work, the District Attorney must be invested in the program as well. Law enforcement, including the chiefs of police of the participating cities, was supportive, as were the city attorneys. It was important to get a "buy-in" from community leaders and representatives at the outset, so they were included in early discussions before the program was instituted. Some Ventura merchants started out antagonistic, but others saw the benefits of the HCP, and now all appear to support it."

"In its first two years of HCP, Ventura County's HCP defendants volunteered an additional 5,897 hours above the amount required to resolve their outstanding fines and fees. HCP allows the court system to move from a revolving door of justice to a problem-solving mechanism, building upon interpersonal connections among its stakeholders, including social workers, homeless defendants, prosecutors, defense attorneys, judges and court staff."

"HCP cannot eliminate homelessness or alone resolve quality of life/social issues caused by homelessness. It can, however, work together with other charitable organizations, governmental institutions, and social service agencies to ensure that homeless defendants have a means of resolving their legal issues that might otherwise serve as an impediment to getting them out of homelessness. For example, in Ojai, California, the public restrooms in the park are locked at night depriving homeless individuals of any facilities to use. Faith-based organizations petitioned

the city to unlock the restrooms or provide alternative facilities. This solution is necessary, not just providing community service opportunities to defendants charged with urinating in public."

"A HCP is most effective in a community that has come to terms with the causes of homelessness, and the resulting failures of otherwise law-abiding citizens to obey the law. If basic human needs such as food, shelter, showers, restrooms, clothes, and medical or dental services are not met, then the homeless will be unlikely to find work or a way out of their situation, forcing them to remain homeless. Frequently the burden of providing basic needs falls on social service agencies and charitable organizations because elected officials generally represent constituencies hostile to the needs of the homeless, and homeless people usually do not vote."

"The positive impact of the HCP is felt in a variety of ways. Cases that once clogged court calendars and languished in the collections unit are now cleared. Penalties on fines and fees cease mounting. Those who are not a threat to society can use their time productively to contribute to their community, rather than wasting resources sitting in jail. After resolving their outstanding court cases, people can move on with their lives, including finding housing, employment, and reunification with children and family members. Rather than self-medicating with alcohol and illegal drugs, prescribed medication and treatment become viable options through creative sentencing and linkage with appropriate social service programs. As homeless individuals reduce the number of negative contacts with their neighbors and local law enforcement, tolerance for their presence in communities may increase, which, in time, may turn into actual compassion for their plight. Communities may even develop a sense of outrage that a nation, state, and county as wealthy as ours would permit homelessness to exist at all, and then turn that outrage into positive social action."

III. THE PROBLEM OF HOMELESSNESS

A. San Diego

The City of San Diego is home to an estimated 8,000 urban homeless.¹⁰ There are 2,734 emergency and transitional shelter beds available to house them on any given night.¹¹ The cost of an emergency shelter bed is \$5.00 a night. According to the City of San Diego, the average transitional shelter bed with support services is \$40.00 a day. Incarceration in the city jail costs \$72.00 a night. If mental health services are required, the cost of incarceration exceeds \$400.00 a day. The San Diego Police Department reported 1,433 illegal lodging citations and arrests of homeless individuals in 2001.¹² An illegal lodging citation is a four by seven-inch piece of pink paper that demands bail payment of \$135.00 and threatens a maximum penalty of six months incarceration and a \$500.00 fine.¹³ If the fines are not paid, a warrant is issued and the homeless person cannot access governmental resources until the matter is resolved. This means that there can be no government sponsored help until the legal matter is addressed: no public housing, no treatment for substance and alcohol abuse, no food stamps. The homeless person becomes even more marginalized.

INFO-LINE, the San Diego County Emergency Shelter hotline, reported that a total of 4,653 people were aided with referrals to shelters in fiscal year 1996-1997. However, 8,464 people were denied shelter during this time. Twice as many persons are left to sleep outdoors each night as are sheltered in emergency and transitional beds.¹⁴

Being able to rent an apartment is replacing the dream of home ownership. In San Diego, the Fair Market Rent for a one-bedroom apartment is \$809.00 and a two-bedroom is \$1,012.00.¹⁵ The number of renters in San Diego rose 8.14 percent in the past decade, from 409,839 to 443,216 renters.¹⁶ The income necessary to support a one-bedroom apartment is \$32,360.00, and \$40,480.00 for a two-bedroom apartment in San Diego. A minimum wage earner makes only \$13,000.00/year.

B. California

In California, a minimum wage worker earning \$6.25/hour can afford a monthly rent of no more than \$325.00, while the fair market rent for a one bedroom apartment is \$736.00.¹⁷ In California, a worker earning minimum wage and supporting a family must work 118 hours per week to afford a two-bedroom apartment at the fair market rent.¹⁸ In California, a worker would need to

¹⁰ Regional Task Force on the Homeless, San Diego County.

¹¹ Profiles of the Homeless, January 2002.

¹² San Diego Police Department, letters 1989-2002.

¹³ Penal Code Section 647Subd.(j), commonly known as illegal lodging, defines disorderly conduct, a misdemeanor, as anyone "who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof."

¹⁴ Profiles of the Homeless, January 2002.

¹⁵ National Low Income Housing Coalition, *Out of Reach: America's Growing Wage-Rent Disparity*, 2001.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

earn \$14.16 per hour to be able to afford a one-bedroom apartment, and \$18.10 per hour for a two-bedroom apartment. For minimum wage workers, home ownership is a dream, not possible without help from other sources besides a job alone.

C. National

According to the National Coalition for the Homeless, there are approximately 895,000 men, women and children that go homeless on any given night in America. And, at least 3.5 million Americans will experience homelessness this year. Forty-five percent of these people are employed, and the fastest growing segment of the homeless population is families with children. In fact, of the 3.5 million people who will experience homelessness this year, it is estimated that 1.35 million will be children.¹⁹

According to the National Low Income Housing Coalition's annual study, a full-time minimum wage earner cannot afford the fair market rent in any jurisdiction in the country.²⁰

¹⁹ See generally www.nationalhomeless.org. Visited August 19, 2002.

²⁰ National Low Income Housing Coalition, *Out of Reach: America's Growing Wage-Rent Disparity*, 2001.

IV. KEY PLAYERS

A. The Homeless Participants in San Diego

Local homeless shelters and service agencies are the gateway for participants to enter the HCP. Homeless persons who want to appear before the Homeless Court must sign up for it through one of a number of local shelters.

Participating in the HCP requires a great deal of introspection. Walking into a shelter program is not an easy thing to do; facing up to vulnerabilities or mistakes and actively working to regain a place in society require patience and perseverance.

The participants in the HCP have varied backgrounds and accomplishments. The following are examples of some of the many (names have been changed to protect their privacy) participants who have successfully resolved their cases during the monthly sessions:

Homeless for five years, Nancy 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 of the advances listed in her advocacy letter, she left court in tears of joy.

Hugh, 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.

Feeling empowered by the successful resolution of his three cases, Robert sought a referral to another program's literacy classes.

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

Facing ten cases, Sara 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 at SVdPV and is pursuing a basic education program.

Different segments of the homeless population present varied responses to the HCP. Residents from the local shelters come to the HCP with a distinctly different response than the Stand Down participants. Stand Down participants are seeking to take their first step off the street. While most are looking for a way out of the daily struggles from the streets, a number of the Stand Down participants approach the attorneys at their counseling session asking to be taken into custody. These veterans are tired and have given up on themselves. The monthly HCP participants who are already actively involved and vested in a program come to court with a pronounced fear of custody. During one session, the defense attorney counseled the participants at the defense table, on one side of the room. The attorney then moved 15 feet, to the other side

of the room, to share their advocacy letters with the prosecution. The attorney looked up to find all of the people who were sitting on the other side of the room had followed the defense attorney to the prosecution side to listen to their negotiations. They crossed the room to follow the progress of their case. The attorney came to realize that their nervousness stems from a fear of losing their home in the shelter and being back on the streets. Custody would mean a loss of the progress they had gained and send them back the streets at terms' end. These participants saw a future. They had plans and did not want them interrupted or cut short. The court session provided them with an opportunity when their cases were resolved.

The Stand Down event illustrates that even the most tired and desperate of the homeless population can be reached. The underlying force of Stand Down, and the HCP, is the building of community and commitment to reach out to the best aspects of the individual. This requires patience. It builds trust with the homeless agencies, the court, and society.

"They are so happy [with HCP], even three or four weeks later, that they are still sharing their experience with others coming to court," said Andre Simpson, Community Reintegration Director at Vietnam Veterans of San Diego.

When a homeless person enters a shelter, he/she is overcoming the isolation of the streets. Shelter representatives ensure participants' success in court.

B. The Shelter/Service Providers

The homeless shelters and service agencies (shelters) are a fundamental component of the HCP. They are the gateway for participants to enter the HCP. The monthly HCP receives all of its referrals from the shelters. 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. 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. The shelter 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 ultimately benefit from the program. The HCP and shelters share the desire to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness. In the HCP, the quality, not the quantity, of the time spent in furtherance of the assessment plan and court order is of paramount importance.

The HCP relies on the shelters' myriad of services to build their clients' path to reintegration back into society. These services include: life skills, chemical dependency or AA/NA meetings, literacy classes, computer training, job training or searching for employment, attention to medical needs, counseling and volunteer work. The shelters have no need to add services or "busy work" to what is already offered to satisfy court sentences. However, when an individual presents a specialized need, the shelters can tailor their programs to accommodate that need. The shelters may also subcontract or refer clients to another agency.

The shelters are committed to seeing each participant reach his/her fullest potential. It is the commitment of the shelters to motivate each person, to build the trust necessary to successfully

work together, to ensure their work is done, and monitor their efforts. The shelter staff knows more about their people than the court. The shelter staff knowledge of an individual's effort provides valuable insight for the court, synonymous with the role of probation officers. The agency representative insight and feedback for each person's effort serves as the foundation for court orders.

Shelters need to familiarize new staff with the HCP. New staff members should attend a court session, become familiar with the timetable for each monthly court session, understand the importance of follow-through with participants and how crucial it is for the service provider to furnish defendants with certificates or letters testifying to their participation in rehabilitative programs. Additionally, periodic meetings are helpful to receive feedback from staff and find out what is and is not working.

Allow Shelters to Determine Requirements

The HCP recognizes that each shelter has its own requirements and guidelines to allow residents access to the HCP. 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 HCP through a variety of means. The clients may be introduced to the HCP throughout the course of their work in the agency. Some agencies introduce the HCP as one of many services offered in the continuum of care. Other agencies will address the HCP as an option after the homeless person has completed a certain course, phase or activity. The HCP does not interfere with the shelter requirements. Some programs require participants to quit their jobs until an introductory phase of the program is completed. This allows the individual an opportunity to concentrate on the recovery process which may include becoming sober and clearing court records. The bottom line is this: Requirements vary from program to program, and the HCP does not interfere with the autonomy of the shelters.

While the program activities vary from one agency to another, they usually involve a greater time commitment and introspection for their participants than the traditional court requirements. Additionally, the HCP participant is involved in an environment and programs that are all encompassing. The following are examples of HCP agencies:

Vietnam Veterans of San Diego (VVSD) offers the Phase 1 program, which is 90 days and includes a full day of activities. Starting at 6:00 a.m., with medication and breakfast, the participants move through AA meetings, chores and exercise, a dual diagnosis group (drug and mental health treatment), progress in recovery meetings, case management and study, group and in-house meetings, dinner at 4:30 p.m., and additional meetings afterward.

St. Vincent de Paul Village's (SVdPV) participants attend Challenge To Change for three weeks (Monday-Friday for three hours a day), for individual goal setting tools, to take control of their lives. Chemical Dependency, a four-phase course, takes nine months to one year to complete. The first phase is 36 sessions of education, three group sessions a week and three outside AA meetings a week.

San Diego Rescue Mission (SDRM) offers numerous activities, including a 16-week Drug Education/Relapse Prevention course (daily meeting and weekly

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random testing), Life Skills for five weeks (four days a week for one and a half hours daily), Personal Growth (a 14-week class at City College), Math and English for 14 weeks (three days a week for two hours a day), and computer classes (20 hours).

These are some of the programs and activities available to participants of the HCP. The HCP has illustrated that participants already in a shelter program are in an ideal position to comply with court orders.

Hector Sanchez is the Resource Coordinator from St. Vincent de Paul Village (SVdPV), a HCP shelter. Sanchez explains, "Clients at St. Vincent de Paul have a defined program and initial orientation. The ten-day orientation includes TB testing, explanation of the SVdPV facilities, and proof of income verification. I do orientation for all the clients. There are more than fifty services offered on site at SVdPV. They include career services, job development, computer training, GED classes and its specially designed program entitled "Challenge to Change." SVdPV also helps clients receive a California identification card, school transcripts, birth certificates, SSI and veteran benefits. Familiarizing clients with the public transportation system in San Diego is also part of orientation."

"After they complete their orientation, clients must attend assessments. An assessment is a three-step process consisting of, 1) oral interview, 2) written interview, and 3) the case plan. The assessment includes a three-week, 15-day class, setting all the goals in order to be signed-up for the HCP. In addition to the basic food, clothes, and showers, SVdPV offers other programs such as: Chemical Dependency Treatment Programs, NA/AA meetings and a new culinary arts training facility."

Shelter staff are key to preparing participants for the HCP hearing, making sure participants are engaged in their program and marking milestones of progress, building trust in order to open the door to discuss the participant's criminal background, informing participants what to expect at the HCP counseling and court session, writing advocacy letters on their client's behalf, and ensuring that they arrive with advocacy letters in hand.

The challenge to encouraging participation in the HCP comes with the ability to convince potential participants that the court program is designed to be a positive experience in their lives, without the usual threats of fines and custody. When the shelters offer access to the HCP, it strengthens their ability to serve their clients and ensures the clients' work is not interrupted by the setback of custody or the depletion of funds saved for the first month's rent on an apartment or work clothes.

All of the key HCP agencies --- from shelter staff to the public defender --- must first earn the trust of the homeless individuals. The HCP could not exist without cooperation from the shelters. One fundamental element of the program is to assure everyone that no homeless participant with misdemeanor charges will be taken into custody. The HCP adds to the continuum of care for shelters and programs aiding homeless individuals. The HCP builds on the expertise of shelter staff to identify the participants' greatest needs, create a plan of action and motivate the positive internal forces. In the end, it is the individual homeless person who must begin his/her life over again, full of resolve to stay off the streets and out of trouble.

The shelters' work to stabilize people in housing and employment would be undermined when a client successfully exits their program only to be picked up (and incarcerated) on an outstanding warrant, forcing everyone to start again from the beginning. The HCP allows participants to move from the streets to self-sufficiency by providing homeless people with outstanding warrants with a forum in which they may handle their legal problems and move toward complete reintegration into society. Service providers appreciate the fact that the HCP offers an additional benefit to homeless individuals participating in their programs, given the fact that so many of the homeless people accessing their services have outstanding warrants.

C. The Public Defender

The defense attorney in the Public Defender's Office is the focal point for all of the preset weekly dates for the monthly HCP in San Diego. To meet the key objectives of the HCP, the defense attorney must coordinate with all of the HCP partners. The defense attorney collects the shelter "Interest List" for all of the agencies referring clients to the HCP and delivers the shelter "Interest List" to the prosecution and court. The defense attorney receives and reviews the prosecution list of cases and proposed plea agreements for each participant. The week before the court session, the defense attorney counsels participants, first as a group, and then individually. Finally, the defense attorney arrives at the host shelter on the court date.

The HCP partners must collaborate in order to accomplish the numerous steps involved during the course of the month's activities. These include: 1) obtaining the list of interested participants; 2) researching case files; 3) generating the court docket; and 4) conducting the hearing. The HCP program partners speak to each other several times a week to learn about new programs offered at the shelters, review data, and discuss what works and what does not. These discussions facilitate understanding in the program and cultivate working relationships among program partners.

Outreach/Road Show

The San Diego Public Defender's Office conducts outreach outside the course of the monthly HCP dates to inform the shelter staff and potential participants of the HCP protocol, its program procedures and expected benefits, along with the program history. The Public Defender's Office calls this outreach meeting the "road show." The road show typically takes place at the shelter community or staff room. The settings and number of attendees vary. The defense attorney may sit at a table introducing or reviewing the program with the head of the agency, or he or she may stand, speaking before a group of shelter case managers. Sometimes the defense attorney meets separately with shelter staff and with potential participants. At other times, they may all meet together in the agency community room.

The attorney starts each outreach presentation with a general introduction and overview of the program and then presents a half-hour documentary video, *"And Justice For All; Taking the Court to the Streets,"* to help participants visualize the process and to introduce them to the people who comprise the HCP. The attorney presents the Office of the Public Defender published handout, an 8 1/2 by 11 tri-fold pamphlet, *"Is it a Crime to Be Homeless?"* to explain what the participant should do to access the HCP.

Before a shelter refers participants to the first court session, it is important for the defense attorney to introduce the HCP to that agency. The defense attorney must generate interest in the HCP. The attorney cultivates clients' trust in the program. To alleviate the fear factor, the attorney addresses the participants' concerns of going into custody, which would cause him/her to lose his/her home at the shelter, and the progress he/she may have made in turning his/her life around. The defense attorney explains why the court session is held at the shelter, the status of their case(s) and that the court credits their participation in program activities against their cases. Finally, the HCP defense attorney promises that no one is going into custody. The defense attorney explains that meeting one-week before the court hearing helps the participants prepare for court. They will face their greatest fears, review their case(s) and plea agreement as a worst case scenario, and prepare for a successful hearing by gathering advocacy letters, certificates, and other support documentation.

The outreach serves two important objectives. It informs the shelter staff about the purpose, process, and proof necessary to ensure that everyone prepares for a successful hearing. The attorney presents a folder (which includes a contact list of key HCP representatives) to the shelter with the protocol developed to support monthly HCP sessions. The protocol folder includes a monthly color-coded calendar, the sign up "Interest List," and the client's "Agreement to Appear" form. These forms inform agency staff and participants of the dates of the weekly steps and the date when the shelter submits the "Interest list" through the court hearing date.

The attorney explains the protocol of how the calendar marks the weekly steps of the HCP, when the interest list is to be delivered to the Office of the Public Defender (starting on the last Wednesday of the month), when the case list and plea bargain are delivered by the prosecution (the following week), the date set for counseling with the defense attorney at the host shelter (the next week), and the court session (the week thereafter). The public defender explains that shelter representatives prepare the "Interest List" and present each participant an "Agreement to Appear" form marked with the dates of the counseling and court sessions. This ensures that each participant receives the date, time and location for the counseling and court hearing. (See Appendix)

The attorney informs shelter staff that the target population is misdemeanor defendants who are taking successful steps in their activities, reviews the color coded calendar with monthly steps, Interest List, and Agreement to Appear, the expected benefits (another service in the continuum of care, clearing outstanding warrants and cases), and how the shelter can help generate interest among the people in their programs.

Administration

The public defender's office is the chief administrator of the HCP in San Diego. A few days before the due date, the defense attorney calls shelter personnel to gauge the numbers signed up for the "Interest List" and receive feedback on the previous month's session. The attorney calls the prosecuting attorney to review the proposed plea bargains before and after the counseling session. The attorney meets with the court clerks to discuss or identify calendar and procedural questions. The attorney then meets with new personnel (court clerk, prosecutor, judge, or shelter representative) to discuss the differences between the traditional and HCP hearings before the court hearing.

Counseling

A deputy public defender goes to the host shelter one week before the actual court session to prepare the participants for court. Meeting with the group first, then with each person individually, the defense attorney introduces the process, what has transpired since they signed-up for the HCP weeks earlier, what will be covered during the counseling session, explains how the shelter community room becomes a real courtroom and how it will look, and tells them that the judge will talk directly to them asking questions about their program participation (without delving into private matters). The attorney explains that they maintain their constitutional rights when they sign up for the HCP. If they decide to exercise these rights, an attorney will be appointed to pursue relevant motions or a jury trial in the courthouse.

The attorney then introduces each participant to his/her case(s) and plea agreement. This helps him/her to anticipate what will happen in court and mentally prepare to face the judge. Finally, counseling addresses the participant's activities in his/her chosen shelter and outside appointments and classes. The attorney asks each person to list his/her most meaningful or helpful activities and accomplishments as well as his/her plans for the future.

Most clients start each counseling session by saying they do not have the money to pay fines. They talk of fear of ending up in custody. When the attorney asks each person what he/she is doing in his/her program, most respond, "nothing." For the participants, it is hard to believe their activities are worthwhile, or that the court will recognize or acknowledge their program activities as credit for court orders or as a basis for the prosecution to dismiss their case.

The attorney instructs each person to return to the next week's court session with advocacy letters, certificates and proof of other accomplishments and explains why it is helpful to have copies of key documents to present to the court. Asking participants to bring documentation to court ensures that they are active and vested in the court session. This strengthens their participation and chances for success in court. It also lets them know they can make a difference in the court process.

After the counseling session, the attorney may call the prosecuting attorney to review plea agreements and negotiate for a better disposition on behalf of a particular client. Additionally, the attorney may contact the shelter to speak with a case manager and highlight an individual or issue that requires greater attention. In some instances, the attorney may request that a case manager appear at court to advocate for an individual in person.

Court Hearing

The key to the HCP's success is thorough preparation of its participants and open communication between the partners. The attorney meets the participants an hour before the start of the HCP session to confirm the plea agreement, collect advocacy letters, answer questions, review the court process again and highlight changes in their plea or program activities. The attorney shares these advocacy letters with the prosecuting attorney before court starts. In advance, the attorney has: 1) negotiated with the prosecution; 2) counseled the participants; 3) reviewed the court cases prior to the hearing (including putting cases in calendar order); and 4) paid attention to last minute changes, to ensure that the actual court session runs smoothly and quickly. Everyone involved knows what will transpire during the court session.

There are few --- if any --- surprises. The goal is to resolve all questions before the court session begins.

On the morning of the court session, the deputy public defender goes to the clerk's office to review all of the cases set on the afternoon calendar. With cases in the order of the court calendar, the attorney makes certain the prosecution's case list and offer sheet correspond with the court's, reviews court docket entries in the case file, makes notation of special court orders in cases with further proceedings, and coordinates last minute arrangements (such as car pooling, or judicial assignments) before leaving for the afternoon session.

When court convenes, the deputy public defender proceeds through a number of steps that address each client and his/her cases: 1) Standing before the bench, the defense attorney calls each case on the calendar and introduces each participant to the court; 2) The attorney recites the plea agreement, states whether the prosecution moves to dismiss or the participant pleads guilty to a charge, and delivers a copy of the advocacy letters to the prosecution and judge, highlighting program activity the participant has found most beneficial; 3) The attorney makes sure that all participants remain in court after their appearances to collect the court docket for their records. The clients' collection of the court paperwork helps ensure their understanding of the process, reinforces that it is a real court hearing and serves as another paper of accomplishment, similar to other certificates of success from the shelter; 4) On rare occasions, the defense attorney asks to continue the participant or case to a future date to negotiate better dispositions or seek additional proof of shelter activities.

The following was taken from an interview with Stan Jones, deputy public defender with the San Diego Office of the Public Defender

"In 1989, as a deputy public defender, I was appalled and frightened by the specter of so many disadvantaged people in the arraignment courts who seemed to be there for capricious reasons: illegal lodging, jay-walking, littering, bottles on the beach, urinating in public, etc. The life that was being lived on the street corners of San Diego was similar to beggars in Calcutta. We were not comfortable with the homeless as a sector of our population. The homeless were a result of economic and social conditions and not a personal choice. The laws are designed to deal with transgressions committed by the citizenry of a different order. The law presupposed that a person had a home address, telephone number, community contacts, a bank account and a driver's license -- acceptable means of identification. A segment of my clients simply did not have these things."

"There was a schism between the law and reality. I realized, until we developed a way to deal with the reality of these clients, these people, at that point, became victims of justice."

"If you are told to pay a fine and you do not have the money or means to work it off, a warrant for your arrest is going to be issued and you will end up in jail. You loose all of your possessions and any contacts you have in the community. An endless cycle is created."

"I was frustrated."

"It felt like I was part of the cycle, not part of the solution. I felt sympathy and anger, for both the legal system and my clients. It was obvious that the problem was not going to go away and that some sort of solution was necessary."

"Two years after I began working at the arraignment court, I had my first glimpse of a solution, a way to break the cycle. I realized that we defense attorney's could work with prosecuting agencies and the courts to use justice for the sake of justice, rather than as an obstacle, for resolution of deeper problems."

"I saw a court (at Stand Down) where homeless veterans could appear and, for the most part, wipe the slate clean. The court was part of a larger community helping these veterans in every way imaginable."

"Justice became part of this tapestry. I remember a Pete Seeger song: 'A golden thread and a needle so fine that you could weave a tapestry of rainbow design.'"

"I participated in the legal portion of a larger rehabilitation effort. The particular needs of my clients were now being addressed. There was no prejudice against them for the fact that they may have had several warrants for matters they had not gone to court for, or fines they had not paid, because of their condition of homelessness. The court and the prosecution expected that they would have a complicated and convoluted legal history. We got down to the business of dealing with their misdemeanor cases that were keeping them from getting jobs or benefits and otherwise, participating in the community."

"There is a certain level of pride that is instilled in a client when he or she is given the chance to start over. This is an important step in breaking that cycle."

"Later, I was assigned to a branch office in Chula Vista, a community near the Mexican border. The overt homeless problem you could see in downtown San Diego was not as apparent there. The problem was at least as critical, if not as visible. I approached the presiding judge of the court in Chula Vista with the idea of instituting a similar program there. The judge called me into his chambers: 'Mr. Jones, how can I help you today?' I responded, 'Judge, you can help me and a whole bunch of people today.' I explained the process of the court at Stand Down. He agreed that homeless veterans could appear before the court in Chula Vista and identify themselves as a part of the Stand Down rehabilitation program and they would get all of their criminal matters taken care of. This was the first spread of the HCP concept outside of the Stand Down event."

"To my colleagues, I dare say to dream. You can be effective. You can create a positive change, to your client's lives and the criminal justice system. It makes us all better people: prosecutors, judges, defenders and clients."

"The hardest part was to convince myself this could be done. It is not as hard as you think to get started. It is a decent thing to do and most people want to do the decent thing. They just have to be shown how."

D. The Prosecution

The HCP would not exist without the cooperation and endorsement of the prosecutor. The San Diego HCP is fortunate to have had an enthusiastic and cooperative partner with the San Diego City Attorney's Office, the entity that prosecutes misdemeanors within the city.

When the San Diego Public Defender's office first initiated the HCP program, the judges and the prosecutors were concerned that the plea bargains were too lenient. Prosecutors are not normally inclined to dismiss charges against defendants and they are under pressure from some elements in the community to take a "tough" stand against homeless people. Deputy City Attorney Chandani Flinn explains: "The community gets mad sometimes if I dismiss charges for urinating in public or other public nuisance offense. The police get sick of the chronic offenders. So I have to have a good reason if I dismiss the charges." The key for her is knowing these defendants are actively working to turn their lives around. "When I see someone who has been rehabilitated, I see what a benefit that will be for the community as well as for the individual," she explains, "but it's also important that people are holding themselves accountable by being involved in a program. Otherwise, I'd ask for custody. The effectiveness of the court really depends on the effectiveness of rehabilitation (shelter) programs."

As Marcella Ordorica, Deputy City Attorney for the City of San Diego, explains, "I've never really enjoyed dismissing cases as much as I do here [in the HCP]. It's great because your typical Homeless Court candidate has done just above and beyond, phenomenally so much more than your typical arraignment court person, who would maybe show up and on a first time drunk-in-public and get credit for time served, maybe pay a fine, be ordered to do some classes, but not really have any kind of life change going on or have any experiences which are really going to perhaps prevent future visits to the court."

"We kind of see it as an after the fact sort of reward for these people who, again, are in programs, are in classes. They're getting treatment, they're really actually contributing to the shelters where they're living and they're working and we just see it as sort of helping them kind of get back on an even playing field."

Occasionally, Chandani Flinn, Deputy City Attorney for the City of San Diego, has invited police officers to attend an HCP session so they can see the process first-hand. "Not everyone knows what the different parts of the system are doing," she says. "They may not believe that these people can change. So they come and see for themselves."

"I hadn't seen homeless people before I got to San Diego," said Mary Foster, clerk for the San Diego City Attorney. "I was surprised. Taking the trolley, I saw people sleeping on the street. At some stops, there were two-dozen people living in cars, boxes, and on the ground. I felt concerned but there was not much I could do. I had just gotten separated, and as a single parent it was difficult supporting my family. I was a legal assistant for the City Attorney's Office, and just getting on my feet, living paycheck-to-paycheck, not that far from being homeless myself."

"One day in 1989, the City Attorney's Office got a flyer asking for volunteers to assist with getting cases ready for a HCP at Stand Down. I got the names of the cases of defendants who had signed up to have their cases heard. They were all veterans. There were lots of cases, and I got the interns together and we organized a box of things we needed: pens, Post-It notes, and office

supplies. We alphabetized the cases and put them in big blue bins. Volunteers throughout the office carried the heavy boxes to San Diego High School."

"There, lots of people were gathered. Homeless veterans were lining up at the medical tent, barber shop, job tent, and chow line. We set up four prosecution tables and arranged the files, made sure we had the proper forms."

"It was a very, very, very, very hot day. They put camouflage nets up to give shade, but the shifting shadows made you dizzy."

"I'm smiling just remembering it. It was fun. The public defenders and the prosecutors, who have an adversarial relationship working together."

Prosecutors are used to taking an adversarial approach with the public defender in the regular court setting; in the HCP, both sides work together to establish a more cooperative relationship. To ensure the continuation of the relationship, it is important for the outgoing prosecutor to explain the program to a prosecutor who is just joining the HCP for the first time.

Prosecution Guidelines

A Deputy City Attorney attends the proceedings whether the calendar is held at the courthouse or at an off-site location. The plea/sentence bargain considers the defendant's willingness to voluntarily clear all warrants and open cases as well as the specifics of the defendant's individualized recovery program.

The Deputy City Attorney handling the HCP Calendar generally follows the steps listed below:

- 1) Receive the "Interest List" of names (including: a.k.a., date of birth, and Social Security number) from the Public Defender's Office. In San Diego, all open cases within the City Attorney's jurisdiction are pulled, whether active or through a warrant.
- 2) Consult with the clerical supervisor regarding which clerical person will assist in this research and making copies of discovery material. The clerical support person will run the criminal history for each person and print all DA10's and DA11's and MC22 computer screens.²¹
- 3) Review the criminal history as provided on the DA10's, DA11's, and MC22 screens. Address each open infraction (including envelopes) and misdemeanor for all horizontal unit cases regardless of whether the case is tracked to Traffic Court ("A" Court),

²¹ A description of the screens:

DAO-9 lists name and all felony and misdemeanors

MC-21S lists infractions, envelopes use the name match the birth date and it pulls up criminal history.

MA10- Use a code and initials to clear warrants

MA03- tell if cases are still open or have been dismissed.

Misdemeanor Arraignment Court ("M" Court), Pre-Arraignment, Trial Setting Department or Presiding. Consult with the head deputy of any vertical unit for possible disposition of a vertical unit case. If a case is currently tracked to Drug Court, consult with the Drug Court deputy before making an offer. Offers may take into consideration the defendant's current program at the homeless shelter (including length of drug/alcohol treatment and sobriety) and may follow the Stand Down offer guidelines. There may not be open cases for all of the names provided by the Public defender's Office, be sure to let the public defender know so he/she can inform the HCP participant. The clerk should make sure to follow all of the time-lines provided in the letter from the Public Defender's Office.

- 4) Plea/sentence bargain offers to the court and public defender's office on the standard five-part "offer sheet calendar," except those offers for Stand Down which are made on the Stand Down offer sheet which are supplied by the court. Note any further proceedings on the offer sheet. Note eligibility for Penal Code section 1000 diversion/deferred entry of judgment and Drug Court. It is anticipated that the participating defendants will all be released on their own recognizance. If revocation of own recognizance (OR) status or immediate execution of sentence is expected, this should be noted at the bottom of the offer sheet.
- 5) Prepare a list/letter for the court with each defendant name and the case number.
- 6) Divide the NCR five-part "calendar" offer sheets to the instructions on the bottom of each sheet. The Court will receive its copies of the "calendar" with a copy of the Interest List. Send the packet via a discovery run to a specified court clerk in the Superior Court. The public defender's Office will receive its copy of the "calendar," discovery on each case and a copy of the Interest List. Address the packet to the deputy in charge of the homeless calendar and deposit in the public defender's discovery run bin on the 7th floor near reception.
- 7) Negotiate all of the cases with a deputy from the public defender's office prior to the date for the Homeless Calendar.
- 8) Prepare for Homeless Calendar appearance taking into consideration the location of the appearance, at court or an off-site location such as St. Vincent de Paul.
- 9) Arrive early at the court proceedings for final negotiations and to review any documentation provided by the defendants. Pay special attention to the documentation of the defendant's program/treatment and whether the program may qualify/delete a term of probation i.e. no narcotics/cocaine/alcoholics anonymous classes.

E. The Court Clerks

Court clerks are critical to the success of the HCP and are among its most enthusiastic supporters in San Diego. San Diego's first Stand Down was able to take place only because the lead clerk had the confidence to believe that it would be possible for his department to actually conduct court on a handball court. Clerks continue to make extra efforts to pull cases, follow up when cases are resolved, ensure warrants are recalled, and undertake the myriad of other tasks that make the HCP possible. The Clerk's Office of the San Diego Superior Court is responsible for the milestones of the HCP calendar that culminate with a hearing at the homeless shelter.

The court clerks recognized that, although the benefits to the defendants are obvious, the court benefits as well. Because of fear and intimidation by the courthouse environment, the only venue available to the homeless defendant in the past was to await arrest and detention. Although having their matters resolved in a custodial setting was reasonably effective, it frequently deterred or derailed their efforts to get off the streets resulting in a high recidivism rate. Coupled together with the costs of detention both pre and post hearing, another forum was called for. Since the HCP is limited to defendants who are actively involved in programs and is offered only when they have made substantial progress, their recidivism rate is low. Cases, which in the past have churned through the system repeatedly, are resolved with finality, ultimately resulting in savings to the court.

Melissa Shoop, the Court Operations Manager, describes the clerks perspective of the HCP. "Our unit is in charge of preparing the calendar in the traditional court setting. We process court calendars when defendants either walk in to be placed on calendar or are picked up on the street and are placed on a custody court calendar."

"It takes about eight hours a month for us to have the entire HCP calendar prepared. We have one clerk who prepares these calendars. If we were doing these same cases in the traditional court setting, whether as a walk-in or as a person that's in custody (put on a special custody calendar), it would take us far longer than eight hours a month to get those cases on a calendar. The HCP saves the court clerks time and staffing resources. The defendants that sign up for the HCP typically are already in programs. The staff at VVSD and St. Vincent de Paul's have already matched them up with the resources they need. This eliminates the need for the court to order them into programs."

"More important though than the economic benefits to the court are the benefits to the participants. By participants, I am referring not only the homeless defendants, but the court and agency staff that pull together each month to make this happen. The HCP serves the criminal justice system to provide a human face in the community, as well as make the court uniformly accessible to all social strata of the community."

"We find that the HCP defendants have a very low recidivism rate. Their cases are taken care of when they come into court. This saves the court from constantly adding them on to probation violations. Our clerical staff volunteer to learn how to set up the HCP calendars. At Stand Down we have too many volunteers that want to participate in these programs so it really has brought the court and the community together. The HCP has given us an opportunity to see successful defendants rather than many in violation of probation."

Nelda Morgan, Court Operations Supervisor, states, "The Misdemeanor Calendar Department is responsible for the monthly update, generation, and assembly of the HCP calendar. I get a list of the people, averaging from 20 to 30 defendants with anywhere from 50 to 150 cases, depending on how many cases each individual has. Many of them, as you probably would guess, have ten or 12 cases and there's much less stress to putting those cases together on a calendar when we have little time to do it. The role of my department in the HCP is to:

- Research and assemble the cases after receipt of the offers from the prosecution
- Schedule and update the cases for appearance
- Generate a court calendar
- Prepare the calendar for hearing
- Provide a Judicial Officer, Courtroom Clerk, Court Support Clerk, Bailiff and supplies for the on-site hearing
- Update the cases post-hearing
- Maintain and update statistics

"I have a staff of 13 people. We support four courtrooms plus the Homeless Court. Every day, I have two people assigned full-time just to address the walk-ins that are coming into our courtroom. We also have five other staff to handle the custody cases. When I dedicate one person to spend eight hours on a court that's pre-planned, not only is it a very rewarding experience for the clerks and an easy way to help build up the self-esteem of the HCP defendant. The clerks enjoy doing the work. They enjoy giving back to the community."

"It's kind of a tangible feeling to see a box of cases leave to go to the court wherever it's going to be and the next day, or that afternoon it comes back and those cases are all settled. It's a good feeling for everybody involved."

Joe Mann, the court clerk assigned to prepare the HCP calendar in the scheduling department explains, "There is about a 30-day time delay between when a ticket is given and when a warrant is issued. Once a ticket is issued, there is a 10-day period before the court appearance. If the person doesn't show up, a Failure to Appear (FTA) notice is issued, after two weeks these turn into warrants. During this calendar session, I noticed there were a lot of warrants. This means that the homeless who received tickets have stayed out of trouble, because once you have a warrant and interact with the police, you get picked up and sent to jail. So even if you have warrants, if you stay out of trouble, you do not get picked up. To me, this means they are doing something right because they are staying out of trouble and not getting picked up. This program helps clear warrants, I'm all for that."

One court clerk spoke of the trust all the key players hold in the HCP saying, "It is the clients; you have to have people who are willing to take the chance that this court will not confirm their worst fears, that it will not be a repeat of past experiences with the (criminal justice) system. You have to create that trust, and have the ability to make it a positive experience."

Clerk Preparation

In many respects, the court clerks, like the other partners of the HCP, perform their traditional tasks with modification for court hearings outside the trappings of the courthouse. When the court clerks appear at the shelter for a HCP session, they leave their desks, support staff, supplies, computers, a large counter and a plexi-glass divider between themselves and the public. The following list details the necessary clerk preparation for an off site homeless court.

✓ *Research/Pulling Cases*

In the San Diego court system, the supervisor delivers the prosecution offer sheets that indicate which cases are to be calendared. These must be received no later than the Tuesday prior to the calendar date in San Diego.

Immediately upon receipt of offers, research each case to determine location (West Wing, Intake, etc.) and request them.

Order cases from West Wing/Traffic via fax, no later than Tuesday prior to the hearing. Mark on the sheets "homeless calendar" so that priority will be given. Call to verify the fax has been received. Attach verification of fax transmittal to original. Make sure to have a current list of fax numbers and email addresses for the smooth running of the program.

✓ *Updating the Computer*

By the Friday prior to the hearing or 3 working days before the hearing, update all cases with the future date that the Homeless Calendar is to be heard SDMHCP @ 1:00 PM. All cases MUST be updated at least three days prior to the hearing date in order to be printed on the calendar. When updating envelopes (a court file of direct issue citations, from the police to the court, a six by nine-inch envelope), be sure to put the calendar date in line 2 if there is presently an entry in line 1. If you use line 1 it will cause the case to be referred for a second time to Civil Assessment (CAP) when the case is updated.

Receive cases from West Wing by Friday prior to the hearing.

✓ *Missing Cases*

Make a print out (DA10 & 11 or MC22) and place it in a plastic outboard so the case is accounted for.

✓ *Preparing the Calendar*

Calendar:	prepared as usual
Dockets:	prepared as usual
Offer Sheets:	place in order of the calendar and number accordingly

Agenda Item #3.2.

✓ *Copying and Distribution*

Make and distribute six copies of the calendars are as follows:

Calendar: 6 copies

Distribution: 1 Judge
Original First Chair
1 Second Chair
1 Bailiff
1 Deputy City Attorney
1 Public defender

Offer Sheets: 1 copy

Distribution: Original Judge
Copy First Chair

✓ *Court Hearing*

Judge's Clerk and Homeless Calendar Clerk do first and second chair. Make entries as needed on the calendar. Judge and Clerk complete time sheets at the hearing.

✓ *Supplies*

Make sure the supply box is well stocked. The San Diego HCP stores the basic supplies in an empty milk crate, with everything needed for the court proceedings. The box contains all of the supplies needed for the off-site meetings. Supply box essentials:

1. Dockets
2. Referral forms
3. Judge's stamps
4. Stamp pad and ink
5. Pens
6. Calculator
7. Calendar
8. Future Date Homeless Calendar
9. Time Sheets (prepare in advance for judge and judge's clerk)

✓ *Disposition of Cases*

Recall warrants immediately (same day) upon return to court.

1. Enter disposition as usual and distribute
2. Handle "no shows" (defendant not appearing)
Delete future dates on envelopes. Locate appropriately.
Vacate (034) on juris matters. Locate appropriately.
3. Return original calendar, offers and time sheets to the supervisor.

✓ *Contacts*

Include the names of key personnel and make available to participants in case of questions or concerns. Contacts include: court clerks, public defenders, city attorneys, and homeless shelter staff.

✓ *Locations of the HCP*

St. Vincent de Paul
1501 Imperial Avenue
San Diego, California

Vietnam Veterans of San Diego
4141 Pacific Highway
San Diego, California

✓ *Miscellaneous*

Getting to the offsite location: Make sure that the participants have directions to the HCP location.

1. Ride with the judge/clerk/bailiff
2. Contact Steve Binder for a ride
3. Drive yourself

Time sheets

Account for all time spent (Judges and clerks)

Add-Ons to the Calendar

If the DCA or PD request to "add on" to the calendar - the clerk must check the original interest list (supervisor has this). If the defendant's name is not on the interest list they cannot be added on.

Cases continued from one Homeless Calendar to another HCP are updated and delivered to the supervisor. Be sure to ask the supervisor for any other cases scheduled for the current calendar. Notify the DCA and PD by phone of any additional defendants being added to the calendar because their case was continued. If the case has not been disposed of, add a copy of the offer in the file to the current batch of offers. If the case was continued for proof only, no offer is needed.

The court clerk's preparation and handling of cases for the HCP contains the same basic steps and functions of the traditional court calendar. The court clerks must, and do, plan for any exigency that may arise when handling a court hearing off site, at a local homeless shelter. With great attention to detail and organization, commitment to the process and the follow-up of cases, the court clerks ensure the efficient disposition of cases at HCP.

F. The Judges

A number of judges have presided over Stand Down and the HCP throughout the years, helping to build and define the program. The contributions of these judges have built the HCP that is a model for other HCPs across the country. The judges speak about what the program means to them:

Honorable Judge Leo Valentine, San Diego Superior Court

"One of many jobs I worked before law school, included working as a clerk in a liquor store. The store was located on the outskirts of downtown San Diego, in a low-income neighborhood. Though we catered to customers from a wide spectrum of the economic backgrounds, the majority of our customers were Hispanic and African-American, many of whom were alcoholics. These were down-to-earth common people with nothing to hide. Late one night, it was slow and I was doing my calculus homework and Gino, a Caucasian alcoholic with who I had developed a casual relationship came in to purchase a bottle of white port. He asked what I was doing, and I told him. Already partially intoxicated, Gino demanded, give me any two numbers and I will calculate faster than your calculator. He did it over and over, with two numbers and then three. Amazed, I asked him how he could do this so fast. Tears welled up in his eyes as he explained that he had been a math professor at the University of Kentucky. He had been so dedicated and committed to his work he neglected the needs of his family. His wife left him and took their two daughters. Gino never recovered and he had never been the same since. This incident reminded me, that we have to be very careful before drawing conclusions about people. It is important for those of us who work in the judicial system to understand that many people who find themselves in the system are just in a phase of their life, and the incident which brings them before the court does not reflect their entire life. Many of our homeless have contributed to society, and perhaps for all these individuals, the best is yet to come."

The Honorable Judge E. Mac Amos, Jr., Superior Court San Diego Judicial District

"I was the presiding judge of the San Diego Municipal Court in 1989. Initially, I recall receiving a call from the court administrator who said a group of attorneys wanted to see me about participating in something called Stand Down. I had no idea what Stand Down was about, but I agreed to meet with a group of four or five. They explained the concept to help out veterans attempting to solve a number of problems. They told me they wanted to establish a court as part of the program, and that this court would be held on a handball court."

"My initial reaction was, wait a minute, I'm not so sure this is where I want to go. What is the public perception going to be when the whole court is on a handball arena, and what will that do to the formalities and dignity of the court?"

"I wasn't overly enthusiastic. I thought to myself, 'this is going to be a logistical nightmare and create more problems than it's going resolve.'"

"I probably said something like: 'Well, we'll have to give it some thought and determine if we can work out the logistics,' a non-committal response. I could appreciate their goal, whether or not it was an appropriate part of the program was another question. I was impressed by their

enthusiasm. They had done a substantial amount of work. They had talked to the court administrator, to the public defenders, touched based with the city attorney's office, and no one had given them a flat, 'No.' So, that told me, 'maybe I should take a look at this thing.'"

"Homelessness had been a problem in San Diego since the early 1980s. The municipal court judges were very aware of the problem. I was cognizant of homelessness, but I didn't think of veterans. Nobody had seemed to come up with a feasible solution. A lot of people recognize the problem. Periodically, local merchants put pressure on the city council and police to remove the homeless from their business area. You would see a sweep for a while, which would raise the number of cases in court. Local government had not been actively involved in trying to solve this problem."

"So I'm in this room. I listened more than I talked. First they started to outline what they had in mind."

"The basic concept was we'd hold court in this handball arena and attempt to resolve some of the outstanding warrants in minor cases."

"I asked: 'Can't we accomplish the same thing by having them appear here in the court and set up some sort of special calendar?'"

"The idea of a Stand Down was to have one area where the vets could solve the problems. If vets had to come down to the courthouse, vets wouldn't be as receptive."

"I sat down with the court administration and said, 'could we do this? Do our clerks want to go out and put on this effort? How long to go out there? Do we take the files? It would require a lot of extra time and effort.'"

"The administrator said it appeared to be feasible. The willingness and enthusiasm among the clerical staff surprised him."

"There were several meetings before we gave the okay. We had representatives of the clerks, public defenders and the city attorney--all the players. We talked about what kind of cases are we going to resolve. We're not going to take a paddy wagon to put people in custody. I had a question for the city attorney: Did they think this was a good idea? Had they thought about what kind of cases were going to be resolved up there and what kind of offers would be made?"

"I didn't want to participate if this was solely a publicity gimmick and there wasn't going to be anything accomplished. If we were going to resolve things and the court could participate in a meaningful way, it was good for the court. I was concerned how this would play out. I didn't want my picture on the front page: 'Look at this flaky Judge in the handball court dismissing a lot of cases. Maybe he'd come down to our playground and take care of our cases.'"

"We made progress. Clerks said it could be done. They could develop a system of communication. A number of clerks were enthusiastic."

"The City Attorney reported back. Susan Heath said they thought it was a good idea. I wanted to make sure they were on board. We considered the limitations of what it could not do."

"It began to gel. Momentum increased. Enthusiasm grew. It appeared that the benefits might outweigh the risks. 'Let's do it.'"

"Before we could hold court, a substantial amount of preliminary work had to be done. I went up there during Stand Down to check it out. I showed up Friday afternoon. I was impressed. Files were up there. Attorneys were negotiating. I remember thinking these vets are people who need some help. There was not only food and shelter-- psychological help, benefits and employment. It was quite an organization. It was obvious people had done a lot of work, and there were a lot of veterans--here."

"Where's the court?" I asked. They showed it to me. The next day I got up. I had taken my robe home and I came over early in the morning and talked with bailiffs to make sure the clerks had the cases. I also talked briefly with the attorneys. Then we started. There was no formal entrance. We were all just sort of there."

"Once we were all ready, I put on my robe. The bailiff announced the San Diego Municipal Court was now in session."

"I sat at a table with my back to the handball court's wall. Counselors sat at two tables facing me. We had a podium set up."

"Individuals came forward to the podium. It was an interesting day, a real feeling of accomplishment, a lot of satisfaction in resolving these problems. What you had, most of these people didn't just have one or two cases. They were homeless and had a string of six to eight cases. So what had happened, they were afraid to appear in court because of all these warrants. There was no apparent light at the end of the tunnel. They didn't know where to turn, and this was an opportunity to resolve a number of their legal problems."

"There were 40 to 60 cases. What happened was that most cases were for low-grade misdemeanors. Cases for which fines would normally be imposed so that the city attorney had agreed to dismiss all but one or two charges with most of the cases settled in lieu of a fine. I agreed to sentence these people to community or public service. In many instances, this service was to be done at the veteran's facility. Defense counsel had come up with some organizations where the men could do community service. The sentence imposed was a short-term period of probation and community service and remaining charges were dismissed."

"In that group we saw that day, there were four or five cases where charges of a more serious nature required an appearance at the downtown courthouse."

"There were some newspaper reporters there. I was concerned about the feedback we would receive."

"When I left, I thought it was a success. I was happy that we had decided to participate."

"Looking back now, 10 years later, I'm delighted we decided to participate. All the publicity we received was beneficial. The community response was positive, and we had clerks who had not been involved the first year who were anxious to participate in future programs."

"I think the court should take a close look at programs of this nature and not be afraid to take what might be perceived as a risk or even, on occasion, something which someone might think might be inappropriate for a court to engage in. From the standpoint of the court, everyone who participated had some satisfaction. It helped the court's image at a time when judges and judicial officers weren't always held in the highest esteem. It helped clear a lot of outstanding cases, and in many instances the overall program made it possible to have a better life and avoid future citations and appearances in court."

"Cautions: You need to take a careful look at logistics, how it's going to be handled. You need an agreement between the court and the attorneys of both sides how a majority of cases is going to be disposed of. If you have a strong disagreement, it would be a waste of time."

"You need to determine the limitations and the types of cases. If you don't have some general type of agreement on how to handle the cases, it won't work."

"You want to avoid rainy days."

The Honorable Judge Michael B. Orfield, Superior Court San Diego Judicial District

"When I became presiding judge, Steve Binder of the Public Defender Office came and said, 'There is this tremendous program called "Stand Down" and I would like to extend the concept to homeless defendants.'"

"I had never been a part of Stand Down but I had heard tremendous feedback about it. The program is to bring Vietnam veterans back into society. Not all veterans need it, of course, but for those who have become homeless, it was an opportunity to recover from problems that the war had created and put together their lives. It was an opportunity to reintegrate the homeless back into society."

"When the public defender came up with the concept about extending this to another group of individuals who were equally disadvantaged --- who had lost homes, who had emotional and drug problems, who had been stripped of their physical belongings and found themselves on the streets --- I thought he presented a unique opportunity for the courts to assist our homeless community in the same way the courts had assisted Vietnam veterans. It hit me strongly and quickly, 'Sure,' I answered 'It sounds like a great idea. Let's explore it.' I didn't need a prospectus; we already had a prototype in Stand Down. We're only taking the same machinery and extending it to another class of individuals."

"I got together with the court administrator to start to implement it. We had in mind a calendar that would begin in the next 30 days. The public defender was to go to the shelters and screen people. I had a personal commitment to make sure it would happen. As a new presiding judge, I wanted to turn words into action."

"The next time we met was for the first HCP. I sat as the presiding judge and in my courtroom we had a sparsely populated group of 10 to 15 people plus the attorneys. This was less than I expected."

"As I looked into the courtroom, I saw people who could have been in any court session. I saw in the faces of the people there, a certain degree of apprehension. People who had come off the streets into a shelter were off the streets into a courtroom; they didn't know what to expect from me or from the prosecution."

"What they received was a quick packaging of their tickets, warrants for arrest, and a resolution that, in most cases, required some volunteer work."

"For example, a man has three tickets, for riding a trolley without paying and a loitering ticket and a couple of warrants for his arrest. In a normal presiding, we might have asked this man to pay a \$100 fine and then turn it over to the collection agency if he did not pay. In a homeless calendar, we weren't going to do anything different, that is, dismiss more cases than otherwise."

"But there was a psychological desire to help put these people back on their feet. So I cleared his warrants, got an agreement from the prosecution to dismiss his trolley tickets, and ordered him to do 10 hours of volunteer work at a Saint Vincent De Paul Shelter. My motivation was to not set him up for failure, returning to the system, which clogs the court, but to put his legal affairs in order and make him a better candidate for a job. The rationale for the HCP is to cast your net, bring them in, and take care of their legal problems en masse. So you could move more people back into the community, looking for jobs. Because of their homeless condition and inability to keep their papers in place and because of their transportation problems to court, their legal problems would linger. They go for a job, employer does a background check and finds warrants. No job. These people stay on the streets unable to pay for their basic needs."

"I'm a very fortunate individual who has never had to struggle for the basics of living. That day allowed me to connect with a group of people who had never known the kind of prosperity I had and to give them a little bit of help to get them back on their feet and enjoy some of the pleasure of knowing you've got enough security to live more than day-to-day. One of the crushing mental pressures is not knowing where they're going to be in a week; not being able to care for a child or a spouse."

"I felt that I was helping them, through legal means, to have security beyond hand to mouth existence."

"The benefit to the court in the future, as these programs grow, is to help clear the large backlog of warrants that are clogging the system. A high level of warrants mocks the system of justice."

"Our community has a serious homeless problem, and I think our community is less than it can be by ignoring this problem and pretending it doesn't exist. Our community can't achieve its potential by ignoring such a serious problem. It's so easy to ignore these people. They are faceless and out of sight."

"When a community reaches into itself and takes people who are on the periphery, who might be forever loathed and does something positive and protective to bring them back in to the community --- not just a check in an envelope---then that community has to seize that opportunity."

"I so highly recommend the HCP because it is a chance to see immediate results and have an immediate impact on a population of individuals who come into your court. So many of us on the criminal side of the bench see people in our court on a daily basis who can no longer be reached, whose criminal records prescribe jail or prison sentences. Those judges who sit in those kind of courts and who merely spend a great deal of time deciding how long someone should be in custody have a very real opportunity to deal with a population that can so easily be reached and helped through some very straightforward, low cost, manageable procedures which you can find in this manual."

"After two or three of these proceedings with no more than 20 defendants per proceeding, the public defender and I talked about a psychological barrier about people being afraid to come down to court, afraid of what that judge is going to do."

"So we decided we would hold a court session at one of the homeless shelters. Administratively, the clerks did a fantastic job of transferring the San Diego Municipal Court from a downtown courtroom facility to a meeting hall in the shelter. This cemented the commitment of the San Diego Court to a HCP program. I wanted the homeless to appreciate our commitment to making justice serve their needs by going into the shelter."

Honorable Judge David J. Danielsen, Superior Court San Diego Judicial District

"The HCP process is the opposite of regular court. In a regular court setting the defendant pleads guilty and then we expect him to do certain things. For HCP, the defendant has already made a commitment to a program, has done volunteer work, in effect created a currency for the work you want them to do. At court, they are done; you congratulate them and use the currency to settle accounts. In a regular court setting, the attitude is, you owe me and after the court session, the currency still needs to be created."

"The benefit of the HCP is that you are dealing with alienated people, people who don't trust us to have their best interests at heart. They need positive reinforcement and immediate payback for the good work that they have done."

"Judges get cynical --- we see way too much failure. Sometimes, judges need to recharge and have successes. HCP is a win-win situation: judges get immediate results and defendants leave feeling like the system respects them. Judges get tired of everybody failing --- judges need victories too; the HCP balances out the negativity."

"We need to do something that speaks to the heart and gives us emotional satisfaction. The HCP does not offer power, prestige, money --- it just gives those involved a good feeling."

"Just look at how many people are at odds with the criminal justice system --- check the number of outstanding warrants --- if you do this and go no further, it is just punishment, maybe amnesty programs are the way to go. You need to be able to think in broader terms. You never know..."

"The HCP targets a population that has taken affirmative steps, has made a commitment to do something positive and has followed through. They need to have currency available so that the

Judge feels free to make something good happen. The clients need to be ready --- HCP is one of the later pieces in the puzzle of reintegration.”²²

Honorable Judge Leo Valentine, Superior Court San Diego Judicial District

“The day-to-day issues in the homeless community are at the heart of the justice system. These are really quality-of-life issues, the ones that have no *mens rea*, no intent. Meaning there is no criminal thinking about illegal lodging, it is a lifestyle or life situation offense.”

“By the time an individual gets to HCP through the shelters and rehabilitation centers, the person has done everything the court would require them to do. HCP rewards them for the steps already taken to get back on their feet and to regain control of their lives. In essence, the court is providing retroactive support and attempting to tailor the terms and conditions of sentencing to further the rehabilitation that these homeless individuals are participating in.”

“At the beginning of each HC session, the judge should make a declaration about not sending anyone to jail. The court’s objective is to tailor the terms and conditions to address each particular situation. The alternative sentencing should be related to community service where the participants continue in the same environment that brought them to the HCP, the shelter programs and service providers, instead of imposing impossible sentences. The homeless may not be able to pay the minimum in restitution fines. In fact, judges should be given the discretion to find ‘unusual circumstances’ and substitute community service for fines when determined appropriate.”

“HCP should not handle felonies, except for perhaps probation offenses. HCP could become multi-jurisdictional if the system becomes paperless. This would make it easier to clear all records, especially those of homeless people who appear in one court and who have misdemeanors in other jurisdictions.”

“HCP is more perfunctory--the homeless who appear have done all of the hard work. The providers who helped folks get to where they are at are the ones who do the hard work.”

“HCP makes a difference. Many of these people wouldn’t be in the system if the government did what it should be doing. This is the real quality of life issue.”

“It is important that the HCP judge is flexible to relax the court stringent protocol when necessary. Once, a judge asked me if HCP reduces the dignity of the bench. I informed him that many of the homeless are veterans who have placed their lives on the line for this country and have genuine and utmost respect for our flag and our courts. Though, if he’d walk through the neighborhood he’d see the streets filled with many of these same individuals. What dignity exists there? This is not about the dignity of the courts. HCP needs judges who are sensible.”

“I always started HCP with the flag ceremony. It is important to remind ourselves that we are part of and partaking in something bigger than we as an individual, the spirit that created our country.”

²² Kelly Deddel Johnson, The Institute on Crime, Justice and Corrections, George Washington University, 2000.

"No matter who the person is, no matter what they have done, they always deserve to be treated with respect."

"When the clients get here, they are already well on their way to 'turning the corner,' which is good to begin with. The HCP simply serves to recognize their hard work, and to clean up their court cases."²³

Honorable Judge Bonnie Dumanis, Superior Court San Diego Judicial District

After the court session, Judge Dumanis spoke about Mr. Helms, a former homeless court defendant.

"He's getting back on his feet, clean and sober, and he's taking personal responsibility for his past behavior. He turned himself in on a warrant, not knowing if he'd be taken into custody. That takes a lot of courage."

"The programs we deal with here and the certification certificates they present have far more substance than in the regular courtroom. They show practical skills, budget skills, reading, and math."

"I'm trying to get across to the defendants, we're proud of you. Anyone can be down on your luck, but not everybody picks themselves up and starts over again."

"We're recognizing or rewarding their achievements, which is something many of these people never had before."

"This is building community partnerships. These programs are doing a community service for all of us, and by working with these community programs the courts are reaching out beyond traditional boundaries; the four corners of the courthouse are expanding to the community. We are reinforcing positive behaviors."

"I'm awed at the fact that these people, who've had so many problems being homeless, down on their luck, care enough to take care of their legal responsibility and most of these cases are related to the experience of being down on their luck."

"It reaffirms my belief that there are many good people who get caught up in bad situations. And they sometimes do bad things, but that doesn't necessarily mean they're bad people. Teaching them to be responsible for their behaviors and holding them accountable is the job of this court. They don't get anything here for nothing. They have to put give into their program, their community, or their self-development before they have a case dismissed."

"To my colleagues on the bench, coming out here is a dose of reality. You see people in the environment in which they have to live. Although the shelter is a wonderful facility, it's not a great way to spend the rest of your life. Sometimes, when we see people in court, we have kind

²³ Kelly Deddel Johnson, The Institute on Crime, Justice and Corrections, George Washington University, 2000.

of sheltered view--you don't know much about where the person comes from and what's going on--like the lady who is living in a doorway who took the trouble to get the permission of the owner and take the right steps as minimal as they may be to survive. She, who lives in a doorway, came in to take care of her legal matters, and that means she has to take responsibility for her actions and her life."

"Moving the courts into the community is one more step in the community-oriented problem solving that law enforcement has adopted and which has proven so successful in reducing the crime rate and making the quality of life in these communities much better. The court is doing its part in meeting the homeless half way."

Honorable Judge Peter Deddeh, Superior Court San Diego Judicial District

"The HCP requires the client to do something up front before he/she receives a benefit from the court system. HCP is structured so that it forces people to address their substance abuse issues and, the process moves them in the right direction and rewards their successes. From a judge's perspective, HCP is very satisfying. Typically we deal with people's failures and punish them *accordingly*. During a HCP session however the atmosphere is completely different. The clients have already made great strides toward sobriety and the judge can verbally reward and compliment people who are successful."

"The HCP success is not just about being clean and sober. The by-product of the recovery is the enhanced self-esteem of the participants, which leads to success in other areas of their lives. For example, several HCP graduates have brought in some incredible artwork to court. These are extremely talented people. For some, they cannot achieve their professional goals until they commit to sobriety. The HCP's informal format allows these truly amazing painting and drawings to be displayed and appreciated by all."

"Finally, while many courtroom formalities are observed, there are opportunities for the client and judge to converse about an individual's successes. With the judge standing at a podium, face-to face with the HCP graduate, the proceedings are somewhat like an awards ceremony rather than a staid, tense sentencing hearing. This informality is an important aspect for the HCP concept, because it allows an authority figure to officially and publicly recognize the achievements of those who have worked so hard to gain sobriety and self-respect."

Honorable Judge Robert Coates, Superior Court San Diego Judicial District

"It costs us almost nothing. We have a court clerk, a bailiff, a judge, and we bring the case files and they provide an auditorium and the deals are made and essentially, I mean, what's the judicial assignment? Chat with folks, stare in their eyes, give them a little hope, and say, 'it is so ordered.' It's really a rather simple mechanism it seems to me. It's easy for me to say that, but it seems just breathtakingly simple."

Honorable Judge D. Ronald Hyde, Alameda Superior Court Judicial District

"In 2000, we conducted our first HCP. We combined three jurisdictions into one event, Alameda, Contra Costa and San Francisco Counties. It was the first multiple jurisdiction court. We would go to the tents and find people. There were two chairs, one for the clerk and one for the judge. The DA and the PD were in adjoining tents conducting sessions, when there was a break I would wrap up traffic matters, which would go to the DMV and the records would then be cleared. HCP is a very wonderful thing to do--it is not a hand out it is a hand up. Homeless people with warrants are reluctant to try and obtain social services. If they try and clear up warrants by going to court, they may lose and then all of their belongings will be confiscated when they go to jail. They will have to start all over."

"For our Stand Down, students from JFK law school act as interviewers as part of the HCP process. They do the interviews and need to fill out the forms (the homeless have bad handwriting). The PD and DA from each county need to have a lead person to receive faxes and to distribute the "corpus" and DMV warrants. Runners gather files and deliver them to directly to the judges. We have clerks on site but no marshals-no badges, guns, uniforms-they are not allowed on federal lands."

"There were veterans from 13 different counties. I would write a letter to different judges explaining what happened at our Stand Down event and ask for the misdemeanors or infractions in their jurisdictions be expunged. I received an affirmative response from a judge in San Mateo. The system is working."

"I think judges should have statewide jurisdictions over infractions. That way if a homeless person comes before me, I can help him or her with the record from another part of the state."

"This year, we are having another HCP session at Stand Down --- we invited eight counties and are waiting to hear back from three of them. After Stand Down this year, we will have 60 new beds ready for people who want to stop being homeless."

"We had one couple renew their marriage vows in front of everyone. Leo was dying and May did not think he would make it till the next one."

"We made a video, and I hear it is up for an award."

Honorable Judge John E. Dobroth, Ventura Superior Court

"Consistent with the discretion the courts, the police and other agencies exercise in dealing with low-level offenders, we have instituted a court for homeless citizens who often have medical, addictive and emotional problems."

"We hope to discover if this approach will decrease recidivism as well as the police and court resources expended on these cases."

“While court outreach and restorative justice programs are important, that consideration is secondary to the simple practical advantage of finding alternatives to the traditional cycle of arrest/jail/reoffense for those the society must serve in some way.”

“When I got involved”, one judge remarked, “I realized in this setting how insignificant the Judge is. This program will not work if it is judge-driven. It is the work of the defense attorney and the cooperation and tremendous buy-in of the prosecutor. From there the Judge’s work is easy.”²⁴

G. Courtroom Security

The HCP is structured like a regular court with a judge, bailiff, clerks, public defender, and prosecutor. The physical arrangement is the same as a regular courtroom, except the HCP is held on the handball court at Stand Down or the shelter community room at one of two local shelters.

Deputy Marshall, Dennis Edgecomb, states, “I have been with the court at Stand Down for 12 of the 14 years. I have been present at a number of the HCP sessions at the local shelters. I always wear a uniform. I wear all of the traditional gear, including a gun. I have never drawn my weapon. We have never had a single security incident at Stand Down. The participants at Stand Down show respect for my position. Their respect makes it easier for me to keep a low profile.”

There are two bailiffs at Stand Down. “More than two bailiffs would be too many,” says Egdecomb. “I stay close to the judge, sometimes, visual contact is sufficient. We do not need to be visible. We do not interfere with the community event of Stand Down. We appear at the HCP with the attitude that we are there to help, not make arrests. We do not look for problems. We do not take law enforcement action.”

“To have a successful HCP,” Edgecomb states, “other courts need to educate their communities to the benefits of the program. The ground rules are simple:

- No arrests – No jail
- There is no need to instill fear to gain respect for authority figures
- There are no problems if everything is planned correctly
- Participants should be free to talk with the bailiff
- It is important to thank all who participate”

At the HCP, the security frame of mind should be, “if you want it to work, it will work.”

²⁴ Kelly Deddel Johnson, The Institute on Crime, Justice and Corrections at the George Washington University, 2000.

V. SAN DIEGO'S HOMELESS COURT PROGRAM, STEP-BY-STEP

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

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", and "Agreement to Appear" (See Appendix), 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." (See Appendix). 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 hearing 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 pending case is being handled.²⁵

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

²⁵ For homeless individuals, any interaction with the police can be a traumatic and frightening experience. If the interaction occurs after the homeless person begins the HCP process, the piece of paper allows the homeless person safe passage and no fear of incarceration.

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.

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 presented for sentencing and resolution by the Judge.

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. No felony charges or offenses committed outside the San Diego City courts are calendared for HCP.²⁶

The court clerk records each case number onto the Interest List and indicates whether or not the defendant has any prior cases. The clerk sends back the completed Interest List and prepares court calendars for the originating shelter, the public defender's office, and to the city attorney's office for review and plea negotiations.

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. The county clerk forwards the calendar to the city attorney's office, the public defender's office, the host shelter, and any other shelters that submitted a list of potential participants and wish to see the docket.²⁷

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

²⁶ No outside cases are handled at the present time due to jurisdictional constraints, although there are future plans to allow outlying cities' cases to be cleared.

²⁷ For a homeless individual, the quick resolution of all issues at one time is extremely beneficial-there are no more court appearances and no threat of incarceration. Public benefits can now be accessed as well.

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 highlights (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 a 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 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; while, the judge is seated at a below eye level bench which is also used as 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.

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.

San Diego's Homeless Court Program Calendar

The monthly HCP responds to the shelter list of participants who are seeking assistance in putting their criminal cases behind them. Shelter representatives must deliver their "Interest List" of participants seeking access to the HCP to the public defender (the last Wednesday of the month). The shelter must ensure that the prosecution and court obtains this information and that it is legible and complete. The correct spelling and dates of birth are essential to locating the participant's cases in the court computers. The monthly color-coded calendar marks the weekly steps of the HCP to ensure everyone knows the time, date and location of the counseling and court dates. Before DOJ/BJA funding, the shelter lists were produced on a sporadic basis, averaging four per year. With the production of each list, the court clerks, prosecution, and defense attorneys would meet to discuss the time deadlines and dates for the court hearing. The HCP would then set the dates for the counseling session and the court hearing. These dates were relayed to the shelter, which passed it to their residents.

The Vietnam Veterans of San Diego (founders of Stand Down) and St. Vincent de Paul Village (San Diego's largest shelter) host HCP hearings on alternate months. The list of shelters where a homeless person can sign up for HCP include, but are not limited to: San Diego Rescue Mission, Salvation Army, Vet Center, County Medical Services, Rachel's Women's Center, and Episcopal Community Services/Friend To Friend.

Monthly Calendar

On the first Wednesday of the month, the public defender receives a list of referrals from the shelter and homeless program staff. The public defender gives the list of names to the prosecution who runs a check of the offenses in the target geographic area.

On the second Wednesday of the month, the public defender meets with the clients at the shelter to discuss the cases which appeared on the list and to see if other offenses need to be added.

On the third Wednesday of the month, the public defender counsels the clients before the official court session. The court session is usually held on the third Wednesday of the month, unless there are five Wednesdays and then the schedule is moved back a week.

On the fourth Wednesday of the month, the public defender compiles statistics and touches base with all of the HCP participants to ensure the smooth running of the program.

VI. PLEA AGREEMENT & ALTERNATIVE SENTENCING

Plea Agreement

The HCP's plea agreement recognizes the challenges brought to the criminal justice system when homeless people appear as defendants. In the traditional court setting, the criminal justice system challenges homeless people with obstacles that push them further outside society. The homeless defendant is still homeless after being sentenced to pay a fine or serve time in custody. The court, prosecution and defense become frustrated with the system's inability to address the problems homelessness represents. Some see homeless people who repeatedly return to court as unresponsive and social misfits. They misinterpret their lack of response to court orders as disrespect for the court and society. They see their accumulation of cases, the type of offenses they acquire, and their failure to appear in court as character flaws and disrespect for the court and society.

The court, prosecution and defense feel frustration and despair in their own lack of effectiveness. The court can "get tough" and increase the defendant's fine or time in custody. However, a court ordered \$100 fine is as insurmountable as a \$500 or \$1,000 fine for a homeless person who lacks money for food, clothing and shelter. The court increases punishment to send a strong signal that continued criminal behavior is not tolerated. Although the threat of custody provides the shelter and meals not otherwise available to someone living on the streets, it does nothing to substantively address the plight of the homeless individual. After the traditional court hearing, the homeless defendants pick up their court orders from the clerk's office and head back to the streets. The message is lost to a homeless person who has nothing to lose, who has already lost everything, and is imprisoned to the streets.

After an appearance in the traditional court setting, the homeless defendant is in no better position to find housing, lead a full productive life, or remain law abiding. In fact, if the homeless defendant leaves the courthouse with a newly tarnished record, he/she is in a worse position to access much needed public assistance, substance abuse and/or mental health treatment, and employment.

The HCP offers a different plea structure from the traditional court proceeding. This plea structure acknowledges the fact that homeless people with criminal records are often precluded from accessing vital services.

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.

The HCP plea agreement responds to these problems when it:

- 1) Promotes access/Encourages use of the court process
- 2) Clears court dockets
- 3) Saves time and money
- 4) Is efficient
- 5) Is effective

The HCP addresses a full range of misdemeanor cases. "We have all kinds of cases," says Marcella Ordorica. Marcella Ordorica, a deputy prosecuting attorney for the City of San Diego, says the plea agreement takes into account what the offender has done while exchanging fines and the traditional sentencing options for rehabilitation and restorative justice. The agreement recognizes the contribution participants make "after the fact" of their offense. The HCP "participants create their own probation." According to Ordorica, we are getting far more from the HCP participants than the typical offender. The HCP participants do more than the typical misdemeanor offender does.

Ms. Ordorica states, "We want what is better for the community. We reward the positive efforts they have made, efforts that indicate they are less likely to re-offend." Ms. Ordorica continues, "They give *more* than traditional court participants. It is not that we expect or ask more from them. It is not because we have asked for their rehabilitative efforts. Their incentive to participate in the program activities is their own, not from the court. For example, a traditional court defendant facing a petty theft charge may receive a sentence for three years of summary probation, a \$300 fine, an 8 hour shoplifter anonymous class, a stay away order, and told to pay restitution to the victim. We do not want to *always request* fines from people who do not have money."

"The HCP plea agreement recognizes the proactive hands on rehabilitation," said Ms. Ordorica, "like the Challenge To Change course at St. Vincent de Paul, is more likely to prevent a homeless defendant from committing other offenses. The HCP is addressing the real issues. The HCP gives the prosecution more flexibility and creativity. The person appearing with their advocacy letters and supporting documentation becomes more human. The HCP is super effective in clearing cases. In the traditional court, we order them to become active after the court hearing. In the HCP, we know that they have been proactive *before* they appear in court."

Graduated Sanctions

San Diego has no formal written policy on returning to HCP. Participants who return to the HCP with new cases will face greater review before their cases are addressed. This review will evaluate, in part, their past appearance asking how long ago it was, how many new cases they have, and in what current program activities are they participating. The San Diego HCP will closely monitor return clients depending on the individual merits of each case.

In recognition that the symptoms of homelessness are difficult to cure in one clean shot, the Ventura HCP instituted guidelines for repeat offenders. In Ventura, repeat offenders will be given increased sanctions if they reoffend and then choose to participate in the HCP program again. Reoffenders are limited to three repeat offenses in a 12-month period. A second referral within a one-year period will result in doubling of the community service sanction. For the third

offense, the sanction is tripled and the defendant is barred from participating in the HCP program for a 365-day period.

Referral agencies, the Office of the Public Defender, the Office of the District Attorney, and the court's criminal/traffic unit will track repeat offenders in determining eligibility for calendaring cases. A recipient's repeated failure to reduce recidivism may be considered in determining whether the alternative sentencing that the HCP provides should be replaced with traditional incarceration.

Felony Charges

The HCP does not address felony charges. However, if a homeless person has felony charges, the public defender can help coordinate the surrender of a defendant in the courthouse proper, indicating that he or she has come from the HCP. The few participants who have felony cases are usually charged with offenses such as petty theft with a prior or a drug offense. There are typically two benefits to voluntarily surrendering to the court. Primarily, the court tends to look favorably on those individuals who walk in voluntarily, believing that he/she will cooperate with the court process. Furthermore, when the court sees that the homeless person is actively involved in positive treatment and activities, the court is less likely to interrupt that process by taking that person into custody.

Parking Tickets

The HCP does not have jurisdiction to help with parking tickets since parking tickets do not bring a threat of custody. However, a large percentage of homeless people live in their automobiles, and many are not able to afford registration or parking meter fees. The accumulation of unpaid parking tickets can result in the impoundment of their vehicles, ultimately forcing people to live on the street.

Alternative Sentencing

The HCP "sentences" participants to activities in the shelter program. The alternative sentencing structure is not coercive or punitive in nature, but designed to assist homeless participants with reintegration into society. With alternative sentencing, the HCP gives "credit for time served" for the participants' accomplishments in shelter activities. These activities include, but are not limited to: 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. When the participant works 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. It is important to note that 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. He/she may submit proof of activities from agencies outside the HCP.

The HCP is strongest when participants come to court prepared with detailed advocacy letters, certificates, and other support documentation. The advocacy letter is symbolic of the

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relationship between the client and the agency. The advocacy letter should include: (1) a description of the service provider and its program, (2) the client's start date and accomplishments, (3) programs completed or in progress, (4) insight into the client's efforts and demeanor, and (5) long-term goals. Examples of positive steps that show affirmative efforts are: staying sober, remaining in shelter programs, attention to personal hygiene, use of education and job training resources, treatment (physical or mental health), and volunteer work. While generally, more information is better, efforts are made to protect a participant's privacy. The central component to the HCP's success is the participant's level of preparation.

The advocacy letter is also an important source of information for the court. It is independent verification of the individual's efforts and progress. With advocacy letters in hand, the court has concrete evidence that the participant is working hard in his/her program. This eliminates doubts the court might have concerning the ability of the participant to complete tasks and whether its orders will be satisfied.

The HCP has proven that the court does not have to threaten participants with custody to ensure compliance with its orders. The advocacy letter precludes the need for review hearings. The participant's motivation is internalized and does not require external threats. When the HCP acknowledges and honors an individual's efforts described in the advocacy letter, the court strengthens his/her self-esteem and resolve while making it more likely he/she will continue independent of the court process. The advocacy letters generally contain some elements of traditional probation conditions; the HCP difference is that the participant presents his/her accomplishments at the first hearing, not the last.

VII. FREQUENTLY ASKED QUESTIONS

Why a homeless court?

The homeless in any community have enough barriers to becoming successful members of society. We want to remove one barrier and encourage the progress each individual homeless person make.

Why meet at a shelter? Doesn't that show disrespect to the court?

The HCP meets at the shelters to ensure access to the court system by the shelter participants. Transportation and the costs involved in getting around add up, and we strive to ensure that the homeless participants can make it to the court.

The judges who preside over the HCP enjoy seeing the defendants in a positive environment. The judges who preside over the HCP also relish the sense of success that it breeds. It is not an everyday occurrence for a judge to see a defendant proud of being able to purchase a trolley pass or show off her artwork. Judges feel a sense of accomplishment in the HCP. Instead of punishing people, the judges are acknowledging and rewarding them for their successes.

The HCP seems more relaxed — is it a real court?

The HCP is a fully recognized legal proceeding. The judge wears a robe and the bailiff is present, though no security measures have ever needed to be taken. However, the HCP is more informal than a traditional courtroom; the judge and the clerks sit at a table and the judge carries on a dialogue with the defendants about their progress and participation in different programs.

Are program staff able to utilize HCP as a platform to educate and inform other court jurisdictions about the needs of the homeless misdemeanor population?

Numerous courts around the state program have requested information about the HCP. At the 2001 California Judicial Administration Conference, located in San Diego, California, prosecutors, program staff, and HCP defendants participated in a panel discussion about the program. Approximately 50 California judges expressed interest in starting similar programs.

The HCP's ability to inform and educate other communities can be seen through replication efforts throughout the state. There are programs in the following California counties: Alameda, Los Angeles, and Ventura. The success of the HCP program caught the attention of local and national media (both print and television), although the total number of newspaper articles and news stories that have been written or otherwise produced is unknown. Conference presentations as well as the media coverage of the program have enabled the HCP program staff to inform other jurisdictions about the needs of the homeless misdemeanor population and the benefits of the HCP.

How can I start my own HCP?

Although there is no one way or first step that will be universal for all cities, here's a list of suggestions to guide you as you develop a Homeless Court in your area:

1. Assess the needs of your community.

How many people are homeless in your community? What are the greatest needs of those people who are experiencing homelessness? What kinds of legal problems do they have?

2. Approach all of the "key players" -- the judges, clerks, public defenders, prosecutors, shelter/service providers and the homeless clients that they serve.

In order to create a successful Homeless Court Program, it is critical that you engage each of the key players during the initial planning stages. Furthermore, it is important to establish trust and confidence with the shelter/service providers and their clients. Finally, advocates have been supportive of San Diego's HCP largely due to the fact that the program is voluntary and not punitive in nature.

3. Contact jurisdictions that have already established Homeless Courts, and ask for guidance.

In addition to San Diego's Homeless Court Program, a number of other jurisdictions have created similar programs, including: Ventura County, CA; Los Angeles, CA; Bakersfield, CA; and Bernalillo County, NM.

We highly recommend that you start a program to meet the legal needs of homeless people in your community. If you have questions, please contact the San Diego Homeless Court Program through the ABA Commission on Homelessness and Poverty at (202) 662-1693 or via e-mail at homeless@abanet.org.

THE SAN DIEGO SERVICE PROVIDER TOOLKIT

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Homeless Court

Agenda Item #3.2.

The Homeless Court Program

The Homeless Court Program (HCP) is a special Superior Court session convened in a homeless shelter where homeless participants can voluntarily resolve outstanding misdemeanor offenses and warrants. The HCP builds on partnerships between the court, the prosecutor, the public defender, local shelters, service agencies, and homeless participants. It works to resolve the problems that homelessness represents with practical and effective solutions.

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 services and sentencing alternatives provided by the homeless agency that referred him/her to court. Rather, the participant is encouraged to participate in a program and services that will best meet his/her needs.

The homeless service agencies and providers are the gateway to the HCP. Initial referrals to Homeless Court originate from shelters and service agencies. The prosecution and defense review the cases, and participants are counseled before the court hearing. Fines and custody are replaced with participation in service provider programs completed prior to appearing at the HCP session. Cases are dismissed and serious charges are reduced in consideration for demonstrated accomplishments in program activities. The HCP is designed for efficiency; the majority of cases are heard and resolved in one hearing.

To counteract the effect of criminal cases pushing homeless defendants further outside society, the HCP 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.

The Homeless Court Program brings the law to the streets, the court to the shelters, and the homeless people to self-sufficiency. The Homeless Court Program provides access to court for homeless defendants by working with homeless service agencies, holding proceedings in provider agency community rooms, and recognizing individual accomplishments in agency services for purposes of resolving each case.

The History of the Homeless Court Program: Inspired by Homeless Veterans

Clients illustrated the need for a different approach from the traditional criminal justice system process and provided the inspiration for the Homeless Court Program. The Homeless Court Program began in 1989 at San Diego's annual Stand Down, a three-day tent community with a cornucopia of services created by Dr. Jon Nachison and Robert Van Keuren. Sponsored by Veterans Village of San Diego, Stand Down aims to break the isolation experienced by homeless veterans living on the streets. The HCP was developed in response to the exit survey from the first Stand Down in which 116 of 500 homeless veterans stated that their greatest need was to resolve outstanding bench warrants. Homeless veterans inspired the misdemeanor criminal court to leave the courthouse and join the Stand Down effort.

The Stand Down event provides a three-day window of opportunity for homeless veterans to overcome the isolation of the streets, link with services, and resolve their outstanding misdemeanor cases. The origin of the HCP at Stand Down provided the framework and baseline to eventually expand access to court to the general homeless population through monthly sessions, broadening its scope and promise.

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Recognizing the efficiency of the Homeless Court Program at Stand Down as well as the growing demand of outstanding warrants and the desire for

homeless people to address their criminal legal issues, the Homeless Court Program expanded from an annual event at Stand Down to a monthly session

The Homeless Court Program at Stand Down

The outreach campaign for Stand Down includes the distribution and collection of participant "applications" for the three-day event. This application is really a mechanism for participants to signal their intention to attend Stand Down and express their interest in having their misdemeanor cases pulled by court clerks to be heard on site.

The Homeless Court at Stand Down begins alongside three gray concrete handball court walls on San Diego High School's athletic field staged with folding tables and chairs. Desert military camouflage netting shelters the court from the sun. The flag of the United States anchors one corner; the State of California's the other. The defendants appearing before this outdoor Homeless Court are veterans who live on the streets of San Diego, but for three days they are sheltered in tents, receive employment counseling, housing referrals, medical and mental healthcare, and other social services thanks to Stand Down.

On the first day of Stand Down, the prosecution and defense attorneys commence the disposition of cases at 8:30 a.m. When the participants arrive on the handball court to address their misdemeanor case(s), the court clerks check them in, pull their cases, and deliver the court file to the prosecution. The defense attorneys review cases with participating veterans, discuss their need for services to establish terms that satisfy court orders, and formalize plea bargains.

The HCP process differs from the traditional court process by providing credit for accomplishments in program activities completed prior to the court appearance. The disposition agreement developed for the HCP at Stand Down resolves cases (with 90% dismissed on site) by recognizing the defendant's efforts to address the underlying problems their homelessness represents. Those participants who will have all of their case(s) dismissed and are not entering a plea to any charge or case move to the on-site "bail office" to receive a court docket. The participants who do enter a plea or seek credit for their accomplishments in program activities during the event receive a conversion of their outstanding terms, and conditions of probation are set for the following day's court hearing. The court clerks generate court calendars to ensure a smooth court session the next day.

On the second day, the on-site court proceedings are held from 9:00 a.m. until noon. The veteran's voluntary participation in on-site program activities during the Stand Down event satisfies court orders for sentencing. Veterans receive documented proof of their accomplishments on the back of their Stand Down-issued registration card which indicate the services they accessed and participated in during the three-day event along with the dates and times for future meetings with service providers.

The court clerks set a future hearing/follow-up calendar in the courthouse for complicated cases not heard during this Saturday session. Difficult or complex cases (e.g., felonies, threat of custody, domestic violence, or Proposition 36 cases) are discussed with participants who are then encouraged to pursue a court date in the downtown courthouse. Due to budget constraints, participants are not able to sign up for court on site. However, defense attorneys counsel Stand Down participants and direct them to the next monthly HCP calendar. These participants immediately sign up for on-site programs at Stand Down designated for alternative sentencing to facilitate the disposition of cases at the future hearing.

open to the general homeless population. In 1990, it began to serve battered and homeless women; in 1994, it included residents at the city-sponsored cold weather shelter; and by 1995, it encompassed the general homeless population served at local San Diego shelters. It went from a court that convened once a year at Stand Down, to meeting quarterly, and since 1999, it has held monthly sessions. Thanks to a grant from the Bureau of Justice Assistance and the Department of Justice, the Court alternates monthly between two shelters: St. Vincent de Paul Village and Veterans Village of San Diego. This grant supported all the key players of the HCP to underscore the importance of collaboration with recognition of the unique contribution from the provider community.

The success of the HCP at Stand Down highlighted the value of the court's work with homeless service providers who address the varied issues associated with people living on the street. Acknowledging an abundance of criminal actions filed against homeless people who are unable to pay fines and unable to appear in court due to the daily struggle for food, clothing, and shelter, the HCP works with providers to find solutions that resolve the root causes of the participant's homelessness as well as the underlying criminal case.

The root causes of homelessness might include economic hardships, mental health issues, disability or health issues, substance abuse, unemployment or low wages, family issues, etc.

Currently, 17 communities throughout the State of California have established Homeless Court Programs. Numerous cities across the country, such as Albuquerque, Ann Arbor, Houston, Phoenix, Milwaukee, Minneapolis, and Vancouver have since replicated the program.

Core Elements of the Homeless Court Program

HCP is a Voluntary Program

Homeless participants voluntarily sign up for the HCP, and the participant voluntarily enters the homeless service 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 certain date 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.

HCP Addresses a Full Range of Misdemeanor Offenses

The HCP addresses a broad spectrum of misdemeanor offenses including charges of being under the influence of a controlled substance, theft, and driving under the influence. The HCP recognizes people can overcome great obstacles and serious misdemeanor offenses, and it realizes that these cases represent but one part of a life, not the whole of an individual. Participants who appear in Homeless Court with serious misdemeanor cases submit proof of completion of 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).

HCP Uses a Progressive Plea Bargain System

The HCP offers a different plea structure from the traditional court proceeding. The HCP plea agreement responds to the cases or offenses the homeless participants receive due to their condition and status of liv-

ing on the streets. Additionally, the HCP agreement acknowledges the efforts the participants undertake to change their lives before their appearance in court. The plea agreement recognizes the participant has completed the court order before the court imposes a sentence. In the HCP, the participant performs the program activities without the threat of custody or a larger fine. The participant completes the order before it was given because that is what he/she needed to do to make a move from the streets, through the service provider program, to self-sufficiency.

HCP Employs Alternative Sentencing

While the HCP "sentences" participants to activities in the homeless service agency program, the sentence is actually completed prior to a participant stands before the judge. 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), and counseling. These activities replace the traditional court sentence options of fines, public work service, and custody. The alternative sentencing structure is not coercive or punitive in nature, but rather designed to address the underlying causes of a person's homelessness and recognize the person's efforts to make changes to improve his/her life.

Local homeless service agencies are the gateway and guide for participants to enter and succeed in this court. Homeless persons who want to appear in Homeless Court must sign up through one of a number of local agencies and participate in approved program activities.

The Homeless Court recognizes that each service provider has its own requirements and guidelines regarding participation in the Homeless Court. Some providers require a resident to complete an assessment, an initial phase of the program, or attend specified meetings. The providers introduce potential participants to the Homeless Court through a variety of means. These agencies will present the Homeless Court as an option after the homeless person has met the entry criteria. The Homeless Court does not interfere with the service provider requirements. Requirements vary from program to program and are

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designed to facilitate life changes that result in ending a person's homelessness.

The providers perform assessments of clients and provide for their basic needs (food, clothing, and shelter), while building the motivation and support that lead clients to the services which, in turn, fulfill the court orders for alternative sentencing. The provider is in the best position to evaluate the client's needs and design a plan with attainable goals and positive outcomes. Most providers 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, identification cards, 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 service providers share the desire to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness.

The provider agency representatives write advocacy letters for each client. The advocacy letter is symbolic of the relationship between the client and the agency and includes 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.

No One Goes Into Custody

The HCP key players (judges, prosecutors, defense attorneys, and homeless 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 while the participants have committed offenses, they have also met court requirements through their work in various programs. Furthermore, the HCP recognizes that incarceration would compromise the gains made by the participant and his/her service provider since it would likely result in homelessness upon release from jail and squander the precious few resources providers have to successfully move clients from the streets to pro-

ductive lives. This agreement respects the relationship and the trust the homeless service agencies hold with the participants who appear before the HCP and also acknowledges that time spent working with these agencies is equivalent to and more constructive than "time" spent in custody.

HCP Monthly Calendar: Four-Step Process

Step One

Provider staff deliver a list of clients for referral into the HCP on an "Interest List" (see Appendix C). This list is sent to the Office of the Public Defender on the last Monday of the month. After the defense attorney reviews the list, it is delivered to the court and prosecution for the upcoming month's HCP session. The provider staff hands each client an "Agreement to Appear" (see Appendix D) once he/she is signed up for the HCP. The Agreement to Appear serves as a calendar for the client listing the date and time of the counseling and court sessions as well as the location for these meetings. This process provides formal notice that the person is represented by an attorney and taking steps to address the pending criminal charges.

The service provider need not create additional services to those already offered to satisfy the court's sentence. However, if the opportunity arises, when an individual or group presents a specialized need, the service provider can tailor its program to accommodate that need. The service agency may also subcontract or refer the individual to another agency but must continue to monitor and verify compliance with the goals set.

Step Two

The Court prepares the calendar for the hearing and the prosecution runs each person's criminal record, produces a list of their misdemeanor cases (with discovery), and offers a plea bargain for disposition on the first Wednesday of each month. The court clerks provide a draft of the calendar and the prosecution presents their list of participants and corresponding plea bargains to the deputy public defender.

Step Three

The deputy public defender meets with participants at the host shelter one week before the actual court session to individually counsel and prepare participants for court. The one-week advance in preparation for the actual hearing demystifies the court process for participants by preparing them for what will happen in court as they face the judge. It strips away the fear of the unknown. It helps to overcome the distrust of being set up for certain failure through a sentence he/she cannot afford. The attorney and client review cases and plea agreements together. They talk about the client's activities in the shelter, what part of their program has been most meaningful, and their plans for the future. Most of the clients arrive at the counseling session with proof of their accomplishments in program activities. The attorney then instructs the participants to return to their caseworkers to gather advocacy letters as well as any certificates and tokens to be compiled and brought to the court session. The advocacy letter is symbolic of the relationship between the client and the program while providing an important source of information to the court. These documents are the independent verification the court needs to address and resolve cases.

Each client arrives at the counseling session with advocacy letters to illustrate their accomplishments in program activities. Participants should bring three collated packets of their advocacy letter, certificates, and support documents to the counseling session. This information assists the defense attorney in the negotiation of cases while providing the prosecution with additional insight into the individual's progress to overcome the problems underlying the offense and move from the streets toward self-sufficiency. Clients who miss the counseling session should still attend the court session with these documents in hand.

Step Four

The defense attorney, participants, and agency case workers arrive at the Homeless Court session, check in, review negotiations, and update proof of accomplishments at 1:00 p.m. The court hearing is called to order at 2:00 p.m. This hearing is the tip of the iceberg for all the preparation undertaken beforehand. Weeks

of preparation before the court hearing make the judge's time at the shelter more efficient and meaningful. The information needed to fully address and resolve the cases is at hand. There is no need to set another court hearing to show proof of participation in a program. The prosecution, defense, and defendant have an understanding of what position they will take. They have already reviewed and discussed the matters on calendar. They are ready to present themselves to the court for its ruling and orders. While 90% of the cases are dismissed, adjudication of the remaining cases includes "credit for time served" for accomplishments in homeless service agency activities.

The court order and sentence are designed to provide a constructive alternative to fines, public work service, and custody. Instead of punishing the individual or imposing a sentence that would result in setting someone up for certain failure, the alternative sentencing strategy is designed to provide attainable goals and positive outcomes. These goals and outcomes are selected by the individual to improve the likelihood of success. The desire is to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness.

Offenses Addressed by the Homeless Court Program

The HCP addresses a full range of misdemeanor offenses. The HCP does not address felony, Domestic Violence, Prop 36, cases outside the County of San Diego, or parking tickets. However, attorneys with the Office of the Public Defender can coordinate the surrender of felony clients into the courthouse. The surrender of clients for such cases is presented as referrals from the Homeless Court Program with documented proof of participation in program activities to assist the traditional court in understanding that the client is engaged in meaningful activities.

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 a \$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

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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 (2 hours a week for 10 weeks), individual sessions (biweekly for 3 months, 15 minutes each), drug testing, weekly self-help meetings, and an exit conference.

Typically, the HCP participant has *already* been in a homeless service agency 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 homeless service agency *exceeds* the requirements of the traditional court order. This does not even include the time each participant spent in program activities meeting the providers "entry criteria" for the referral into the HCP (see Section 3, Homeless Court Provider Network, Summaries of Partners and Programs). While the program activities vary from one agency to another, these activities usually involve a greater time commitment than traditional court orders along with great effort and introspection from the participant. Program staff ensure that participants are already successful in their efforts to leave the streets before they enter the courtroom. These individuals regain control of their lives and are on the right track before they meet the judge at the HCP.

In addition, the defense has a chance to consult with the defendant a week before the HCP hearing. The consultation meeting is unlike the process in a traditional misdemeanor court where the public defender only meets with the defendant immediately prior to an appearance in court. The one-week lapse between the initial interview at the counseling session and the Homeless Court session allows the defense attorney time to meet with the client and confirm the accomplishments in service agency programs. It also permits time to identify and resolve difficult cases. 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 in person, then phone counseling can be arranged during that week. Occasionally, the defendant and the public defender meet on the day of the HCP session. The pre-hearing case review is a unique and effective feature of the HCP program.

In their basic focus the HCP and traditional criminal justice system address the individual and offense with different terms and approaches. These contrasts are laid out below.

Homeless Court Program – A period of time focus on the individual's accomplishments.

Traditional – A point in time focus on the allegation in the charged offense(s).

Homeless Court Program – Credit for work and accomplishments in program activities with proof delivered at the court hearing to reconcile the offense with current changes and success.

Traditional – Promise of future action with expectation of compliance through threat of fine and custody.

Homeless Court Program – Broad review of the individual and circumstance.

Traditional – Formal case review of criminal elements and punishment for violations.

Homeless Court Program – The participant addresses his/her greatest need and underlying root cause of homelessness in partnership with social service agency staff.

Traditional – The court order is utilized as punishment for specific behavior and as a means to deter future criminal behavior.

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The Homeless Court Process

The Homeless Court Program (HCP) builds on the core principles of transparent information sharing, meaningful and thoughtful review of individual circumstances and cases, and recognition of an individual's accomplishments that provide confidence to the court and value to the community. Everyone, including the homeless participant, knows what to expect during the HCP court hearing.

Each month, staff from the public defender's and prosecution offices, numerous homeless service providers, and the San Diego Superior Court carry out a series of synchronized steps that culminate in a HCP hearing where hundreds of cases are resolved during an afternoon court session.

The HCP relies on the relationships created and the trust engendered between all key partners engaged in the process: the providers, who work directly with the homeless participants; the prosecution (the Offices of the City and District Attorneys), who represents the people of San Diego; the defense attorney (public defender), who advocates for the homeless defendant; and the judge, who represents the court.

Member Roles

The criminal justice practitioners, homeless service providers, and participants who attend each court session play different roles and have varied functions in the court process. While the HCP represents a new and collaborative framework for conflict resolution, all participants are committed to protecting community interests, furthering justice, and guarding constitutional protections while providing opportunity and preserving the dignity and self-respect of those who work hard to overcome their daily challenges. These roles are briefly described herein.

Provider

The provider agency and caseworker offer services to participants, motivate and challenge them to make the most of the opportunities presented, and verify proof of accomplishments in program activities.

Participant

The participant works with the provider to overcome the difficulties of the past, strives for new opportunities, and achieves self-sufficiency.

Prosecutor (Office of the City Attorney and District Attorney)

The prosecutor represents the people of the state in bringing criminal charges arising out of state law and local ordinances against the defendant. The prosecutor acts to ensure public safety and individual accountability.

Defense Attorney (Office of the Public Defender)

The defense attorney (public defender) represents the participant who is accused of the crime under the law, raises a defense, and argues on their behalf. The attorney challenges the case to ensure substantive and procedural due process of the law.

The Judge

The judge hears and reviews the case and issues rulings and orders as an independent arbiter of the law.

Court Clerk

The court clerk prepares the court cases, calendar, and dockets to memorialize court proceedings and judicial rulings.

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Statement of Services, Entry Criteria, and Advocacy Letters

The service providers play a critical role in the success of the Homeless Court Program (HCP). Providers reach out to homeless individuals, address the underlying issues that cause a person's homelessness, refer clients with pending criminal charges and outstanding warrants to the HCP, monitor progress, and ultimately serve as an advocate for the participant before the court.

It is important for service providers to assist the prosecution, defense, and court to fully understand the work that occurs in program activities, the program's importance to the client, and how successful completion of the program addresses any prior concerns held by the court and the community. The statement of services, entry criteria, and advocacy letters present the provider with an opportunity to explain to the court the importance of his/her work as well as the work of the client. These documents are the vehicles for establishing a foundation for meaningful interaction and complete transparency in the HCP.

Statement of Services

The statement of services is the provider's declaration of the program and is essential to ensure the HCP key players' understanding of the program. Drafted by the provider, it helps the prosecution, defense, and court to understand the program's mission by spelling out the purpose and benefits for clients and, in turn, for the HCP. The statement of services must include the following information: name and description of program; type of services offered; target population; entry criteria for client referral to HCP; and, contact information for provider staff who will act as liaison to the HCP (see Appendix E for sample Statements of Services).

The HCP understands that the statement of services may change over time and that program activities will be tailored to client needs, available resources, program demands, and concerns for public safety.

Entry Criteria

The entry criteria is developed by the service provider agency. It establishes goals that participants

must achieve prior to referral to the HCP. Referral to the HCP indicates to the court that a client has attained certain milestones in the program. While each provider agency's entry criteria is different, it typically includes the completion of a class, a phase, or a list of individualized goals. The entry criteria statement is an opportunity for a service provider agency to highlight the program's commitment to challenging clients to make positive life changes while at the same time demonstrating their respect for court and community concerns.

Advocacy Letter

The advocacy letter is critical for successful resolution of the participant's cases on calendar as it documents the participant's accomplishments and supports the prosecution's recommendation and the court's action for dismissal or alternative sentencing in the HCP. Participants stand before the court with advocacy letters written by agency representatives and certificates that show proof of their activities, accomplishments, and aspirations. The HCP works best when participants have detailed advocacy letters and certificates that present a clear picture of the positive steps the participant has taken to make changes in his/her life.

Advocacy letters should include the following: a description of the service provider and its program, the client's start date and accomplishments, programs completed or in progress, insight into the client's efforts and demeanor, and long-term goals for the client's success. Some examples of positive steps that show affirmative efforts to address the homeless condition are: staying sober, renewed attention to personal hygiene, use of education and job training resources, physical or mental treatment, completed assessments, and/or obtaining an identification card or a driver's license.

The HCP guidelines recognize that while many letters follow the same general format, the absence of personalized information dilutes the effectiveness of the advocacy. Prosecutors and judges appreciate participants who appear before the court with personalized letters of recommendation ready to explain their circumstances and current successes. The court cannot fully resolve cases in one hearing when there is a lack of specific information to justify alternative sen-

tencing. Including detailed information is generally best, however efforts should be made to protect a participant's privacy.

With advocacy letters in hand, the prosecutors have verification of a participant's activities and can recommend that the court dismiss the case. Because the advocacy letter speaks to the participant's particular situation and accomplishments, the court is able to

review the documentation and, in the vast majority of cases (or, all but rare cases), sentences the person to previously completed activities in his/her program.

Ideally, the court will have the framework to pronounce a sentence and terms and conditions of probation with "credit for time served." In San Diego's HCP, it is rare when the court continues a case for additional proof of a participant's program activities.

What to Include in the Advocacy Letter

Include the date of entry and length of time in the program.

Define the program's focus.

Describe the client's progress and participation in specific program activities.

Provide personal observations of the client's positive steps and significant moments as well as a "before and after" comparison.

Include a statement from the client discussing what the program did for him/her, what the court should know, the best part of program, etc.

Highlight exceptional examples of the participant's efforts (e.g., extra classes, activities, or positive steps).

Finally, reconcile the past offense against the participant's current accomplishments.

For example:

If the offense is an incident of outbursts with police officers (PC 148, Resisting Arrest), the provider may

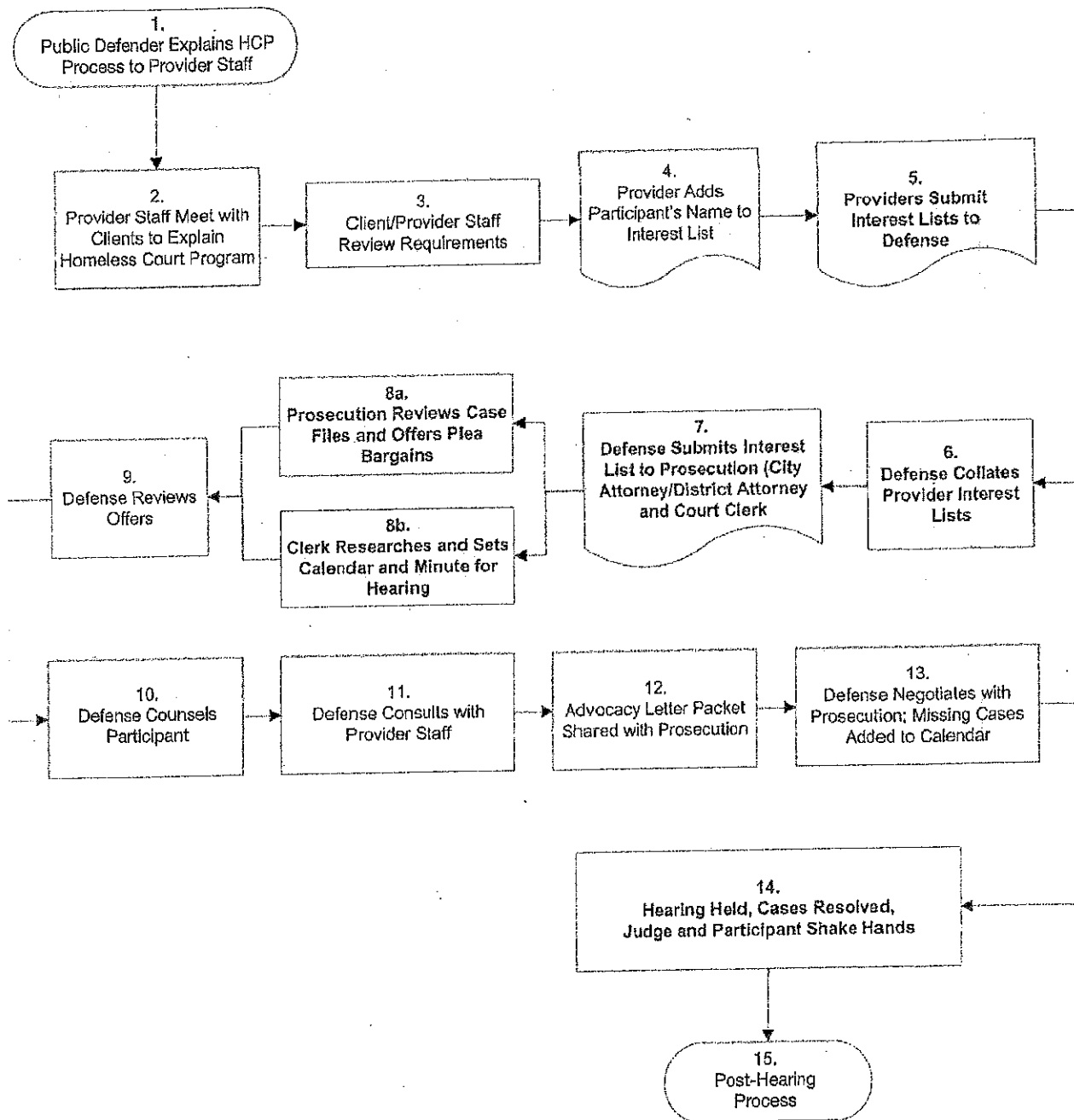
explain how current treatment has addressed the issue that prompted the participant's behavior at the time of the offense. "Participant resisted arrest because he had a psychotic episode during a period when he was not taking medication." Or: "Participant resisted because he was under the influence of drugs, however he's been clean for 6 months." This tells the court the conduct will not happen again (and addresses concerns whether the client acts out against police officers or whether his behavior is racially motivated).

If the client is charged with an open theft charge, explain, "Client needed a sweater to keep warm in the winter," or "Client turned to alcohol because he is an alcoholic but is now in treatment (and has been sober for X weeks/months)."

CAUTION – Do not explain the offense. The offense is a legal term based upon an act. This holds special consideration for attorneys. Anything you state about the act might harm your client in court.

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Synchronized Steps for San Diego's Homeless Court Program



Note: Steps printed in bold text represent the four major steps of the HCP calendar (see Appendix B).

Process Steps Summarized

1.
Public Defender Explains HCP
Process to Provider Staff

Step 1

Outreach: The Defense Attorney Explains the HCP Process to Providers

- Provider staff and public defender attorney establish contact.
- Public defender presents the HCP and its process and purpose to provider agency staff and clients.
- The provider staff drafts a statement of services and entry criteria for HCP.

The provider staff must understand the purpose and process of the HCP to prepare clients for their appearance during the HCP counseling and court sessions. The first step is to familiarize the staff in the homeless service agency with the HCP by providing detailed information on the philosophy behind the HCP and how it differs from the traditional court.

Defense Attorney Presents HCP

An attorney from the Office of the Public Defender visits a local service agency to explain the HCP purpose and process. The attorney discusses the nuts and bolts of the HCP and presents the video, *"And Justice for All: Taking Courts to the Street."* Next, the attorney explains the HCP process beginning with how to use the monthly color-coded HCP calendar, "interest list," and "agreement to appear." Lastly, the attorney answers questions and responds to issues raised during the presentation (see Appendix B for Calendar, Appendix C for Provider Interest List, and Appendix D for Agreement to Appear forms.)

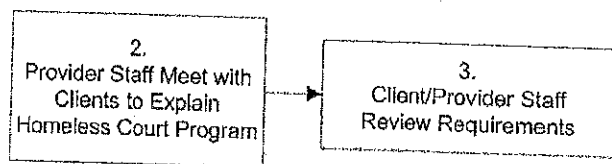
Entry Requirements and Statement of Services for Programs

Each agency establishes its own entry criteria for referring clients to the HCP. These criteria illustrate the goals and accomplishments a provider requires

participants to achieve prior to referral to the HCP. Referral to the HCP indicates that a client has attained certain milestones and is ready to appear before the court. Each provider's entry criteria are different, and might include the completion of a class, a phase, or a list of individualized goals. Entry criteria are presented to the HCP on the provider's statement of services. The statement gives voice to the provider; it highlights the importance of their work with the HCP and underscores the program's commitment to challenging clients. The statement also demonstrates that the provider is mindful of the court and community concerns and is committed to making a thoughtful and knowing referral for each client.

The HCP recognizes that each provider offers different services and that each client has individual needs and a personalized case plan to move from the streets, through a program, to self-sufficiency. Ultimately, the entry criteria reflect each provider's determined review of clients ready to appear before the HCP.

Because the primary focus of the HCP is for participants to concentrate on pulling their lives back together, the HCP does not suggest requiring volunteer work or community service as part of the entry criteria as it prevents participants from devoting the necessary time and energy to their program activities. Furthermore, the entry criteria should not set the bar too high for entry into the HCP and frustrate or exhaust the client.



Steps 2 and 3:

Provider Staff Meet with Client to Explain Homeless Court Program and Review Entry Requirements

- Provider explains the HCP along with other services offered during the client's introduction, orientation, and welcome into the program.
- Provider meets with client to develop an action plan and goals for success and self-sufficiency.

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One Time Only?

While the HCP does not encourage participants to make repeated attempts to resolve cases, there is no hard and fast rule that people can appear before the HCP one time only. While this policy is not advertised, it is understood people have a difficult time overcoming obstacles that give rise to homelessness, that economic catastrophe, mental illness and substance abuse can return and need review, constant attention and supporting guidance. Service providers are in the best position to challenge a person experiencing homelessness to work hard and make the most of the opportunities given them. You are in the best position to provide the basic services needed to challenge participants to change and strive for a second chance. You evaluate the individual's eligibility on a case by case basis.

The HCP does not turn people away simply because they have committed another offense. The service providers who refer a participant for the second time into the HCP must ask the individual why he/she has returned and what he/she needs to do to prevent another return to the problem that gives rise to the offense. This review and monitoring is the ultimate goal for our providers, court, and community – the assurance that people continue to work on problems they face. Review and preparation are necessary to assure that our clients will succeed, face their challenges and ensure our streets will be safer.

Provider Explains HCP

Every provider conducts an orientation and introduction of program activities for incoming clients that includes a welcome, a tour of the facility, and a list of all services offered—including the HCP. This introduction is the first step to developing trust and building an effective working relationship. The provider explains the HCP and what generally is required for a referral into the HCP. The HCP is presented as one option among the many programs and services offered by the provider agency. Participation in HCP is voluntary, and clients need not participate in the HCP in order to receive housing, treatment, or services offered by the provider agency.

Provider and Client Develop Action Plan and Review Entry Requirements

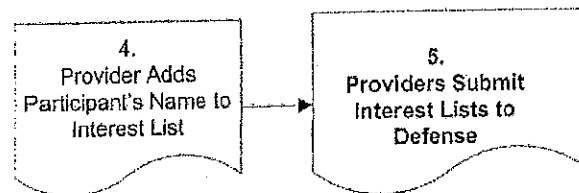
The provider staff assist clients in approaching the HCP court and overcoming the concerns or fears associated with going to court and facing a judge. The provider staff stands with the client, either symbolically with an advocacy letter or physically in person, to testify to the progress made in program activities.

The provider staff meet individually with each client who has an outstanding criminal case.

Together, they establish an action plan including a list of goals, classes, and meetings to complete along with a strategy to facilitate self-sufficiency. Ideally, the program activities selected are easily accessible directly through the provider agency. However, it is not uncommon for clients to attend program activities at outside agencies.

The provider and client discuss the entry criteria for referral to the HCP. The provider explains to the client the rationale behind the entry criteria as well as the importance of achieving certain goals and completing specific classes or programs prior to appearing before the court.

The provider reassures the client that he/she will not be taken into custody, explains that he/she has likely already met the requirements for court, and that the HCP is designed to be a positive experience. The provider shares examples of successful participants to illustrate the importance of a clear record such as the ability to access government services, housing, and employment. The provider monitors the client's progress and verifies the client's accomplishments prior to referral to the HCP.



Steps 4 and 5:

Provider Agency Compiles and Forwards Interest List to Defense Attorney

- Clients sign up on the HCP interest list and receive an agreement to appear form.
- Provider representative submits the interest list to the defense attorney at the Office of the Public Defender.

Sign Up for HCP

The provider staff meets with each client to ensure he/she satisfies the entry criteria and is ready for a referral to the HCP. Upon approval, staff from the provider agency adds eligible participants to the Interest List (see Appendix C). Participants provide their name (including aliases), date of birth, gender, and ethnicity for purpose of identification.

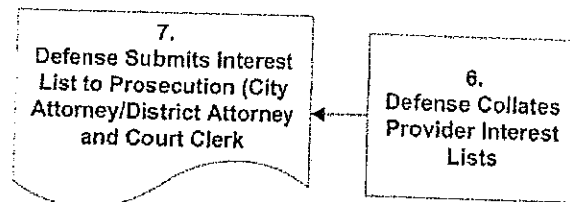
Each participant then receives an Agreement to Appear (see Appendix D). This form serves as the client's calendar for the counseling and court sessions. It states the time and location to meet the attorney for counseling and appear for court. The agreement to appear also serves as a notice to show police that the participant has a future court date to address outstanding warrants and/or pending criminal charges.

The provider staff fills out contact information (agency name, case manager, and contact person's phone number) and forwards the interest list to the Office of the Public Defender.

Submit Interest List by E-mail or Fax

The interest list is delivered to the defense attorney via e-mail or fax depending on the HCP guidelines. The provider must check with the defense attorney to determine which method of delivery applies to their agency. It is highly recommended that each provider receive confirmation that the interest list was received. If your list is submitted via e-mail you must deliver it to two people and a designated court clerk to confirm that it is properly processed. You need to contact the defense attorney for the names of the appropriate people and their e-mail addresses in order to properly process your interest list.

HCP Defense Attorney:
Steve Binder
(619) 338-4811 fax
steve.binder@sdcounty.ca.gov



Steps 6 and 7:

Public Defender Collects Interest Lists and Distributes them to the Prosecution and Court

- The Office of the Public Defender collects the interest lists from participating service provider agencies.
- The defense attorney submits the interest list to the prosecution and court clerks.

Defense Attorney Collects and Distributes Interest List

The public defender collects and reviews all interest lists submitted by various service provider agencies. The public defender then drafts and submits the master interest list to the prosecution and court clerks for inclusion on the next monthly HCP session.

Interest List and Agreement to Appear

- 1) The service provider must complete the first 6 boxes on the interest list and include the name of the client (AKA and middle initial) and date of birth. This information is essential for the court clerks to properly identify client cases and ensure that they are on calendar.
- 2) The service provider must submit the interest list before 5:00 pm on the day marked with the green box on the HCP color coded calendar. This is the deadline to submit the interest list. This list may be submitted well before the due date.
- 3) The agreement to appear form should be completed by the service provider and handed to each client who signs up for the monthly HCP session. This form tells the client when and where to appear for the counseling and court hearing sessions. Be sure to check the location of the month's HCP session. The counseling time always starts at 9:00 am. The court hearing is always marked for 1:00 pm. While the actual court hearing starts at 2:00 pm we ask that everyone appear early to check in, submit advocacy letters, and discuss updates in negotiations with the prosecution. Additionally, we use this time to review the cases listed on calendar, answer questions, and make sure everyone understands the process and likely outcome prior to standing before the judge.

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The HCP team is presently developing an e-mail version of the interest list that will be merged in alphabetical order and delivered on an Excel spread sheet to make it easier for the prosecution to research individual cases and the court clerks to build the court calendar.

**8a.
Prosecution Reviews Case
Files and Offers Plea
Bargains**

Step 8a:

The Prosecution Reviews Case Files and Offers Plea Bargains

- The prosecution reviews the interest list and researches case files and criminal history based upon the court calendar.
- The prosecution compiles a list of cases and makes an offer for resolution of cases based upon the disposition guidelines.
- The prosecution provides the offers and discovery (copies of all evidence) to defense counsel.

Prosecution Review

Based on the court calendar, the prosecution (Offices of the City Attorney and District Attorney) researches and evaluates each participant's case, criminal record, and the discovery supporting allegations against the accused individual. The prosecutor then prepares an offer for the resolution of an individual's case(s) set for the monthly HCP hearing.

Prosecution Offers Plea Bargains

The prosecution's offer for resolution of an individual's case(s) is based on the HCP disposition guide-

lines and includes careful consideration of numerous factors that include, in part:

- 1) the offense (date and charge),
- 2) state mandated terms such as custody time,
- 3) presence of violence or victim,
- 4) impact on the community,
- 5) restitution owed,
- 6) criminal history, and
- 7) if the person is a registered sex offender, whether they have complied with registration requirements.

These offers for disposition list cases on calendar (together with the relevant discovery), criminal history, impact of criminal behavior on the community, the number of outstanding cases, and acknowledgement of each participant's involvement in his or her respective program. Negotiations surrounding the offers are then conducted and resolved between the prosecution and defense prior to the court session. Because no participant in HCP is ever taken directly into custody, defense counsel and participants will be notified in advance and participants will be given a future date to serve their custody time if there is a mandatory custody term or custody is contemplated. The HCP promotes alternatives to the threat of custody short of spending time in a jail cell.

Concerns and Request for Information - Contact the defense attorney with any questions you might have about your client and his/her status to discuss appropriate referrals, prepare for the HCP session, and address the prosecution's concerns. And, when the defense, prosecution, or judge expresses a concern about a client, case, or behavior, interpret this as a matter that needs further explanation and be sure to provide an answer or solution.

**8b.
Clerk Researches and Sets
Calendar and Minute for
Hearing**

Step 8b:

Court Clerk Conducts a Records Search and Sets Cases for Hearing

- The court clerk conducts a computer records search for each participant on the interest list.
- The court clerk forwards the list of participants and cases to the Public Defender and Prosecution Offices.
- The court clerk prepares a court calendar and case minutes for the HCP hearing.

Court Clerk Research

The Court Operations Clerk of the San Diego Superior Court conducts research for the people listed on the interest list submitted by the providers. This includes research of the criminal record case for open cases, further proceeding, warrants, and pending civil assessment penalties. The only cases placed on the next HCP calendar are misdemeanor criminal cases within the jurisdiction of the San Diego Court. The clerk prepares a court calendar and case dockets for the HCP hearing. This calendar list of misdemeanor cases includes each participant and all of his/her open cases, warrants, fines, civil assessment penalties, and any other pertinent information.

Court Calendar

The court clerks send the court calendar with participant names and cases to the prosecution and defense.

Court Minute Prepared

The court minute (court papers) is the official record of the court hearing. The court clerks prepare minutes for the people and cases listed on the calendar. This is the first step for listing cases to be heard during the HCP session. The court clerks must have correct names, aliases, and proper spelling to find each client's case(s). This advanced preparation helps to ensure the court hearing goes quickly and each participant receives his/her docket in a timely man-

ner. Each client will receive a copy of the minute that explains what happened to his/her case in court.

**9.
Defense Reviews
Offers**

Step 9:

The Defense Attorney Reviews the Disposition Offers

- The defense attorney reviews the prosecution disposition packet for individuals and their case(s).
- The defense attorney contacts the client and provider to discuss challenging cases.
- The defense attorney contacts the prosecution to discuss challenging cases on calendar.

Defense Attorney Reviews Prosecution Packet

The defense attorney reviews the prosecutor's disposition offer for each participant listed on the calendar to prepare for the counseling and court sessions. This review provides advanced planning to troubleshoot potential problems and plan a response to any concerns the prosecution might have.

Defense Contacts Client

The defense attorney will contact any client who has a complicated case or a large number of cases on calendar in advance of the counseling session. The attorney will ask about the client's circumstances, length of time in the program, and goals and accomplishments in program activities. The attorney will ask questions about what gave rise to the offense to determine if and how the offense(s) occurred and what activities and accomplishments the individual has performed to address any concerns the prosecution and court might have. The defense attorney might ask for advance proof of accomplishments, detailed or additional documentation of activities, and plans to prepare for the court hearing.

Defense Contacts Prosecution

The defense attorney will contact the prosecution to address any concerns and negotiate disposition of the

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case(s). The defense attorney contacts the client and program representatives to discuss the prosecution's concerns, to develop an answer or action plan that addresses those concerns, and to explain the particulars of the participant's life challenges and successes.

10. Defense Counsels Participant

Step 10:

The Defense Attorney Counsels Participants

- Participants meet their attorney at the host provider facility.
- The defense attorney counsels each participant individually to review the criminal case(s), defense considerations, and accomplishments in program activities. The attorney also reviews the prosecution disposition agreement, explains the importance of advocacy letters and proof of accomplishments, and collects documentation of the participant's progress in program activities.
- The defense attorney collects additional information to negotiate the disposition of cases with the prosecution.

Defense Counsels Participants

One week prior to the HCP hearing, the defense attorney meets with participants at the host provider. The participant arrives at 9:00 am at the time and place listed on their agreement to appear (the date and location for this meeting is marked on the HCP color coded calendar).

The defense attorney starts each counseling session by explaining the HCP process to the group of participants, telling them the purpose for the court holding session in the provider's community room, explaining their constitutional rights, and

thanking everyone for their patience in waiting for the monthly process to unfold. The defense attorney then meets with each person individually to review and explain the criminal justice aspects of the cases and to ask about the individual's accomplishments in program activities.

When discussing the individual's participation in program activities, the defense attorney might ask which activities the person found most helpful. The attorney's one-on-one discussion with participants might also include questions about overcoming a particular hardship or simply what plans the participant has for the future. The attorney might ask the person what the court should know about them, their time on the streets, how they got into the program, or the best part of their program. This might include participation in activities outside the designated program such as community college, technical school, rehabilitation, and outside medical treatment. The court will look at the entire package of accomplishment as an alternative sentence to satisfy traditional court sanctions of fines, public work service, or custody.

During the meeting, the public defender presents each individual case and the proposed disposition offer as the worst-case scenario to help the participant face his/her greatest fears about the judicial process and prepare to address the judge.

During the consultation, the public defender also explains the importance of the advocacy letters pre-

Advocacy Letters, Certificates and Support Documentation

Providers must assemble a packet of information in support of the client to submit to the court to justify dismissal or alternative sentencing. This packet must include an advocacy letter and may also include proof of participation in classes, counseling, employment training, medical care, a list of AA/NA meetings, school records, trolley passes or driver's licenses, housing documents, etc. Providers should utilize discretion when putting this information together. It is best to submit too much rather than not enough information. Some of the documentation might be helpful or instructive for case negotiations. Some might not be used at all and held back for any number of reasons. This information packet is reviewed by the court with the understanding that the provider is in the best position to determine the underlying cause(s) of homelessness and of the offense, and the documentation supplied by the provider confirms that the client has made progress and appropriate steps have been taken to reduce the likelihood of recidivism.

pared by service providers that each participant will present to the court in support of dismissal or alternative sentencing and a successful resolution of all cases (see Appendix F).

On occasion, the defense attorney might instruct the client to bring additional or detailed proof of

program activities and advocacy letters to ensure a successful resolution of the individual case(s). The public defender might 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 rare instances, such as when the prosecution and defense need additional information about a criminal case or more proof of program activities, case(s) might be continued to a future HCP session.

Always Supply Three Copies of the Advocacy Letter

Clients should bring three copies of their advocacy letters, certificates, and support documents. These materials should be sorted into three packets – one each for the defense attorney, the prosecutor, and the court. The defense attorney reviews these documents with clients prior to court hearings. The defense attorney is mindful of protecting privacy and utilizing enough information to successfully resolve the case(s). Additionally, the client should bring any documentation they may have related to the cases. This may include DMV printouts, Alliance One (collections) letters, and citation and court dockets.

Defense Collects Proof of Accomplishments

The defense attorney collects proof of accomplishments and background information concerning offenses and life hardships to better understand and explain a client's circumstances. It is incumbent on the provider and participant to present proof of accomplishments in program activities for the HCP hearing. Ideally, this should be presented at the counseling session to ensure everyone is prepared for the hearing.

The presentation of advocacy letters and support documentation at the counseling session helps to ensure a client's accomplishments are recognized. During negotiations with the prosecution, this information helps the defense attorney to answer any concerns held by the prosecution or the court. Additionally, this assists the defense and prosecution in preparing for the court hearing as it minimizes last minute reviews of paperwork, such as those presented during check-in sessions prior to an actual court hearing.

Failure to Appear for Counseling or Court

The provider staff should inform the defense attorney of a participant's status and reason for not appearing during the counseling or court session. The provider should also be prepared for the possibility of addressing these matters even though the client is not present.

- Clients should still appear for the HCP court session if they missed the counseling session or feel they need additional time to prepare for court. If a participant is going to miss the court session (due to mandatory program activities, a medical appointment, work, etc.) he/she should make sure the defense attorney is aware of the reason for missing court and has the advocacy letter and supporting documentation. The participant must also notify the caseworker or agency representative.
- It may be possible to waive the participant's requirement to appear in person and have the defense attorney appear to resolve the case(s) with the court if all supporting documentation is in place. The second option is for the attorney to continue (i.e., postpone) the case(s) to the following month's HCP hearing.
- It is important to communicate the reason why a client fails to appear. The service provider might address the court to explain that a client missed due to relapse, a medical appointment, job interview, or a vehicle breakdown.

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11.
Defense Consults with
Provider Staff

Step 11:

**The Defense Attorney Consults
with Provider Staff**

- The defense attorney discusses client accomplishments and case status.
- The defense attorney requests updates on clients who do not appear for counseling sessions or court appearances.

*Defense Attorney Consults
Provider Staff*

The defense attorney might request that additional information regarding a client's accomplishments be tailored to the particular demands of a difficult case on calendar. The service provider can satisfy these concerns with proof of a client's earlier hardships, a description of an individual's particular circumstances, or evidence of the person's accomplishments (no matter how large or small they might at first appear or how they compare to other achievements).

Signed In but Not Ready for Court

On rare occasions, a participant signs up for the HCP monthly session but fails to comply with program rules. The client might not be ready for court for many reasons, including: relapse, engaging in an activity inconsistent with the program, or demonstrating behavior that is inconsistent with recent accomplishments. While the provider should notify the defense attorney of any changes in circumstances, the client should still attend the HCP session. This information makes it possible for the defense attorney to address the problem and explain to the client the difference between the traditional court and the HCP process. The attorney will inform the client that he/she has a choice to work with the case worker, continue program activities, and participate in HCP or appear before a judge in a courthouse. The client is then able to decide whether to prepare for the next month's HCP session.

*Defense Attorney Seeks Update for
Participant Who Did Not Appear*

The defense attorney will contact provider staff to ask why a client did not appear for counseling and encourage that person to appear for court. Ideally, the provider staff follows up to ensure they appear at the court hearing without prompting from the attorney. On rare occasions, the attorney may be able to represent the client by waiving his/her appearance with an explanation of why the person is not present (e.g. at work or a medical appointment, successfully moved out of the program to independent living, etc.). Documentation illustrating why a person is absent along with proof of their accomplishments might help the court resolve cases on calendar.

12.
Advocacy Letter Packet
Shared with Prosecution

Step 12:

**Proof of Accomplishments Shared
with the Prosecution**

- The defense attorney delivers proof of the client's accomplishments to the prosecution.

Defense Attorney Shares Advocacy Letters

The defense attorney shares proof of the participant's accomplishments—the documentation prepared by the service provider and submitted to the defense attorney by clients during the counseling session—with the prosecution. The advocacy letter, certificates, and supporting documentation are delivered to the prosecutor for review, negotiations, and further discussion of individuals and cases. These letters assist the prosecution in understanding the particulars of an individual's program accomplishments and how disposition of the case should proceed. The advocacy packet information supplements the prosecution's knowledge of each client beyond the entry criteria.

13.
Defense Negotiates with
Prosecution; Missing Cases
Added to Calendar

Step 13:**The Defense Attorney Negotiates with the Prosecution; Missing Cases are Added to the Calendar**

- The defense attorney negotiates case disposition with the prosecution.
- The defense attorney submits the list of cases missing from the calendar to the court clerks and prosecution.

Defense Attorney Negotiates Case(s) with Prosecution

The defense attorney negotiates cases with the prosecutors after they review the advocacy packet information and discuss the specifics of each participant's case(s). The prosecution's offer is generally based on the provider's entry criteria which is defined when the interest list of client names is submitted for the monthly HCP calendar. The attorneys discuss and further resolve the case(s) when they review the particulars of an individual's position, case, and accomplishments.

List of Cases Submitted for Court Calendar

The defense attorney delivers a list of additional cases that clients provided during counseling sessions and were inadvertently missing from the court calendar. Court clerks add these cases to the calendar for the following week's HCP hearing.

14.
Hearing Held, Cases Resolved,
Judge and Participant Shake Hands

Step 14:**The Court Hearing is Held**

- Host provider staff prepare the room for the court session.
- The bailiff proclaims court is in session.
- The client is called before the judge. For each participant, the defense attorney states the case disposition agreement and whether the recommendation is a dismissal or a plea and presents advocacy letters.
- The clerks give the case files to the judge.
- The prosecutor makes a motion to dismiss, when appropriate.
- The public defender asks that advocacy letters be entered into evidence.
- The caseworkers stand with clients, answer questions, and share insights.
- The judge confers with the attorneys (prosecution and defense) and renders judgment.

Provider Staff Appearance

The provider staff is the best advocate for clients concerning their accomplishments in program activities. Their presence at a court session (in a counseling session, too) helps the defense attorney to understand the full extent of a client's accomplishments. It is the provider staff who can communicate how much ground an individual covered in overcoming obstacles or who can simply explain the nature of an individual's life transition (from the streets, through the program, to success).

Sometimes clients get nervous. A client may appear anxious or troubled standing before the judge. A client might misunderstand something the court says. It is not uncommon for a client to say yes when they mean no—for instance, the judge asked one woman if she received her necklace at her program. She responded "no," when she meant yes. The necklace held tokens of her sobriety. Others might be modest or shy or have difficulty talking to the judge. Sometimes they need the silent support of their service provider or caseworker sitting the room. Most clients are not used to success or to positive court sessions. Your appearance is essential, but not mandatory, for the successful resolution of cases.

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Community Room Set Up For Court Session

The HCP hearing is called to order at 2:00 pm. Participants should arrive by 1:00 pm.

San Diego hearings are held alternately at either of two host providers (see Appendix B; host designated each month).

- St. Vincent de Paul Village, located at 1501 Imperial Avenue, or
- Veterans Village of San Diego, located at 4141 Pacific Highway.

The California and American flags are placed at the front of the room. The bailiff calls the court to order as the judge—dressed in traditional black robes—enters the room and stands at the podium face to face with each participant. This careful preparation mirrors a “traditional courtroom.” Since all case disposition agreements are negotiated in advance, the actual court hearing moves rather quickly.

Participants Stand before the Judge with their Defense Attorney

The defense attorney formally calls each participant to stand before the judge. The public defender and participant stand at the front of the room. The judge takes the bench by standing at a podium.

The defense attorney states the case disposition, says whether the recommendation is a dismissal,

plea, or further proceeding, and presents the advocacy letters. The prosecution states the recommendation for case disposition with comment of participant advocacy letters. The court clerk hands the case files to the judge. The defense attorney presents the advocacy letters to the court.

Judge Discusses Proceedings with Attorneys and Participant

Unlike a traditional court, the judge directly addresses the participant more often than the defense attorney. The judge asks the participant about what brought him/her to the court, his/her participation in programs, counseling, classes, etc., and plans for the future. The judge consults with the prosecution about the resolution of cases. The charges, warrants, and penalties are formally resolved. On average, 90% of the Homeless Court cases are dismissed.

On rare occasions, a case might be continued to a future monthly HCP calendar for additional review, negotiations, or proof of accomplishments. As in traditional court, the judge may continue a case until the defendant provides appropriate documentation to satisfy an alternative sentence agreement (such as advocacy letters).

If a participant fails to appear for the hearing, the case is taken “off-calendar” and reverts to its original status, and any agreements that have been negotiated between the prosecutor and public defender are withdrawn.

Waive Appearance of Participant

Once a client is signed up for the monthly court session, they should appear for counseling and the court hearing. On rare occasions, they might miss the counseling session due to a doctor's appointment, employment interview, or class. Maybe their car broke down or they forgot to attend. They should still appear for the court hearing. While personal contact is best, you may call the defense attorney to have your client counseled over the phone.

Once the person is signed up for the HCP, the court clerks research and docket cases. Similarly, the prosecutors conduct their research and expect the client in court. They do not pull cases off calendar. It is best for the client to appear and talk with an attorney to discuss the issues and options at hand, and for the attorney to explain the need to continue these matters. The defense attorney uses this time to explain the differences between a traditional court process and the HCP, pointing out the usefulness of continuing to work with the case worker and the program, instead of returning to a traditional court and having a judge impose a sentence.

Lessons Learned: One provider wrote an e-mail saying his client was having problems and would not appear for the month's session. The defense attorney suggested the client appear for the HCP hearing to observe the court in session, see others resolve their cases, and learn more about the contrast between pursuing case resolution in the HCP and in a traditional court. This opportunity helped the client realize there are choices, and that one was significantly different from the other. The case was continued to a future date so the client could work with the caseworker and return with additional proof of accomplishments.

15.
Post-Hearing
Process

Step 15:

The Post-Hearing Process

Court cases are processed as usual after the hearing. The court clerk:

- recalls outstanding warrants;
- issues abstracts;
- processes dismissals; and
- updates computer records.

If any subsequent action is required after the hearing, the participant should bring his/her copy of the minute to the San Diego Superior Court Business office located at 220 W. Broadway, Room 1001 during regular business hours, Monday – Friday 8:30 am to 4:30 pm.

Courtesy and respect for court personnel is expected and appreciated.

SECTION

Agenda Item #3.2.

The Homeless Court Provider Network

The Homeless Court Provider Network is comprised of the homeless service provider programs that refer clients to the HCP. The only way for a participant to enter the HCP is with a referral from a homeless service agency. This makes the HCP unique from all other collaborative justice programs. This referral process ensures voluntary participation in program activities along with documentation of progress and accomplishments. Providers recruit clients as well as other agencies to participate in the HCP. By conducting outreach and referring clients to the HCP, providers serve as a direct conduit between the criminal justice system and the often forgotten and the most vulnerable members of the society—homeless individuals.

Summaries of Participating Homeless Service Provider Programs

The provider network compiled individual statements of services to assist the other members of HCP to understand the mission and impact of their programs. These providers represent a wide array of services, specialty of populations served, and focus in treatment modalities. While their individual approaches vary, each is committed to ending homelessness. The summaries included herein contain excerpts from the statement of services along with the entry criteria clients must meet prior to referral into the HCP.

Mental Health Systems, Inc., Center Star Assertive Community Treatment (ACT)

Center Star Assertive Community Treatment (ACT) welcomes all people regardless of the challenges or problems they face, in accordance with Mental Health System's (MHS) core values of dignity, integrity, hope, excellence, action, and innovation.

Individuals presenting at our program are culturally diverse, having varying and unique needs. To address each client fully, we focus on comprehensive treatment by providing life enhancing recovery options that include integrated services related to alcohol and drug addiction as well as other behavioral and mental health disorders. Our goal is to maintain an empathetic, ethical, responsive, and professional attitude in all phases of care. We are dedicated to creating an environment of opportunity, choice, and hope.

The ACT team multidisciplinary staffing consists of mental health professionals representing different disciplines essential for the comprehensive care of people with severe and persistent mental illnesses and co-occurring disorders. The Center Star ACT team includes a psychiatrist, psychiatric nurses, case managers/dual diagnosed counselors, a substance abuse counselor, peer specialists, employment specialists, and a probation officer.

Entry Criteria:

The first prerequisite for a referral to Homeless Court is that the client is proactively working with the Center Star ACT Program on whatever issues he/she may have. Someone who is not cooperative or is actively abusive is obviously not an appropriate referral. A client who is meeting with his or her case manager regularly and is working toward mental health and/or substance abuse recovery would be an appropriate referral.

The second criterion is that the client is in stable housing. To the Center Star ACT Team, this is the first step toward mental and physical health. Someone who chooses to remain homeless after housing has been offered would not be referred to Homeless Court.

The third criterion is more expansive. We refer clients who are taking their psychotropic medication

SECTION III

and seeing the psychiatrist, in addition to working a recovery program and maintaining sobriety. We also refer clients who are actively seeking employment, enrolled in school, or offer their services on a volunteer basis. As a general rule, when referring a client to Homeless Court, the Center Star ACT Program takes into account the client as a whole, while assessing how far he or she has progressed, and how he or she may benefit from participating in the Homeless Court Program. If the client does not seem to be attempting to move forward in a positive manner in their life, they are not referred.

Contact Information:

Gallard Jackson, MA
Senior Probation Officer
MHS/Center Star ACT
3078 El Cajon Blvd., 1st Floor
San Diego, CA 92104
(619) 521-1743 ext. 108
(619) 521-1896 fax
gallard.jackson@sdcounty.ca.gov

L. Cochran-Johnson, MA. MFT/Clinician
MHS/Center Star ACT
3078 El Cajon Blvd., 1st Floor
San Diego, CA 92104
(619) 521-1743 ext. 111
(619) 521-1896 fax

Children's Advocacy Institute (CAI)

Children's Advocacy Institute (CAI) works to improve the status and well-being of children in our society by representing their interests and right to a safe, healthy childhood. In addition to its academic program, which trains law students to be effective child advocates, CAI represents children in the state legislature, in the courts, before administrative agencies, and through public education programs.

The Homeless Youth Outreach Project (HYOP) is a program within CAI, providing advocacy and legal services to homeless youth ages 12-21 in an environment where they feel safe and comfortable. HYOP partners with several different social agencies providing additional advocacy and legal services to homeless youth. HYOP was designed to fill in the

gaps of existing homeless youth services and ensure a continuum of care for San Diego's younger homeless generation. The goal is to provide 'one stop shopping' for our homeless youth comparable to homeless adult programs.

Entry Criteria:

Before a youth is referred to HCP, CAI's HCP representative speaks with the social service provider that the client is working directly with to gauge the client's progress toward becoming a productive member of society.

At a minimum the youth must:

- Have a recommendation from another social service provider;
- Have no current drug or alcohol issues (youth with drug and alcohol issues are referred to appropriate services and may be referred through those agencies once they are clean and sober);
- Have no mental health issues that are untreated;
- Have a home or be looking for a home;
- Be working or going to school or parenting;
- Have a positive social network;
- Keep friendships with other youth working towards goals and getting off the streets and stay away from youth entangled with drugs, alcohol or other illegal activity;
- Have a strong support network; and
- Have several people aside from the service provider working with them and providing positive role modeling. These people include case managers, family, school counselors, social workers, friends no longer living on the streets, employers, etc.

Contact Information:

Kriste Draper
USD School of Law
5998 Alcala Park
San Diego, CA 92110
(619) 260-4806
(619) 260-4753 fax
kristedraپر@sandiego.edu

CRASH

Helping people to begin a new life in recovery has been the mission of CRASH, Inc. since March 5, 1970. CRASH, Inc. is a not for profit corporation that combats alcohol and other drug abuse by assisting individuals to become responsible and productive members of society.

The CRASH, Inc. programs facilitate alcohol and other drug prevention and rehabilitation by providing individuals and the community with a wide array of quality treatment, recovery, and educational services. In the various CRASH programs, individuals are empowered and enabled to deal with life without the use of alcohol and other drugs. CRASH helps individuals identify and access available supportive services in the community and assists them with establishing strong and resilient foundations for their recovery. CRASH provides community education and advocacy in support of alcohol and other drug treatment and recovery and the CRASH philosophy of believing in individuals while helping them to believe in themselves.

The CRASH approach involves elevating the issues of alcohol and other drug abuse for the individual to assist them in understanding the effects of chemical abuse in their lives. The primary area of emphasis in the CRASH approach is instilling in each client the importance and necessity of personal responsibility for their addiction and recovery ultimately assisting each client in developing the self-esteem needed to feel confident in becoming a valued member of the community. The CRASH approach is keenly focused on the goal of reducing and ultimately eliminating the effects of alcohol and drug abuse on individuals. This cooperative effort is inclusive to all positive elements of the community.

Entry Criteria:

Clients must successfully complete and remain in full compliance as outlined per individual program site. Clients in the residential facilities must have completed the in-house portion of treatment and at least half of their aftercare to even be considered for referral. The outpatient facilities determine eligibility on an individual basis, as per staff approval. All referred clients must be employed and working a program of recovery. Our referral process celebrates

the clients that have worked above and beyond to change their lives and become productive and respected members of society.

Contact Information:

CRASH Short Term I
Lisa Naveda
Administrative Assistant
4161 Marlborough Avenue
San Diego, CA 92105
(619) 282-7274
(619) 282-7496 fax
Crash_st1@att.net

CRASH Short Term II
Denice Gansereit
2410 E St.
San Diego, CA 92102
(619) 234-3346
(619) 464-5019 fax
St2@crashinc.org

Crossroads Foundation

Crossroads Foundation was founded in San Diego County in 1957 as a facility devoted solely to the rehabilitation of alcoholics and drug dependent women. In a home-like atmosphere, Crossroads offers an alcoholic and addict woman an opportunity to retrieve her self-respect and dignity by regaining physical and emotional health through sobriety. It is a licensed facility which has been furnished and staffed for women seeking assistance with their living and abusing problems.

Entry Criteria:

Before being referred to Homeless Court, clients must:

- Attend daily recovery group meetings;
- Attend 5 AA/NA meetings per week;
- Complete the first three steps of AA within their first three months; and
- Be employed or perform in house activities (such as; volunteer work, outreach into the community, chores and other household duties).

SECTION III

Contact Information:

Sally Dugger (Resident Manager)
3594 4th Ave.
San Diego, CA 92103
(619) 296-1151 ext. 102

**Episcopal Community Services/
Friend to Friend and Safe Haven**

The mission of Episcopal Community Services (ECS) is to "Serve God by serving those in need." ECS accomplishes this mission by providing a variety of services that address homelessness, mental illness, domestic violence, early childhood education and development, unemployment, emergency assistance, HIV-AIDS, housing for those with disabilities, and substance abuse in San Diego and Riverside Counties.

ECS Mental Health Services provides both a day drop-in center as well as transitional housing. A new component of the Friend to Friend Program is "Street Outreach Services" (SOS). Staff literally walk the streets and visit other agencies seeking out existing and potentially eligible members to provide an array of social services intended to connect them with housing, income, substance abuse treatment, health and mental health services, and general case management. Our core SSI advocacy and employment development services are also available on an appointment basis and through outreach at other community agencies.

Our transitional housing program provides case management supported housing for 18-24 months with the express intention of assisting residents to stabilize and transition into appropriate and affordable permanent housing. Services include addressing educational/vocational goals, substance abuse and mental health issues, and working with the client to do long term life planning.

Entry Criteria:

- Participants must demonstrate initiative and request to be involved with the Homeless Court Program. ECS staff does not solicit participants for HCP; members are told about the program and must take the first step of approaching a staff person to seek out further information.

- Participants must be a recipient of ECS mental health services. Membership or participation is based on one's status as being chronically homeless and having a serious mental illness.
- Participants must be in compliance with ECS mental health services, including following program rules, actively participating in their own rehabilitation and recovery as demonstrated by involvement in any number of services/activities offered through the program. Examples of involvement include but are not limited to: working with a case manager or outreach worker, volunteering, working the SSI Advocate, working with the Job Developer, attending substance abuse treatment, going to school, working, participating in wellness recovery classes, etc.
- Participants must be actively involved in resolving the issue surrounding their violation. Members are required to provide a copy of their violation citation and make an appointment with the ECS staff to address the issue which resulted in the citation and explore avenues to avoid a recurrence. ECS will work with the member to access hygiene facilities and clean clothing to make a proper presentation at the court hearing. ECS staff provide support services to further the individual's action plan/goals in preparation for referral to the Homeless Court Program.
- Members must demonstrate an effort to change and exhibit responsibility. Examples of a demonstrated effort include but are not limited to:
 - Trolley tickets → Member now owns a bus pass.
 - Substance abuse violations → Member provides recorded log of participation in recovery services (AA/NA, substance abuse treatment and/or education, certificates of completion, etc.).
 - Illegal lodging violations → Member has a documented plan to access housing on file with ECS or other community provider.

Contact Information:

Sarah Koerigsberg or Linda Diaz
4305 University Ave., Suite 400
San Diego, CA 92105
(619) 955-8217
(619) 238-1127 fax
skoerigsberg@ecscalifornia.org

IMPACT—Downtown (formerly known as REACH/TELECARE)

The San Diego IMPACT—Downtown Program is part of a collaborative partnership providing integrated services in the downtown San Diego area to an average of 260 high-risk homeless people who are diagnosed with chronic mental illness. This partnership coordinates with several other city resources to provide housing, case management, psychiatric services, community and social integration, vocational services, preventive healthcare, and bio-psycho-social rehabilitation.

IMPACT services are delivered by three teams guided under the ACT model (Assertive Community Treatment). Under the ACT model each team consists of a psychiatrist, a registered nurse, a team lead (mid-managerial clinician), two master-level MHRS (Mental Health Rehab Specialist) and two Bachelor-level MHRS. Each team also has a substance abuse specialist and a vocational/educational specialist as well as two peer specialists who assist consumers/clients with daily coping/living skills.

Entry Criteria:

A client must be enrolled in IMPACT (Downtown) for a minimum of 90 days and cannot have a prior referral to HCP. Clients must also have accomplished or be actively working towards accomplishing the following objectives:

- Maintain housing;
- Attained, or working diligently to attain, sobriety via regular attendance in NA/AA or making steady progress in a substance treatment program;
- Stabilized their mental illness via attending ongoing psychiatric services with IMPACT (Downtown) psychiatrist or one of their own choosing;

- Participate in medication management (if needed); and
- Meet at least bi-monthly with case management team.

Contact Information:

Kristina Guthrie, Senior Probation Officer
466 26th Street, 6th Floor
San Diego, CA 92102
(619) 398-2156 ext. 114
(619) 398-2171 fax
kristina.guthrie@sdcounty.ca.gov

IMPACT/Community Research Foundation

Community Research Foundation (CRF) operates IMPACT (Intensive Mobile Psychosocial Assertive Community Treatment). The IMPACT program provides integrated, coordinated community-based psychosocial rehabilitation services for homeless adults in the Central/North Central regions of San Diego County who have severe and persistent mental illness as well as individuals with co-occurring mental health and substance disorders.

Services at CRF's IMPACT program are based on the principles of psychosocial rehabilitation, with emphasis on attending to the whole person and on the consequences of mental illness, rather than simply attending to the symptoms of the illness. The services focus on recovery, independence, and initiative and are individualized to meet the needs of each client. Clients actively participate in setting service plan goals and are encouraged to involve family and significant others in the recovery plan.

The IMPACT teams are staffed with select multi-disciplinary teams that include mental health rehabilitation specialists, psychologists, psychiatrists, registered nurses, social workers, peer support aides, volunteers, a probation officer, and marriage and family therapists. The IMPACT program provides a full array of wrap-around services to the clients which include clinical and intensive case management services, housing assistance, mobile crisis intervention, 24 hour crisis services, medication management and mobile delivery, psychosocial and psychiatric evaluations, mobile psychiatric care, vocational services, and integrated services for mental health and substance abuse problems.

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Entry Criteria:

The first prerequisite for a referral to Homeless Court is that the client is proactively working with the IMPACT Team on whatever issues they may have. Someone who is not co-operative or is actively abusive is obviously not an appropriate referral. A client who is meeting with his or her case manager regularly and is working toward mental health and/or substance abuse recovery would be an appropriate referral.

The second criterion is that the client is in stable housing. To the IMPACT Team, this is the first step toward mental and physical health. Someone who chooses to remain homeless though offered housing would not be referred to Homeless Court.

The third criterion is more expansive. We refer clients who are taking their psychotropic medication and seeing the psychiatrist in addition to working a recovery program and maintaining sobriety. We also refer clients who are actively seeking employment or offer their services on a volunteer basis. As a general rule, when referring a client to Homeless Court the IMPACT Program takes into account the client as a whole, while assessing how far he or she has progressed, and how he or she may benefit from working with the Homeless Court Program. If the client does not seem to be attempting to move forward in a positive manner in their life, they are not referred.

Contact Information:

Adriane Soriano, Deputy Probation Officer
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San Diego, CA 92110
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(619) 398-0350 fax
adriane.soriano@sdcounty.ca.gov
asoriano@comresearch.org

Pathfinders of San Diego

Since the fall of 1950, Pathfinders has extended a helping hand to men seeking recovery. A warm welcome has been part of the tradition since all current alumni can remember. A hearty handshake and a "Welcome Home" greeting from both staff and fellow residents has always been part of every new man's experience.

Pathfinders started in the 1950's providing recovery services for homeless men with drug and alcohol addictions. In the 1990's Pathfinders began to notice that many of the homeless men applying for residency had co-occurring disorders and began a new treatment model for these men under the Shelter Plus Care Program. The Shelter Plus Care Program uses the Comprehensive Continuous Integrated System of Care to provide each man with a fully integrated system of treatment. Shelter Plus Care recognizes both disorders as primary and works to obtain mental health treatment through collaborative outpatient clinical services at UCSD and CRF. Traditional social model (12 step) addiction treatment and the assistance outlines below are part of their recovery.

Entry Criteria:

- Resident of the program for at least three months;
- Follow all program rules and be in good standing;
- Follow the recovery programs prescribed;
- Abide by the requirements for meetings and volunteer service;
- Maintain sobriety; and
- Actively participate in physical and mental health regimen.

Contact Information:

Eric Zielke
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San Diego, CA 92104
(619) 239-7370
(619) 260-1629 fax
recovery@pathfinder.sdcoxmail.com

Mental Health Systems Dual Recovery Center, Pegasus East

Pegasus East provides services for adult homeless individuals with co-occurring mental illness and substance abuse disorders. MHS Inc., Dual Recovery Center (DRC) Pegasus East will welcome all persons seeking services in a welcoming and respectful manner regardless of presenting needs, symptoms, or illness. We adhere to a "No Wrong Door" approach in order to remove barriers to care and services. The DRC staff

will aid all persons in navigating the mental health, alcohol and drug, and medical treatment systems.

Entry Criteria:

- Completion of phase one of primary treatment;
- A history of a substance free lifestyle;
- Sober support system in place that is being utilized;
- Stabilization of psychiatric symptoms and medication compliance; and
- Treatment team referral.

Contact Information:

Sienna Ambrose
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La Mesa, CA 91941
(619) 697-2388 ext. 21
drcpegeast-1@mhsinc.org

**Mental Health Systems, Inc.,
Serial Inebriate Program (SIP)**

Rather than a mission statement, MHS has developed a general set of core values that guides all aspects of program design and implementation: Hope, Integrity, Excellence, Dignity, Innovation, and Action.

A successful program changes peoples' thinking about drugs and life style. While a variety of subjects may be addressed in a treatment program (e.g., communications and domestic violence) they must still be addressed in a way that teaches the client to change their thinking about alcohol and other drug use and their life style. At the Serial Inebriate Program, clients are taught to adopt pro-social, recovery supportive attitudes and behaviors that sustain their rejection of drug use and the drug culture/lifestyle. Clients learn about their own vulnerabilities and the triggers to relapse. They also learn how to cope with these situations in a way that preserves and protects their recovery.

Entry Criteria:

All clients will meet the following criteria before being referred to HCP. Clients will be actively participating in Phase II of the program. Phase II clients will have approximately four months of continued

sobriety and completed the relapse prevention course as well as met the requirements of mandatory regular attendance at self help meetings (AA/NA). Clients will be gainfully employed or actively seeking employment through a comprehensive employment service. All clients will have a bank account with direct deposit in order to save money to transition into their own housing. Clients will also have regular involvement in volunteering in community supportive projects such as the San Diego Food Bank, Home Start, or Homeless Out Reach. The Serial Inebriate Program also works closely with the North Bay Business Association in community clean up projects.

Contact Information:

Lou Carter, SIP Counselor
Terry Aperule, Case Manager
3340 Kemper Street, Suite 105
San Diego, CA 92110
(619) 523-8121
(619) 523-8742 fax
Loucarter619@yahoo.com

Rachel's Woman's Center - Night Shelter

Rachel's Night Shelter exists to provide supportive, safe, and sober emergency, short-term and mid-term shelter for homeless women.

Entry Criteria:

- Clients must be able to get along in the community setting at Rachel's Night Shelter;
- Clients must be clean and sober;
- Clients must be able to follow through on the goals that they set for themselves with the help of their coach;
- Clients must address any physical/mental health issues they presented with;
- Clients must look for appropriate long term housing;
- Clients must have applied for all identification; and
- Clients must have applied for all appropriate government assistance programs.

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The multiplicity and the "chronicity" of problems faced by Rachel's participants are compounded by their lack of resources. Added to this is their sense of failure within systems – marriage, school, parenting, work, relationships, and society at large. Through circumstances beyond their control, the women find themselves marginalized, pushed to the outer edges of society. Gradually they become invisible, isolated, resentful, and difficult to manage. Unable to help themselves, they cannot or will not connect to others, even with their peers. Failure begets failure. Women who have failed and who believe themselves to be failures become more depressed, despondent, and disengaged in any process or service offered to them.

Rachel's is designed as a peer-support social model environment, in which one woman models behavior and provides positive support for another. Because the majority of Rachel's participants lack the personal resources to help themselves, or provide support to others, it falls on the staff and volunteers to offer basic life skills training, including hygiene and health, information about community resources and how to access them, and knowledge about, sensitivity to, and patience with their fragility. This social model / coaching style environment has no timeframe. Whereas traditional programs are looking for outcome objectives such as how many meeting slips are signed or applications completed in 30, 60, and 90 day increments, we are looking for progress that is based upon the realities of our participants' lives. This may well be those meeting slips, however, it may also be to see a dentist about getting vital dental work done, talking about the possibility of a psychiatric evaluation, or perhaps a visit to our boutique for a pair of shoes that do not have holes in them. We take our successes where we can get them.

Contact Information:

Kelly J. Gebbie
Resource Specialist
Homeless Women's Services
Catholic Charities, Diocese of San Diego
(619) 696-1440
KGebbie@ccdsd.org

Salvation Army/Adult Rehabilitation Center

Founded in 1865, The Salvation Army is an international religious and charitable movement organized and operated on a quasi-military pattern and is a branch of the Christian church. The Salvation Army San Diego's Adult Rehabilitation program is a long-term (6-12 month) residential rehabilitation program for chemically dependent men and women. For the first 30 days, program participants are not allowed to leave their program location. For the first six months (Phase I), program participants are not allowed to leave San Diego County.

Entry Criteria:

supported by case management services and resources necessary to attain goals leading to self-sufficiency and independent living

Entry Criteria:

The STEPS program sets several conditions as follows:

- Ability to keep stable employment;
- Recorded progress based on case management plan;
- Consistency in budgeting and savings plan;
- Abide by all program rules;
- Demonstrate good attitude;
- Never tested positive for drugs and alcohol while in the program;
- Demonstrate initiative to address past issues such as debts, child support, parole/probation, and other family issues;
- Proof of attendance at AA/NA meetings; and
- Certificate of rehab completion.

Contact Information:

In order for a beneficiary to qualify for the HCP s/he must be in the program for at least 90 days and in need of resolving legal issues.

Contact Information:

Donald Broyhill,
Resident Manager, ext. 344
James Orville Bagwell IV,
Director of Rehabilitation
Services, ext. 351
1335 Broadway
San Diego, CA 92101
(619) 239-4037 ext. 354
(619) 239-4797 fax
donaldbroyhill@yahoo.com
james.bagwell@usw.salvationarmy.org

Salvation Army/STEPS Program

The mission of the STEPS Program is to provide transitional shelter to eligible homeless clients

Cal Hopper
825 7th Ave
San Diego, CA 92101
(619) 231-6000 ext. 2451
(619) 235-8856 fax

Shaunda Colson
120 Elm St.
San Diego, CA 92101
(619) 819-1811 / 687-3720 ext. 13430
scolson@sdrescue.org

San Diego Rescue Mission

San Diego Rescue Mission is here to help meet the physical, spiritual, and recovery needs of all homeless, poor, and addicted men through a 12-month residential rehabilitation program. This program is centered on beginning and/or strengthening a personal relationship with Jesus Christ.

In 2000, San Diego Rescue Mission opened Nueva Vida Haven (NVH) in response to the increasing need for emergency shelter services for homeless families. Each night, up to 60 battered, homeless, or poor women and children, 12 and under, turn to the Mission.

The Mission's Women and Children's Center (WCC) provides a long-term residential treatment community program designed to incorporate Biblical principles into the lives of residents. The men's residential program is designed to incorporate a holistic approach to recovery, addressing the needs of the mind, body, and soul. Practical life skills, educational, and Bible study classes are taught and required to transform the men. Work therapy and individual therapy are also part of the recovery process for each client. After graduation, the goal is that all men will both live independently in our society and depend fully on Jesus Christ.

Entry Criteria:

Clients must be in the program a minimum of 90 days before referral to HCP. During that time they will have completed:

- Orientation Phase 60 days
- New Foundations 10 Sessions
- Most Excellent Way 10 Sessions
- Drug Education/Relapse Prevention 12 Sessions of 22
- Work Therapy On-going/Continual

Contact Information:

Second Chance/STRIVE

San Diego's STRIVE (Support Training Results in Valuable Employees) is Second Chance's flagship program. The program's mission is to change the lives of some of the most "difficult-to-serve" populations in the region, including at-risk youth, the homeless, recovering addicts, and former prisoners reentering the community.

The program uses pre-employment attitudinal and job readiness training, as well as post-job placement support services, to lead participants to permanent employment and self-sufficiency. Originally pioneered in Harlem in the 1980s, STRIVE has graduated over 25,000 individuals internationally. The San Diego affiliate has become one of the largest and most successful in the world.

Designated as the official training center for all STRIVE affiliates in the western U.S., Second Chance offers the two-year program on a large scale, placing participants in good jobs at a record-setting pace. STRIVE participants engage in 120 hours of intensive instruction during which they break personal barriers to self-sufficiency, obtain new job skills, develop résumés and career plans, and practice interviewing techniques. The program reinforces ideals of individual accountability to help participants reach these goals.

Entry Criteria:

Second Chance refers clients participating in two different Second Chance programs: STRIVE and Transitional Living. Each program has separate criteria.

STRIVE Clients:

The client must successfully complete the 120 hour STRIVE Job Readiness Training Program offered by Second Chance. Obtaining employment is a key component of successfully completing the program. Clients submit a pay stub to their case manager who refers the client to the Homeless Court representative.

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Transitional Living Clients:

Clients must be a resident of one of Second Chances' Transitional Living homes, must have at least 90 days of sobriety, and be a resident in good standing for a minimum of 30 days.

Contact Information:

Dennis Vermeersch
6145 Imperial Ave.
San Diego, CA 92114
(619) 234-8888
(619) 234-7787 fax
dvermeersch@secondchanceprogram.org

Stepping Stone

The mission of Stepping Stone is to create, improve, and deliver alcohol and other drug treatment, HIV and other health interventions, recovery, education, and prevention services specializing in the challenges of the gay, lesbian, bisexual, and transgender communities of the San Diego region.

Stepping Stone's Healthcare for the Homeless program is a project designed to assist homeless individuals locate shelter, housing, medical, dental, and psychiatric services. This program is also designed to act as a resource and referral service which works collaboratively with multiple-agencies to meet the demands that homeless individuals are faced with on a daily basis.

The goal of the Healthcare for the Homeless Project is to improve health status and outcomes for homeless individuals by improving access to primary healthcare and substance abuse services to the homeless.

Stepping Stone of San Diego, Inc. is one of many agencies contracted through Family Health Services of San Diego, formerly known as Logan Heights Family Health Center. Stepping Stone is a base location that offers case management counseling services, bus tokens, toiletries, and referrals. Stepping Stone has been a part of this project for more than 10 years. Stepping Stone continues to be a place where individuals know they can stop by for a cold glass of water, a bar of soap, even a bottle of shampoo and a comb—or just a place to be able to sit down and chat with

someone in a safe, non-threatening place, out from under the hot, beaming sun.

Entry Criteria:

- Must have completed Orientation Phase;
- Must have a minimum of 30 days continuous sobriety;
- Must be in compliance with treatment rules and regulations; and
- Must meet the scope of services for the HCP.

Contact Information:

Cecily Swanson or Beverly Fisher
3767 Central Ave.
San Diego, CA 92105
(619) 295-3995 ext. 102
(619) 521-1701 fax
cece@steppingstonesd.org

Storefront – A Program of San Diego Youth and Community Services

The agency's mission statement is to help at-risk youth become self-sufficient and reach their highest potential by investing in them, strengthening their families, and building their communities.

The Storefront Night Shelter is a 20-bed short term emergency shelter—the only one in San Diego specifically designed for homeless and runaway youth. The goal of the Storefront is to stabilize the lives of vulnerable youth and to prevent their sexual exploitation.

Storefront staff provides initial crisis assessment and intervention, including food, clothing, safe shelter, and necessary medical care referrals. Staff also provides case management, drug and sexual exploitation education, and family mediation and counseling to reunite youth with their family if it is safe and appropriate. Special arts programming encourages expression through music, dance, painting, and other media. Storefront refers clients to longer-term residential programs or transitional living programs when reunification with the family is not possible.

Entry Criteria:

- In order to be referred to the HCP, clients must:

- Attend school;
- Not have any drug or alcohol issues;
- Follow all shelter rules (e.g., do chores, follow staff directions, abide by curfews); and
- Attend all of their meetings with staff and have positive interactions with all staff members.

Contact Information:

Storefront
(619) 325-3527
(866) Place2Stay
www.sdyics.org

Kriste Draper
Children's Advocacy Institute
(619) 260-4806

St. Vincent de Paul Village

The mission of St. Vincent de Paul Village (SVdPV) is to help our neighbors in need break the cycle of homelessness and poverty by promoting self-sufficiency through an innovative continuum of care, multi-disciplinary programs, and partnerships that come together in the spirit of our CREED to teach, learn from, and challenge our neighbors and one another.

The agency's following CREED guides work with clients. Our CREED:

- | | |
|--------------|---|
| Compassion: | Concern for others and a desire to assist. |
| Respect: | An act of giving particular attention or special regard. |
| Empathy: | Understanding, an awareness of and sensitivity to the feelings of others. |
| Empowerment: | Helping others to help themselves. |
| Dignity: | Counting all people worthy of our esteem. |

Entry Criteria:

In order to participate in the Homeless Court

Program through a referral from SVdPV a person must be living in one of SVdPV's residential programs. The resident must, at minimum:

- Be in compliance with program requirements including following program rules, completing up to 10 hours of shared living responsibilities (i.e., chores) each week, attending resident house meetings, and returning for curfew each night;
- Meet regularly with a staff contact or case manager;
- Attend resident orientation;
- Complete a class titled "Challenge to Change," a 20-hour motivational class that has experiential work and homework and focuses on goal setting, motivation for change, and building self esteem;
- Participate in the assessment process—a three appointment process that includes a battery of standardized written assessments and a 90-minute social history interview; and
- Clients who are facing drug or alcohol related charges must also be enrolled and participating in SVdPV's Recovery Services program that includes attending recovery groups and sober support meetings.

Although all cases are entered on their own merit, supporting documentation must demonstrate an effort by the client to change and exhibit responsibility. Examples of ownership include but are not limited to:

- Trolley tickets → Member now owns a bus pass.
- Substance abuse violations → Member provides recorded log of participation in recovery services (AA/NA, substance abuse treatment and/or education, certificates of completion, etc.).
- Illegal lodging violations → Member has a documented plan to access housing on file with SVdPV or other community provider.

Contact Information:

Bert Capati, Job and Resource Coach

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Julie DeDe, Director of Social Services
Career and Education Center
1501 Imperial Ave.
San Diego, CA 92101
(619) 645-6442 or (619) 233-8500 ext. 1665
(619) 233-8500 ext. 1060 (Julie Dede)
alberto.capati@neighbor.org
julie.dede@neighbor.org

Josue House

Josue Homes, a program of the National AIDS Foundation, helps hundreds of men and women living with HIV and AIDS reconcile with their families, regain their health, and move into permanent housing. St. Vincent de Paul Village combines Josue Homes' services with other residential programs.

Five Josue Homes locations in San Diego provide food and shelter for up to 38 residents at a time. Each house at Josue Homes has an on-site resident assistant. Residents typically stay for up to two years while they work on a transition plan. Transition plan goals might include conquering an addiction, returning to a healthy weight, preparing for a career, or obtaining government assistance. They may also take advantage of the many rehabilitative services offered through Father Joe's Villages, which include counseling, medical and dental care, and in-house 12-step programs that address addiction problems.

The Village is also preparing for the construction of future Josue housing projects to meet the changing needs of San Diego's HIV-positive clients in the coming century.

Contact Information:

Caron Berg
5120 70th St.
San Diego, CA 92115
(619) 667-2610
caron.berg@neighbor.org

Sunburst Youth Housing Project - The Center

The San Diego LGBT Community Center has pro-

vided services to youth and young adults of our community for over 15 years. Our goal is to provide safe and affirming spaces where our youth can access essential resources and services and develop the social, educational, and leadership skills to become responsible, productive, and fully-participating citizens.

Sunburst Youth Housing Project opened in February of 2006 as a response to the epidemic of homelessness LGBT youth and young adults were facing. Sunburst is one of the nation's first housing programs focusing on the needs of homeless LGBT youth. Sunburst provides formerly homeless youth with a home they can be proud of and with the supportive services they need to achieve and maintain independence.

Entry Criteria:

In order to participate in the Homeless Court Program the youth or young adult must be living in Sunburst Housing Project and:

- Be in compliance with program requirements;
- Meet regularly with a life coach;
- Work on employment or education;
- Take care of their apartment; and
- Attend all of their meetings with staff and have positive interactions with all staff members.

Contact Information:

Allison Conescu
1640 Broadway
San Diego, CA 92101
(619) 255-7854 ext. 103
aconescu@thecenter.org

TACO/Third Avenue Charitable Foundation

"A Place Where Healing of Mind, Body, and Spirit Can Happen for Any and All Who Come."

In operation every week of the year, TACO welcomes all people in need, regardless of religion, for free meals, medical and dental care, and mental health services. Each week through our meal program TACO sees and provides meals to approximately 500 homeless and previously homeless individuals. TACO also

has a social worker on staff available throughout the week to aid and assist individuals to get documents, counseling, referrals, practical needs, and other services necessary to help clients move off of the streets.

In conjunction with our partners at UCSD, TACO provides monthly medical attention and medical connections to many on the streets with our Homeless Medical Outreach Program. TACO also runs a program for terminally ill homeless individuals called "Going Home End-Of-Life Services". This project works with homeless individuals who are terminally ill, connecting them with services and providing care and compassion with the aim of giving comfort while they are dying.

Entry Criteria:

Before a client is referred to homeless court s/he must at a minimum:

- Complete assessment and orientation;
- Meet regularly with a social worker;
- Follow through with life goals set by social worker;
- Address any physical or mental health conditions the client presents with;
- Apply for all government benefits the client is eligible for;
- Actively look for housing or be housed;
- Address any substance abuse issues the client presents with;
- Actively work towards employment (e.g., either look for a job or receive job training/education); and
- Address the underlying legal issues they present with (e.g., they have trolley tickets and now have a bus pass, or they have illegal lodging tickets and now have a place to live).

Contact Information:

Jim Lovell
1420 Third Ave
San Diego, CA 92101
(619) 235-9445
(619) 234-9128 fax
jim.chacha@firstlutheransd.org
Tradition One

The mission of Tradition One is to share the journey of recovery and offer new tools for a quality of life that each individual deserves, and to encourage the establishment of a firm foundation in self-sufficiency and accountability born from an intimate relationship with self.

Entry Criteria:

Participant must:

- Be an active participant in the program for at least 60 days;
- Have no write-ups for infractions;
- Acquire at least a temporary sponsor (AA/NA) and home group;
- Have applied for or have in their possession a Social Security card, government issued picture ID, and bus pass;
- Be enrolled in school for GED (if the client does not have a high school diploma) and/or be a participant in STRIVE; and
- Gather all required documentation that may be needed for Homeless Court.

Contact Information:

Gloria Thompson or Cindi Laing
4104 Delta St.
San Diego, CA 92113
(619) 264-0141
(619) 264-7274 fax
gloriat2003@yahoo.com

Veterans Village of San Diego (VVSD)

Veterans Village of San Diego (VVSD) is dedicated to extending assistance to needy and homeless veterans of all wars and eras and their families by providing housing, food, clothing, substance abuse recovery and mental health counseling, job training, and job placement services. We believe in the inherent worth of each and every veteran and his or her right to a rehabilitation program which leads to renewed self-worth and independent living.

VVSD is currently licensed by the State of California to house and treat up to 151 homeless male and female veterans. Our new facility, which will be

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completed in 2009, will expand our capacity to over 300 beds. VVSD offers residents a safe, clean, and sober village-like setting for several months to a year or more depending upon individual needs. The program, originally formulated as a social model, is now integrated with structured case management and mental health therapy, and simultaneously addresses the addiction, post traumatic stress disorder, medical needs, legal problems, family issues, spiritual development, and employment training and placement requirements of each resident.

Entry Criteria:

In order for a VVSD client to access the Homeless Court Program, they must be actively participating in a VVSD program. At a minimum the client must:

- Have 30 days or more of active participation in our program;
- Be referred to the HCP by their case manager/counselor;
- Be in compliance with their treatment plan if residing in residential program (attending all groups/classes, meeting, case management sessions, therapy if appropriate);
- Be mentally/emotionally stable to participate in the HCP; and
- Obtain an advocacy letter which highlights their participation in their respective program.

Contact Information:

Charles Lyles, Community Projects Coordinator
 Andre Simpson, COO and Vice President
 4141 Pacific Highway
 San Diego, CA 92110
 (619) 497-0142
 (619) 497-0263
andre.simpson@vvsd.net

Volunteers of America - Substance Abuse and Mental Illness (SAMI) Program

Volunteers of America is a ministry of services dedicated to providing individuals and families with the tools to improve their quality of life.

The goal of the Substance Abuse and Mental Illness

(SAMI) Program is to help individuals become productive members of society again. SAMI is a HUD-funded program for the chronic homeless/co-occurring adults. The program provides intensive day treatment classes and residence for eighteen adults.

Entry Criteria:

- Resident of the SAMI program for at least 30 days;
- Follow all program rules and be in good standing;
- Be in compliance with their treatment plan;
- Maintain sobriety;
- Medication compliant (medical and psychiatric);
- Gathered all required documentation needed for Homeless Court; and
- Have applied for or have in his/her possession a social security card, state issued picture ID, and a disabled bus ID.

Contact Information:

Susan Hammond – Detox
 Patti Navarro – Hawley Facility
 1111 Island Ave.
 San Diego, CA 92101
 (619) 232-3150 (Detox)
 (619) 561-9808 (Hawley)
roseylbud@aol.com

YWCA—Passages

PASSAGES is a three-stage structured program provided for homeless women by the YWCA in San Diego. With a strong emphasis on counseling and career development, the program is designed to provide single homeless women with the tools necessary to obtain employment and permanent housing. Nearly 200 women are served each year.

In the program, women receive three months of intensive counseling and supportive services. They then focus on finding and maintaining employment, paying 30 percent of their income in rent each month, and continue to work and gain the skills and confidence necessary for independent living. The women in PASSAGES are able to remain in the program for a

total of two years.

Entry Criteria:

- Be in compliance with program requirements including but not limited to following program rules, completing chores each day, attending residential meetings, demonstrating respect for other residents and staff, and returning for curfew each night;
- Meet weekly with their assigned case manager;
- Meet weekly with their assigned counselor; and

- Clients with a history of substance abuse must attend a weekly chemical dependency class plus other recovery and sober support meetings.

Contact Information:

Julie Soper, Staff Attorney and Legal Advocate
1012 C Street
San Diego, CA 92101
(619) 239-0355 ext. 241
julie@ywcasandiego.org

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Perspectives on the Homeless Court

The following interviews present the Homeless Court Program in decidedly human terms. Each month, judges, lawyers, court clerks, and service providers coordinate a dignified and important process—the Homeless Court—a program designed to remove the legal barriers preventing homeless people from becoming self-sufficient. The personal stories shared by the key players of the Homeless Court illustrate the importance of the program to the court, the community, and the homeless individuals striving to fully reintegrate into mainstream society.

The Judges

The first three perspectives come from the bench, and demonstrate the commitment of judges to the process. **Hon. Peter Deddeh** points out that people going through the Homeless Court Program have already proven themselves; they alone represent the success of programs designed to offer alternatives to custody. The current Homeless Court Program judge in San Diego, **Hon. Robert Trentacosta**, admits that even judges confront the issue of “revolving door justice.” However, he argues that the Homeless Court Program succeeds because the larger society—through this court—can effectively address the daily challenges that confront a homeless person. **Hon. David Ryan**, a retired judge who came back to preside over the court in north San Diego County, offers a candid perspective about the judicial system as it relates to the Homeless Court Program.

The Prosecution and the Defense

Each month, representatives from the prosecution and defense stand before the judge and represent their clients. **Richard McCue** is the San Diego County Deputy District Attorney who chose to participate in the Homeless Court Program, in part because of his

concern about criminality in this society’s treatment of its mentally ill. City of San Diego Deputy City Attorney **Regan Savalla** points out the personal disconnect she feels between reading someone’s case file, and then reading about their success in the advocacy letters presented in court. Both **Richard McCue** and **Regan Savalla** describe the benefits of a program designed to respond to the public’s better nature of renewal and new hope. Public Defender **Steve Binder**’s perspective is invaluable, as he founded the court in 1989. **Terri Peters** is also a Public Defender; she handles cases in San Diego’s North County. For many of the Homeless Court Program participants she counsels, working through their issues in programs represents the first time they have followed through on something and seen tangible progress in solving their problems.

The Provider Community

Homeless Court Program perspectives in the third section of these interviews come from San Diego’s provider community. **Andre Simpson** of Veteran’s Village of San Diego has been working with Homeless Court participants since 1996, when he attended his first Stand Down. He reminds us that homelessness threatens a person’s need for security, food, clothing and shelter, and that anyone forced to worry about these needs has difficulty finding a sense of self. Unlike **Andre Simpson**, **Julie Soper** from the YWCA Passages program is relatively new to the process; an attorney and a caseworker, she describes the difficulties homeless women face, and notes the difference between traditional court and the Homeless Court. **Kriste Draper**, also an attorney, describes how the program benefits the most vulnerable population of homeless people: children and teens. As a staff attorney at Children’s Advocacy

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Institute, her commitment to advocacy requires her to search the streets (literally) for homeless youth. **Bert Capati** and **Dennis Vermeersch**, two case workers from St. Vincent de Paul Village and Second Chance/STRIVE respectively, explain how representatives from two agencies can work together effectively on behalf of their individual clients. **Adriane Soriano** holds the unique distinction of being a law enforcement officer in probation and a social worker. She's the Senior Deputy Probation Officer at the IMPACT program, and her testimony highlights the difficulty of choosing which illness to treat in dual diagnosis patients—people who have substance abuse problems and a mental illness. Like **Adriane Soriano**, **Sienna Ambrose** serves clients with a dual diagnosis, and in her interview, addresses the importance of creating individual diagnoses for clients with co-occurring illnesses. **Charles Lyles** works exclusively with the growing population of homeless veterans at VVSD, and describes the sense of relief one of his clients felt after going through the program. **Don Broyhill** serves clients receptive to faith-based work

therapy at the Salvation Army; he also went through the Homeless Court Program. Serving as Court Liaison for the Salvation Army is his way of giving back. Finally, **Julie DeDe** presents the Homeless Court Program from the perspective of an administrator at one of the largest providers in San Diego, Father Joe's Villages.

Participants/Clients

Testimony from three clients makes up the final group of perspectives. **Tracy Stone** began drinking at age 10 and has finally achieved sobriety in the IMPACT program. **Chris Stephenson**, a San Diego native, suffered from mental illness and substance abuse until his life tragically ended shortly after he was interviewed for this publication. **Myss Pam** proves that homelessness can happen to someone from a solid middle-class background, and that the Homeless Court Program plays an important part in moving people of all economic backgrounds off the streets and into stable environments.

COURT

HON. PETER C. DEDDEH*Judge, Superior Court, San Diego County*

As a Presiding Judge in San Diego, I have served in traditional court and in the Homeless Court. In Homeless Court, we celebrate the success of people who have made it through treatment. These people have proven themselves by participating in individualized treatment programs for two months, four months, or a year. They have already succeeded prior to appearing in the Homeless Court.

In traditional court, we deal with people who have done something wrong and they *promise* to change. In the Homeless Court, participants have *already* proven to themselves and to others that they can change. Thanks to the work of the service providers, the Homeless Court is able to reward participants for their achievements, rather than having to determine if they will succeed.

That's why the Homeless Court is a little less formal, almost like an awards ceremony. I stand at a podium across from the defendant. The informality of the court is important because getting through a program is often the first time these people have been successful at something, and the court sessions are also the first time a government body has recognized them in a positive way. That's why I make it a point to read their advocacy letters in front of everyone. In a traditional court, you wouldn't have a judge looking across at you—the judge sits above the proceedings—and a judge would not read an achievement letter.

The court is designed to give people who are sincere about changing their lives a fresh start. It helps remove barriers so that people can return to civil society. Since they have proven themselves, the system should do what it can to get their social security issues resolved, their licenses back, allow them to establish credit, and so on. To me those are appropriate awards for going about improving their lives.

Preparing for Court Sessions

To prepare for court, I mostly review the calendar before the sessions. The public defender, the district attorney and the city attorney have all worked through the process before I become involved. My job is to offer a stamp of approval to their work, and to appreciate, acknowledge, and remark on the participant's achievement.

Homeless defendants must understand that we can take care of only part of the cases they may have outstanding. We can't address parking tickets, child support, or felonies. If they have those kinds of cases, they need to take additional steps to address them. To be on the Homeless Court list, participants need to make a sincere effort and be referred by the treatment provider. Participants have to be in that position for the court to help them. Providers really have the power here as they ultimately serve as the gatekeepers to the Homeless Court and provide assurance to the court that the participant has taken steps to improve his life.

Advocacy letters written by providers are critical to the success of the Homeless Court. As a judge, I want specifics in those letters. I am already familiar with the requirements in the individual programs, and sometimes letters don't have anything above and beyond those requirements or treatment steps. I want to see specifics about the individual in advocacy letters. I'd like to see a description of the particular strengths of that person.

Homeless Court Critics

Some people misunderstand what we do here. I know at Stand Down, if you are a vet and agree to participate in activities for the three days, that's enough to get a case dismissed. The Homeless Court doesn't work that way. Participants have to go through a rigorous program with whatever provider they are working with. I've also heard people ask why we can't hear these cases in a regular court. A regular courtroom diminishes the celebration.

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Acknowledging their success is important in getting participants through their recovery.

A court session held in a shelter can be a positive court experience where participants feel comfortable. They have worked hard to get to take part in something designed specifically for them. I've also heard critics say that some homeless people try to scam the system through this court. I suppose that happens sometimes, but even if they're clean for a year, that's still a year that they are not a burden on the court and on the community's resources.

The people who get their cases dismissed—the amount of work they put in programs, the amount of demonstrated success—that amount is **far beyond** what is required in a regular court. The Homeless Court is a great investment by all of us as a community. In exchange for a small fine—which we wouldn't collect anyway—we're getting a person who is clean and sober, who can get SSI or a driver's license and a job, and who is not shooting up in your alley. That's a small price to pay for people who have turned their lives around.

The Court's Future

We're getting to the point where we might need more than one court session each month. We also need to get statistics to tell us how we're doing. I'd like to quantify what we do better, and evaluate our success rate over five years, for example.

Also, we might find a way to take care of parking tickets. Many homeless people have cars. They may park at the beach. Parking tickets are revenue generators, however, and we've never really attacked that. Other Homeless Courts do deal with parking tickets, but we don't.

Inspiring Stories

I've had so many inspiring moments at the court. One woman I saw—older, in her early 60s—had not only completed her program, but she wrote a story about a young woman going through the same troubles she had experienced. She'd also created artwork to express the hardship she'd overcome. The story was pretty well written. She went on to get her life back. She was able to get back to what she was doing before her detour, and she was really proud. That kind of energy and excitement really stays with you.

HON. ROBERT J. TRENTACOSTA

Judge, Superior Court, San Diego County

Frankly, the first time I presided over a Homeless Court session, I came away with a sense of the real significance of Homeless Court to all the people involved. Judge Deddeh has handled the HCP for a number of years. He told me it was a very beneficial, collaborative court, and that his work in the program was important to him. Last year, he was transferred to El Cajon to serve as a supervising judge. Before he left, he met with me first to give me his views on the court, and then his perspective and guidance. As we discussed the program, he suggested that I take part in it for the time being, and I agreed. As the supervising criminal court judge, my job is to assign judges to courtrooms. I think my taking on the Homeless Court sends the message that Homeless Court is important.

Any judge who is being honest feels, at some point or another, a sense of "revolving door justice" when dealing with the kinds of cases associated with homeless people. Many homeless individuals have serious long-term problems, they are punished by the criminal justice system when they act out, and their problems don't go away. Most of the time, those problems remain unaddressed. Homeless Court changes the model so that individuals who are interested in changing their lives can get assistance. From the court's perspective, that works because we are able to address the real issues behind their individual situations or behaviors.

What Providers and Clients Should Know

First and foremost, I want clients to know that I understand and appreciate many of them are really trying to make an honest, good-faith effort to change the behaviors that have caused them to become involved in the criminal justice system. I recognize and understand their transformation has not been easy. I want them to know that. I say this because most of the people who stand before me seem surprised that someone in authority acknowledges the depth of effort it took for them come to court. Homeless defendants should know that I appreciate their effort sincerely.

It's important that providers be honest. They need to give me good information so I can make the right judgment. I rely on them for a fair analysis of the case. I also appreciate that providers are the folks who have hands-on experience with the individual. I'm struck by how well the provider representatives know the individuals and their accomplishments—and especially how willing they are to stand up and speak on their behalf. Obviously, the providers are critical to the success of the Homeless Court. The program would simply not work without their participation.

Practical Justice

I consider myself a practical person. If we keep doing the same thing and it isn't working, isn't it time to get realistic about solving the problem? That's what the Homeless Court does. Moreover, when you're in Homeless Court and speak to participants, you get a sense that they have turned a corner in their lives, and that after self-reflection and hard work, they can overcome very difficult issues. I also think that the benefit to society is great, because these people are also contributing in a positive way. For example, I was really impressed by how many participants addressed substance abuse challenges and were successful, addressed deficits in their education and received GEDs, and how virtually all of them had returned to the workforce. To me, this is a win-win solution, and whenever you can have a win-win solution, you're doing something right. We've tried a "one-size-fits-all" approach with this population, and we've learned that one size doesn't fit all. The Homeless Court takes extra effort from a lot of people, but if you can get a community member sober, working, educated, and law-abiding, that's what the essence of justice is all about.

Preparing for Court

Before the session, I receive documents to review and I get the calendar. I also meet with counsel and with the providers immediately before each session starts. Essentially, they have gathered in packet form all supporting information that shows what the participant has accomplished. I review those packets, and based upon the charges against the participant and what they have achieved since, I render judgment.

However, I think the best preparation comes from life experience and judicial experience. I think all of us, not just those in law enforcement, have experienced homelessness in San Diego. All of us have a sense that this problem is not going away any time soon. Even as thinking people, we can't make it go away; it's going to take great effort just to curtail homelessness in San Diego, and I believe that everyone needs to be prepared to be a part of that effort.

Conclusion

Generally speaking, the Homeless Court has received accolades across the board. When people are aware of what the program entails, I've heard no criticism. But when people have only some information about the process, it's easy for them to believe that the court is just a giveaway—a place where a homeless person can get a criminal record wiped out. As people know more about the program—when they see what goes on here, for example, and discover what these individuals actually do before they even come to court—they understand the benefit. And many of those people then say that a court like this is long overdue.

HON. DAVID W. RYAN

Judge, Superior Court, San Diego County

The first time I presided I began my experience with the Homeless Court Program in San Diego's North County in 1998. At the time, I was the Drug Court judge. In that program, we were trying to expand the concept of therapeutic jurisprudence. North County's Homeless Court Program developed out of the Drug Court.

Six out of the eight years I served on the bench, I presided over domestic violence cases. I retired in November 2007, and I was immediately asked to come back to preside at the Homeless Court. No other judge wanted to do it. As a retired judge, I could do this and not worry about politics in the legal system. I look at the justice practiced in the Homeless Court Program from a practical systems approach. I like doing it. Someone has to fill the father role in a psychological sense. That's the role I see myself playing.

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The real work for the court is done by the clerks who pull the cases. It is a very labor intensive and costly process, and the population of clerks tends to be fluid. The older hands are leaving, and it seems that there has been little emphasis on training. It's not the administrators' fault; they just don't have the staff.

Generally speaking, the courts don't like the Homeless Court Program. An awful lot goes into the monthly productions. Judges would rather sit in their offices. They justify this by saying that homeless people will not come to the courthouse like everyone else. Also if a judge travels, he has to worry about security. But remember, for a homeless person to appear in traditional court we're asking a risk-averse person, who probably hasn't had a very good experience with the law, to run the gauntlet of law enforcement.

In court sessions, I tell people that I go to therapy. I'm very open about that because I get a lot out of my therapy. From the moment I reveal that, the whole courtroom seems to change. It's not uncommon for me to hug a client in court. I don't know any other judge who does that. If you can stand before a person and send them away for the rest of their lives, but not hug them, then something's wrong. I try to humanize my position of authority, and I know that's different in a lot of respects. Hugging works for me.

The Homeless Court Program is Different

The major difference between traditional court and Homeless Court is that the Homeless Court Program is a dismissal court. We see people at the very end of the process in which the defendant has done some measurable growth. What we're doing in the court is clearing our backlog while at the same time removing legal barriers so that participants are able to continue to make progress.

A lot of people see the misdemeanor ticket process as a tax on criminals. I accept that. But we must really be honest about who we're taxing. The public admits that we're never going to get money out of a homeless person, so we agree that community service functions as a good substitute for payment. There are a lot of tax saving conservatives who don't go deeper than seeing someone's ability to pay.

For example, most people don't have any idea about how much it costs us to give a speeding ticket. When someone gets a \$100 ticket, \$20 goes to the

police department, \$2 goes to the judge's fund and \$1 goes to the county law library.

But it gets more interesting, because the state then adds a 170% assessment to the original \$100 ticket, so now the law enforcement organization has to pay \$270. When that organization is looking to raise money, they look at existing sources. They ask, "Why aren't these people with warrants dating back to the 1980s paying their fines?"

I can say for certain that punishment doesn't change people with substance abuse problems. The traditional court structure comes out of a very elaborate assumption that punishment deters criminals. But modern psychology shows that negative reinforcement isn't that effective. In fact, it's the least effective method of changing someone's behavior in the long term. And why would anyone think that negative reinforcement would change someone addicted to drugs or alcohol, when drug-seeking behaviors in humans are at least 7,000 years old?

The Homeless Court Program tries to get away from the criminalization of substance abuse. And it's incredibly cost effective. Taxpayers pay about \$25 a minute to hear one case in one traditional court. In Homeless Court, we do 200 cases in three hours. That's efficiency.

The Value of Justice

I don't believe that "justice" relies on one set of values, or if it does, those values mean different things to different populations. Society's values are, in part, defined by its courts. Yet what happens when courts can't address the specific and verifiable needs of a population? Are those values any less important? For example, only one court in the country addresses veterans' issues directly. There are now courts specializing in mentally ill defendants. But trying to set up alternative courts like this has been difficult. The problem boils down to the stubbornness of powerful people who want to resist change at every turn.

Courts are set up by an Executive Committee of old judges who are elected by the presiding judges in a district. The judges themselves tend to be very conservative. Seventy-five percent of judges were once deputy district attorneys (prosecutors). They bring judiciary, prosecutorial, and law enforcement experi-

ence . . . but not a lot of diversity, including, I might add, not a lot of gender diversity.

This Executive Committee therefore cannot rely on a variety of experiences when they make judgments. Sometimes when I watch a judge, I wonder where he gets the insight to handle the different kinds of cases. How does he know about alcoholism? Has he ever slept in a car? Judges have the theoretical knowledge, but no law school can put varied experience into one person.

So trying to convince an Executive Committee to set up a better court system takes time. The traditional model is entrenched: all we do is present the trial, bring in the jury, etc. In my view, that just doesn't work. The Homeless Court Program does. All therapeutic courts do. They target individual populations and work with them to address the underlying issues that prompted the offense.

Conclusion

Clients and providers have an important role in this change. They have to trust the system now, even though it changes so slowly. In late 1999, I participated in two programs with the Rincon nation of Native Americans. There are eighteen tribes in San Diego County, more tribes than in any other county in the

country. Most Native Americans were poor; 65% were receiving money from the AFDC. One tribe didn't even have electricity.

But they do have legal issues. We scheduled an outreach court on the reservation for a Saturday morning. The tribal council we worked with asked us if we needed security, which we didn't. When we arrived at the council hall, there was a long line waiting for us. Suddenly two sheriff's cars drove up with bailiffs, and the whole line disappeared. We saw only about 10% of the caseload that morning. The rest of the line just faded into the hills because, we found out later, they thought we had set up a sting operation. They've been running from the sheriffs since 1850. They know the hills well.

Once I got a letter from an angry citizen complaining about the Homeless Court Program dismissing cases. The man writing the letter couldn't believe we were letting people off, and ended the letter by wishing he could get his traffic tickets dismissed. I understood what he was implying. I sent a letter back saying that should he get a ticket for being drunk and urinating in public, and should the case come before me, I would be happy to dismiss his ticket—provided he go through a 90-day intensive recovery program just like the participants in the Homeless Court Program. I didn't hear back.

PROSECUTION

RICHARD MCCUE

Deputy District Attorney

As a deputy district attorney in the narcotics division of the San Diego District Attorney's Office, I deal primarily with cases that are sent to the Drug Court and the Homeless Court. I handle all cases outside the city of San Diego; the deputy city attorney handles cases within the city limits. Pursuant to my position, I attend the San Diego Homeless Court session and I travel to San Diego's North County Homeless Court once a month.

Becoming Involved in the Program

Two attitudes hooked me into the Homeless Court Program. I have a number of friends who are veterans, and I have a lot of respect for people in the service. Although I didn't serve, I had a cousin who lost an eye in the Vietnam War. He became an attorney and is successful today, but that was a stunning loss to him, and it still haunts him today.

Also, I'm very interested in how we deal with, for lack of a better term, the "non-dangerous mentally ill." A huge number of people on the streets today are not in government sponsored mental health facilities. I think this is due to the explosion of psychotropic drugs and because so many people were released from institutions who really need help functioning, but are not severely disabled. A lot of these people end up on the street, struggling. I've always been fascinated by the psychology of how people actually work, and I feel very strongly about doing what I can to help this neglected population.

Homeless Court vs. Traditional Court

The fundamental difference between the traditional court and Homeless Court is that Homeless Court deals with people who have already changed their behavior. In traditional court, we ask defendants to *promise* to change their behavior with the threat of

custody and fines—often getting mixed results. The people who appear before the Homeless Court have overcome enormous obstacles—be it addiction, mental or physical health issues, or other difficult situations—prior to the court hearing. Because service providers work closely with participants and attest to their accomplishments through referral to the HCP and detailed advocacy letters, the court is equipped to replace traditional court sentences with credit for time served or the dismissal of charges.

Sometimes in criminal law you become blinded by the process. You think your only job is to be fair and investigate everything thoroughly. We have an entire process dedicated to fairness that we spend a lot of time trying to get people to understand. But when we deal with homeless people, we're applying standards from criminal law at a time when a person's life may be in danger. We're trying so hard to be fair that it looks like we're being mean. People who come to the Homeless Court have shown that they want to change their lives. They do everything that the legal system dedicates dozens of people to do—and more—and they do it voluntarily.

Challenges to the Mentally Ill

Homelessness—especially the homelessness of the mentally ill—is a difficult problem to resolve. While we know how to address the homelessness of the low-income and working poor, it is sometimes more difficult to address the homelessness of those with addiction issues and it is even more difficult to address the homelessness of those with mental illness as it requires a costly comprehensive system of housing, mental healthcare, and myriad supportive services. The unfortunate reality is that our community presently does not have sufficient housing and supportive services to meet the needs of the entire homeless population—and particularly those with the most serious issues.

The fact is that prosecutors end up taking on these problems. Society uses us—prosecutors—as social workers to address what the average person thinks is

a social nuisance. We're dealing with a population where the traditional tools available through the criminal justice system and courts simply don't work. There's a difference between me getting a ticket and a homeless person getting cited, for example. It is important to realize that most homeless people are already afraid of the universe. A person experiencing homelessness does not have the money to pay fines, fears jail, and oftentimes runs away.

From my experience in Drug Court, I know that coercive rehabilitation can work for some people and that an overlap exists among the non-violent drug addict population, the homeless population, and the mentally ill population. Oddly though, many homeless people are not afraid of jail as it is a familiar place to them where many of their immediate needs—shelter, food, and clothing—are met. People who commit crimes have two choices: go to jail or complete a program. While coercive rehabilitation may work for some people with addiction, it does not deliver the same success rate for people who are chronically homeless.

As such, the Homeless Court takes a different approach by relying on the expertise of service providers to address the underlying root causes of a person's homelessness and offense prior to the person's appearance in court.

Preparing for Court

In the pre-hearing counseling sessions with participants and in court, my obligation is to deal with everyone with respect. For me, that's easy, because I see most of these people as having been beaten down by circumstance. While it is sometimes harder in general to give a defendant respect when charged with a "real" crime that truly is a breach of public safety, we realize that all defendants are human beings and worthy of respect. Sometimes we have to remind ourselves that the court aims to determine whether certain actions are right or wrong as opposed to passing judgment on a person's moral worth.

We all live with this impression that the scales of justice will be balanced with every person. That lofty goal is difficult to achieve in practice. What we're ultimately trying to do in Homeless Court is balance those scales. Sometimes it's not easy. Broken people can be self-righteous; addicts are sometimes con-

trolled by their addiction. But in the end, service providers help participants to overcome obstacles and make strides towards self-sufficiency. Then, the Homeless Court does its part to balance the scales of justice by rewarding efforts to make amends.

As a prosecutor, I'm charged with protecting the public. The circumstances that bring most homeless people into contact with the criminal justice system fall into the social control area—that is, the misdemeanor area. We're not dealing with moral evils here, but rather public agreements about proper behavior. Long-term homeless people are often not able to interfere with normal society. Most homeless people simply don't exist in my professional work because they're not a problem. But when they commit "lifestyle crimes"—and I hate that term, by the way—the only thing I want to do is help them end their homelessness. The unfortunate fact is that chronically homeless people aren't living in the same world that I am. I feel strongly about removing the cross they bear in order to get them back into society.

As a prosecutor, I'm the most privileged person in the justice system. My job boils down to deciding whether or not something is worth pursuing—using "prosecutorial discretion." Judges have discretion at the end of the process, but they don't hear cases that prosecutors don't think merit it. This is a huge power, and I take this honor very seriously. Homeless Court participants have done everything society has asked them to do in an effort to regain control of their lives. As such, I am pleased to exercise prosecutorial discretion and utilize alternative sentencing to acknowledge the achievements of formerly homeless people on the path to self-sufficiency.

REGAN SAVALLA

Deputy City Attorney

The atmosphere created by the Homeless Court partnership is the most striking deviation from the traditional court system: by providing a non-threatening environment for homeless individuals to resolve cases, we are able to establish a greater level of access to the courts and resulting accountability. The adversarial nature of the traditional court system is dissipated, allowing all of the partners to concen-

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trate on our common goal of stopping the revolving door treatment of crimes related to homelessness. Our approach helps the participant receive the appropriate resources, alleviates court calendars, and reduces case processing for prosecutors. It is a holistic approach to the participant and the root cause of his or her offenses, rather than focusing on a specific, isolated incident presented before the traditional court.

Prosecution Consideration for HCP

It is important for participants to understand that even though I represent the prosecution, I am a part of the team of resources used to help the participants succeed. I appreciate and commend the efforts of participants to change their situation: when the participants demonstrate a readiness and willingness to take responsibility for their cases and are working hard at completing their programs, everyone in the community benefits. By choosing Homeless Court, not only are participants held accountable for their actions, but they are also addressing the core issues that will prevent them from acquiring more cases. In addition, I hope that after their experience in Homeless Court participants will be more aware of the services available to them and be less reluctant to address any future dealings with the criminal justice system.

It is important for providers to understand that there are many roles that I and the assigned prosecutor play. We have to balance what is best for the participants with the gravity and frequency of the law that has been broken as well as the interests of the community. We rely more on the advocacy letters submitted by the providers than on any other piece of information when making our offers of case disposition. Therefore, it is imperative that the letters reflect an honest assessment of the participants' efforts in the programs. The more detail provided, the better. Letters should be specifically tailored to address not only the client's progress in their particular program, but also the efforts made to take responsibility for his or her actions and how those efforts will help to prevent similar behavior in the future.

Homeless Court perfectly fits into my idea of restorative justice. Tailoring disposition offers to the needs of the participant and the community is an ideal framework. The participants complete programs that address their specific issues, often spending more time

and effort than would be required in the traditional system, and receive the benefit of a dismissed case, a reduced charge, or a cleared warrant. This empowers the participants to continue on their journey to reach their goals, whether those are to improve their education, seek employment, remain sober, or simply remain law-abiding. We are able to hold the offenders accountable for the harm they caused, repair the harm, and develop competency in the offender so that he or she can make better future choices.

Preparing for Court

Once we receive a final list of participants from the court, our legal secretary investigates the criminal histories for each participant and gathers all of the relevant case files. The assigned prosecutor reviews all of the information and any letters submitted by the service providers on the behalf of the participants. Based on the calendar prepared by the court, our research, and the progress as described by the service providers, the prosecutor then makes offers of disposition for all eligible cases and discusses them with the representative from the Office of the Public Defender.

Role of Prosecution

As the Head Deputy of the San Diego City Attorney's Neighborhood Prosecution Unit, I work in partnership with the San Diego Police Department, the Office of the Public Defender, other agencies and community based organizations, and the community to aggressively and creatively combat crimes that impact quality of life. I also manage the prosecutorial portion of our four alternative courts: Homeless Court; Downtown Community Court; Mid-City Community Court; and Beach Area Community Court. While neighborhood prosecutors continue to perform traditional prosecutorial functions (issuing cases, taking cases to trial), we are also dedicated to proactive, early intervention lawyering with a commitment to community outreach.

While the City Attorney's Office has been involved with the Homeless Court Program since its inception, I first learned about this program during my new deputy training in 1999. I was given a preview of the Homeless Court Program and Stand Down. I volunteered to work at Stand Down each subsequent year, and when I joined the Neighborhood Prosecution

Unit in 2002, I was able to continue my involvement at Stand Down and experience working in Homeless Court first hand. I am responsible for staffing Homeless Court and assigning a neighborhood prosecutor who is passionate about our mission. It is preferable to have a permanent deputy participate at Homeless Court proceedings and in planning and development meetings to maintain consistency within the program.

Improving the Court

Any criticism of the HCP is often from someone who is uninformed about the process. Specifically, in my experience critics think that by virtue of being homeless one is qualified to participate in Homeless Court and have their cases dismissed without consequence. Explaining the process effectively ends that criticism.

Additional resources for all of the partners involved would be helpful. In our office all duties related to Homeless Court are in addition to a full workload. A fulltime staff person dedicated to Homeless Court would help immensely. Additionally, communication between all partners can always be improved to ensure that we all understand each other's roles. The more

comfortable we are contacting each other and the more open the lines of communication, the easier it is to address issues when they arise.

Time is our biggest challenge. The process requires significant time and effort by the assigned prosecutor who assumes these responsibilities in addition to his or her regular duties as a neighborhood prosecutor.

Inspiration

The Homeless Court sessions themselves are most inspiring. When you have read a file and know all about the criminal history of a participant and the crime he or she has been accused of committing, you have a certain picture in your mind about how that person will look and behave in court. Then, that picture is blown away by the letter you receive from the provider and the participant in front of you; they are dressed to impress, with a smiling face, armed with their accomplishments, and happy to address the court and shake your hand. That energy is rarely seen in the traditional court system, and I enjoy being a part of that as I help these participants reach their goals.

STEVE BINDER

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DEFENSE

Deputy Public Defender

One of the first questions that I ask my clients during the Homeless Court Program counseling session is, "What is the best part of being in your program?" I do this to learn where they are, what is meaningful for them, and to focus on the positive aspect of their lives. Common responses include: having a roof over my head, being clean and sober, the food, building a relationship with God, or they specify a particular program activity they particularly enjoyed. On rare occasions, a client might say, "nothing." The following week, during check-in prior to the court session, that same client often comes up with an item that is meaningful and worthwhile.

During the course of 20 years working in the Homeless Court Program I have come to realize that people are looking for opportunities to improve their lives and contribute to their community. This is true of everyone, including the prosecutor who is concerned with public safety, judges who maintain the law and the dignity of the court, and court clerks and provider staff who do difficult work with limited resources. This even applies to clients who commit offenses that stem from desperate circumstances such as economic catastrophe, substance abuse, mental illness, and the necessity for housing, employment, and health care. The Homeless Court Program is a collaborative effort in which different groups of people work to improve lives, respond to the problems homelessness represents, and build a better community.

Model and Lead by Example

Unfortunately, dwindling resources affect our ability to perform and the ability of homeless people to move from the streets to self-sufficiency. We often hear stories of people who decline services as they learn they are limited at best and will leave them torn between two worlds—not quite off the streets, yet not really self-sufficient. I am forever impressed with the fortitude of people who work hard to get into programs and find

the strength to pull themselves up off the streets.

Sadly, it is easier for homeless people to commit a crime to obtain food and a bed in a jail cell than it is to obtain food and shelter in the community. In many respects, the court and my clients share the same frustration in that they cannot find a lawful existence—as court orders lack housing and homeless people lack the resources to get off the streets.

From the beginning, the major partners of the HCP have made an extraordinary effort to step outside our comfort zone, step out of the courthouse and reach out to people who are, in turn, truly appreciative of their efforts and the opportunity presented by the HCP.

It is Easy to Label Problems— It Takes Work to Solve Them

People call the police to tackle crime. When it comes to homelessness, the police have limited tools to solve the problems homelessness represents. When an individual is sleeping on the sidewalk, urinating in a doorway, or passed out in the gutter, the police issue a citation or arrest them. This leads the homeless person to appear in court to respond to the charges. In effect, we move the "problem" along from the streets into the courtroom. We all agree people should not live on the streets; they deserve better. People do not care if someone is ordered to pay a \$100 or \$1,000 fine or whether the court orders the offender to spend a weekend or year in custody ... they just want the problems of homelessness solved.

We have spent too much time and energy pointing fingers. It is easy to blame, find fault, and label someone as a criminal, the courts as insensitive, the police as brutal or harsh, or a defense attorney a "dump truck." While there may be a grain of truth in each claim, this does little to address our need to work together, build a better community, and find opportunity in adversity.

In the HCP we challenge the conventional wisdom, dialogue, and practice. Instead of dwelling on shortcomings and problems, we concentrate on accomplishments and triumphs. We move past the

"us versus them" mentality that leaves us all victims. We establish a mechanism for collaboration, one that reconciles problems with solutions while building trust and looks at the complete person, not simply the offense.

The solution comes when homeless participants are seen as people and not just cases. This is achieved through the reconciliation of a client's past, as represented in citations and charges, with the accomplishments of the present and the promise of a future, as represented in the proof of success in shelter activities that clients bring to the HCP. At the end of their journey HCP practitioners see themselves and our clients in a different context and with a broader purpose while respecting our fundamental mission—representing clients fully and forcefully, individually and through systemic change.

There is a great resilience in the HCP framework. In this framework, the court clerks build a massive calendar each month and prosecutors review a high number of misdemeanor offenses ranging from public disturbance offenses to serious charges like theft, public intoxication, resisting arrest, and DUI cases. In addition, provider agencies and staff transfer the trust they build with clients to the HCP. Together, we find a proactive solution for the community by collaborating with service providers to address the underlying causes of homelessness.

Both government and nonprofits are tasked with a great responsibility and inadequate resources. Despite this challenge, day after day, month after month, they extend themselves and reach out to the program and its clients to resolve cases, hold proceedings in a community room, and remove legal barriers to self-sufficiency.

Providers as Gateway to HCP

The monthly HCP calendar gives everyone an opportunity to fully prepare for the court hearing. One reason why the providers lead the HCP calendar as the gateway for referral of clients into the HCP is because they have the best understanding of what it takes to address the myriad of concerns that homelessness represents. The providers offer the services for people as an alternative to life on the streets and challenge participants to make the most of programming activities and their lives. The homeless service

agencies provide basic necessities—food and shelter—so their clients can feel safe and start working on the serious problems in their lives. The provider staff helps participants address and move forward from the humiliation that comes with falling into the streets while simultaneously counseling clients to overcome the drama of life on the streets and encouraging them to make the most of their lives. The staff helps clients understand that their problems don't define them. Similarly, the court case should not define them.

The providers understand what life on the streets means. The providers understand how after five days of homelessness people develop a survival mindset. The providers understand the culture of their clients' lives on the street. They understand that when someone is utilizing survival skills it is important to help them find new ways to live. This new way of life includes the basic skills that are necessary to come clean and interact with future employers, landlords, and the court.

In turn, the trust that the providers have built with their clients as they move from one step to another is then transferred to the court, helping the court and the community resolve its cases.

What Are You Worried About?

Accomplishments and successes in program activities provide a more complete picture of a person's life and potential. Similarly, *recent* accomplishments provide a more accurate picture of who that person really is.

When a prosecutor expresses concern about a case, I need to respond. I respond, even when their position is likely "no" to a particular issue. The HCP is a collaboration of equal partners committed to building a stronger community. A problem raised by one partner gives rise to a solution from another partner. When I hear of a problem, I need to explain the client's situation, whether it is the facts of the case and what challenges gave rise to it or what my client accomplished to overcome these concerns and improve the circumstances of their life. We can acknowledge our professional differences and work together to overcome the traditionally adversarial relationship between the prosecution and the public defender.

There are times when I need to be reminded of the

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challenges people face on the streets and in their program and how my interaction with clients affects the counseling or court sessions. We must continue to search for opportunity underneath the sorry conditions life sometimes presents to us.

"Man is born free; and everywhere he is in chains," wrote Jean Jacques Rousseau in the *Social Contract*. Today, homeless people are chained to the streets while the rest of us are chained to their plight. We are most fortunate for having friends, family, a home, and employment. Yet, our well-being is tied to the well-being of others in our community, including the least fortunate. The homeless service providers open their doors to provide opportunity through the Homeless Court—to people who once lived on the street and the court system that needs to resolve cases. In the HCP, this opportunity is served with respect and dignity for all the collaborative partners including our clients. Doing so, we free ourselves from the chains created by the "us vs. them" battle.

Every so often, a police officer attends one of the HCP sessions to observe the proceedings. Initially, they are uncomfortable watching cases being dismissed. But when they see the advocacy letters and certificates presented during the court session and listen to the conversation between the judge and participant, they come to understand the value of the HCP. They realize that the person standing before the judge is no longer someone they will see on the street, and that the issues underlying these cases have finally been resolved.

TERRI PETERS

Deputy Public Defender

Most of the clients we assist in Homeless Court have gone through unimaginable struggles. They work very hard for things we take for granted. I have had many clients begin to cry as I sit down to counsel them in the monthly Homeless Court session. For many of them, working in their programs is the first time they have followed through on something and seen progress in their lives. One client took 11 buses every day just to get to programs and look for work. For many, working through programs marks the first

time they have been clean from drugs and alcohol for as long as they can remember. One man we counseled, a veteran, had been an alcoholic for 25 years, and he was finally clean. I hear one story after another of mended family relationships—clients who tell me their mother or sister have come back into their lives because they're off the streets and making progress. When clients bring pictures of their kids they finally got back from Child Welfare Services that makes it all worthwhile.

In the traditional court, clients are often ordered to pay fines even though they are homeless and unequipped to pay. They may sometimes clear fines through serving jail time, but unpaid fines are eventually sent to court collections and additional fees are added. These fines often become the subject of a wage garnishment should the client obtain employment. In Homeless Court, clients are given credit for program progress against court fines and outstanding offenses. Clearing past obligations paves the way for these clients to continue on the path of progress. They become productive and contributing members of society. Many are now eligible to get their driver's license, obtain stable housing, and secure employment.

Of course, providers need to understand the important role that they play as well. No one else can step forward and tell the judge what progress has been made by each individual. The judge looks closely at advocacy letters submitted on behalf of each client to assess the level of progress made from the perspective of the provider. The provider's input makes all the difference, whether it is in letter form only, or better yet, through the provider's personal appearance with the client before the court.

Defense Attorney in HCP

It is important for clients to understand that I'm there playing a supportive role by counseling and representing them before the court, but they are the central part of the program. They have made the changes necessary to move towards self-sufficiency. They have obtained housing, made strides in their programs, and addressed personal and health issues. They should be proud of their accomplishments and understand these efforts are recognized and appreciated by the court.

My involvement with Homeless Court began back

in June of 2005 when I went to help out at one of the first Homeless Court sessions here in North County. I have continued to serve as a Deputy Public Defender with the San Diego Homeless Court since that time. My position also includes handling a felony caseload and serving as the Drug Court attorney for the North County Court.

The Homeless Court process constitutes justice, if justice is defined as fairness and equity. A court process that grants relief to someone who has taken steps to turn his or her life around and make ongoing progress is certainly a just court process.

Challenges and Growth

Of course, there are challenges to the program. Finding enough time to spend with each client during the counseling session, for example, has become an ongoing challenge. When discussing their legal matters with us, the clients often raise a myriad of other issues and concerns, and we always provide referrals and resources as they are available to address these needs. In the end, clients never fail to express appreciation for the time we spend counseling them and for the opportunity to appear in Homeless Court.

There have been skeptics of the court as well. Critics need to be aware that clients who qualify for the Homeless Court Program have made recognizable and measurable progress. Many of them have surmounted difficult obstacles along the way. This progress benefits not only the client (in that he or she is clearing fines and cases from the past), but society as well, in many specific ways. Every person who makes necessary changes and turns his or her life around will bring long range savings to their community. These include the costs of rearrest and incarceration, utilizing emergency services such as ambulances and emergency rooms, as well as Child Welfare Services costs to take kids away, place them in foster care, etc. Any criticism of the HCP often reflects a limited

understanding of the barriers that exist for some people to become independent and self-sufficient. Many of these clients have mental issues that make everyday living difficult. Many have suffered tremendous abuse and trauma, which occurs more often when someone is living on the streets and exposed to dangerous situations.

In one of the recent Homeless Court sessions, Judge David Ryan addressed a participant, a father who had made significant progress both in his program and in his personal life. After asking the father some questions, Judge Ryan asked the participant's thirteen-year-old daughter to come forward. She was asked what her father was like before he became involved in the program and what he's like now. Although somewhat shy and reserved, the daughter approached the podium and spoke to the judge clearly and without hesitation. She told the judge that before the program her father used drugs, was mean, and didn't care about other people. She went on to say that now he is nice and spends time with her. He cares about other people and works hard. What added to an already emotional moment was the father's expression as he watched his young daughter tell the judge of his changed life. He was clearly proud of his daughter and had now realized the tremendous impact his progress has made on those close to him.

For the Homeless Court Program to grow, we need more cases to qualify and more counties and courts to participate. Many clients do an incredible amount of work to obtain their licenses, only to have it held up by an out-of-county ticket too costly to clear without the help of the Homeless Court. More provider involvement would also improve the process. This means more involvement by current providers, as well as more providers being added to those offering the program to their qualifying clients.

ANDRE SIMPSON

SECTION IV

PROVIDERS

COO and Vice President, Veterans Village of San Diego

Without the Homeless Court Program, our clients' success rate would definitely not be as high as it is now. Veterans Village of San Diego (VVSD) is an alcohol and addiction treatment agency. Most clients in treatment have an unresolved legal issue; as a result, clients are worried about being stopped by the police and even being arrested prior to completing the programs. We can treat addiction issues, but we can't handle legal issues. Remove the legal component of our treatment plan—the Homeless Court Program—and our success rate would drop dramatically.

We introduce clients to the Homeless Court during our initial assessment. All of our clients self-report information during the intake process. At that time, they indicate their legal issues, and we tell them about the Homeless Court. Most clients suffer from substance abuse, mental health, or employment problems. Every client is assigned a case manager. The client and the case manager develop a treatment plan, and after adhering to a treatment plan for thirty days, the client is eligible for a referral to the Homeless Court Program.

Every other month, a Homeless Court session is held at our facility. Having the court sessions here has helped identify us as an important provider in the community. We have a long-term presence with the program, and our history means that we can always tie that experience to issues that arise as the court grows. We also have a large population here who access the program, and having the court sessions at our facility means they don't have to worry about having to travel somewhere else. That supports our continuum of care.

The History of the HCP

In 1996, the calendar for the HCP was much smaller than it is today. That is, there were fewer clients involved. Also, the court heard fewer cases, and those cases related to similar cases that are being heard in

HCP today. Today more providers are involved at more levels. Now most of the providers meet each month for lunch—and those meetings have written agendas, and the prosecution attends—so there's been better communication between everyone involved. But in terms of the court process, not much has changed.

I was hired by VVSD in 1995 and worked at my first Stand Down in July 1996, coordinating volunteers and services. The HCP was one program that our agency needed. It was my responsibility to bring it back every year, and it was during this time that I got to know Steve Binder.

During those early days, I picked up information about the legal system as I went along. I had a number of conversations with people, took notes, and asked a lot of questions. But even early on, VVSD prepared the participants essentially the same way we do today. We sat down with the client and discovered what their legal issue was. Then we talked to their case manager—every client has a case manager. After we met with both, we determined whether the client was eligible for the court, and if so, we explained the Homeless Court Program process. We spent a lot of time alleviating their fears. They had tremendous fear, so we introduced them to the procedure. I'd reassure them by explaining that they could expect to have a positive experience in the process. In those respects, the Homeless Court process hasn't changed.

The biggest change in the court since I started is that we now hold monthly HCP sessions. Years ago we held periodic sessions on a quarterly basis. The HCP also expanded to outlying jurisdictions such as North County. Yet, there are several similarities between the original Stand Down Court and the monthly sessions. Both benefit the homeless population right where our clients are—either in a shelter or on the street. Our clients experience the same level of anxiety, whether they attend the once-a-year session at Stand Down or the monthly court sessions held at VVSD or St. Vincent's. Of course, the clients also experience the same kind of positive reinforcement from the HCP. I

don't think there is much difference between the two HCP approaches in terms of the overall benefits to the clients, the court, and the community.

There are differences, however, between Stand Down and the monthly sessions in terms of the work that clients do. Because of the calendar process for the monthly Homeless Court sessions, participants commit a great deal of time and energy to their programs prior to being referred to the Homeless Court. Because of time constraints at the three-day Stand Down event, participants aren't expected to achieve the same accomplishments as their counterparts in the monthly Homeless Court Program.

It's a Start

Our work as providers starts with meeting basic human needs. Everyone needs security, food, clothing, and shelter. In a sense, clients who have to worry about these needs can't really find and develop a sense of self, so it would be a tremendous challenge for them at that time to stand before the court. Our programs help participants retrieve a sense of self so they can take responsibility for their lives and make progress towards achieving self-sufficiency.

When I think about the differences between Stand Down and the monthly court sessions, I always have to remind myself that the success of the client is measured by the positive steps a client is taking, not whether they graduated from any program. We need to celebrate every single thing that our people have done to get their lives back on track—like taking their medication, for example. These little things you and I may take for granted because we do them every day. But even the little steps are very important measures of success for people who have had to constantly worry about basic human needs.

Benefits for Clients

The court helps our clients in at least three ways. Primarily, the Homeless Court Program removes an outstanding legal offense, which helps participants by removing barriers to treatment and services and allows them to focus on the root causes of their homelessness. Second, the program allows participants to have a positive experience with the legal system. Unlike us, our clients haven't had a particularly positive relationship with the courts. If the client has a good experience in a

court setting, that person may take that experience forward into their life off the streets.

Finally, the court experience helps clients realize that the justice system can support them in their effort to effect positive change in their life. As provider agencies, we serve and support clients. When the court stands behind them, our efforts are enhanced. If we tell participants they deserve to have their tickets dismissed and that they won't be taken into custody in court—and they're not—their trust in us, and in the homeless provider community at large, grows exponentially.

Role of Provider Staff

Over the years, I've found that caseworkers need to fully understand the role of the Homeless Court. If they aren't aware of its purpose, they can be confused about the process. That confusion can get passed down to the clients, which in turn, can affect their relationship with the prosecution. Caseworkers also need to understand their clients, especially what each person is capable of. If the case managers refer someone who technically meets the eligibility criteria but who is not emotionally ready for the Homeless Court, that creates difficulty for the program and the process itself.

Sometimes our caseworkers advocate for the client during the hearing—standing at their side before the judge while their case is addressed. I know that other providers do this as well. I think we as providers should allow the clients to stand on their own as much as possible. We can advocate by writing strong advocacy letters. Sometimes caseworkers don't realize that these letters become court documents, so it is important that the caseworkers get to know their clients well and present a thorough statement to the court. We have to remember that a Homeless Court appearance is an opportunity for clients to demonstrate what they have done in their programs.

Benefits of the HCP Structure

The best feature of the Homeless Court is its flexibility. The court comes to the client, which is one main difference between the Homeless Court and traditional court. Also, as a society we often tell each other that every person doesn't fit into a square box—that we're all different. The fact that the Homeless Court doesn't punish those who live outside that box and,

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in fact, helps deliver fair justice, demonstrates its flexibility and validates each client's individuality.

As a provider, I see firsthand how the court fosters a sense of encouragement in our clients. It does this because the Homeless Court focuses on accomplishments, not on punishment. I also have to say that Steve Binder is probably the greatest human asset to the program. He has a heart and passion for the court, and when you remove the heart you lose the program.

Of course, even the Homeless Court Program can be improved. If I had a wish list, I would love to see the court addressing other kinds of cases, including cases from out of state. Also, our homeless population fluctuates in San Diego. Ideally, we would be able to deliver our services better if the court program could adjust with the population.

The relationship between the court and the providers is an interesting one. I think the court definitely does value the providers and their expertise. The ideal relationship, of course, is a complete trust between the providers and the court. Each provider should feel that their contribution is important, valued, and acknowledged. We want to know that the court understands the clientele we work with, and that when we make a referral it will not be second-guessed. Without providers, the Homeless Court cannot exist. You take away any part of the process and all our work is compromised.

As providers, we know our clients best. The defense and prosecution, as well as the judge, rely on us as providers, and trust our judgment. We have credibility. As such, our role should never be dismissed as trivial.

Reputation of San Diego's Homeless Court

People in San Diego often don't realize how well known and respected our Homeless Court Program. I've spoken about the program to a variety of groups across the nation: attorneys, other providers, court personnel, and advocates. Most of the groups have expressed a keen desire not only to learn more, but to implement the program in their own jurisdiction. So there has been a

very positive reaction to our court program.

The provider network is a close one. We all attend provider meetings together, and we invite the prosecution to attend and see our work. We also interact with the court when it holds sessions at VVSD every other month.

Occasionally, we get a naysayer who claims we are giving special treatment to homeless people. I usually get a question about whether we're letting an ax murderer off, or something like that. But the critical voice is very rare, and such questions demonstrate a lack of knowledge about how the program works. Once people understand, they are usually very supportive of what the court and the providers are doing. We see it as helping people break the stereotypes of homelessness because they see how our clients work hard to overcome the issues that led them to the streets.

John McKanin, one of our program alumni, is an inspiring person whose story I will never forget. He came to our program after living on the street. He was in the program for 60 days and doing very well, but he told his caseworker that he still had legal issues which he was deathly afraid of addressing. He enrolled in the Homeless Court Program and met with Steve Binder, the defense attorney who reassured him that he would not go into custody and that the judge would honor his success. During the session, he stood before the judge and the outcome was exactly as Steve predicted it would be. Getting through the court program allowed him to focus on the issues he needed to get under control. He did that, and transitioned out of our program. Now he has an apartment and is doing very well. I talk to him regularly. That's why I always say that without the Homeless Court our success rate wouldn't be nearly as good as it has been. The program allows us to do what we do best. John was living on the beach and behind dumpsters; now he has a furnished apartment, a job, and is contributing to society. Stories like John's help me remember that providers and the Homeless Court deal with people, not cases.

JULIE SOPER

Staff Attorney and Legal Advocate, YWCA Passages Program

I am the Staff Attorney and Legal Advocate for the YWCA Passages Program, a two-year transitional housing program for single, homeless women. Residents have a variety of barriers when they enter the Passages Program, ranging from substance abuse, mental illness, physical illness, and criminal backgrounds. The purpose of the Passages Program is to assist women to identify, accept, and overcome their barriers to gaining independence, developing specific personal goals, and making personal changes, as well as to give women the tools to maintain healthy relationships in all aspects of their lives.

The Passages Program is divided into three phases: Stabilization, Women in Transition, and Supportive Independent Living. Stabilization is a 90-day intensive group therapy program where residents are encouraged to take the time to focus on themselves. Stabilization residents are encouraged to focus on becoming emotionally stable and work on an individual plan to reenter the workforce. Women in Transition is a long-term transitional housing program where residents are given the tools and resources to enter the workforce and gain financial stability. Residents are required to have 30 hours of employment weekly and open a savings account within 60 days of earning verifiable income. Supportive Independent Living is achieved by continued program compliance, proof of \$250 in savings, and proof of 30 weekly hours of employment for the past 60 days. Residents are encouraged to practice living independently and prepare for permanent housing.

Each resident is provided with a case manager upon move-in. Case managers link residents with the appropriate resources and assist in developing personal goals to achieve independence. All residents receiving a verifiable income are expected to develop a monthly budget with their case managers and are required to show proof of savings on a monthly basis. It is the responsibility of the resident to meet with the case manager on a weekly basis. An individual counselor is also provided for all residents upon move-in. Individual therapists are provided to assist each resident in identifying barriers to independence.

An individual can become a resident of the Passages program in a variety of ways. For example, the Passages program may receive a referral from Rachel's Night Shelter, crisis houses around the city, the San Diego Rescue Mission, or other emergency shelters throughout San Diego County. When a woman is referred to Passages, they fill out an application, are interviewed, and the Passages staff makes an assessment based on an individual's needs and whether they meet certain criteria, such as being stabilized on medication for 30 days and/or are 30 days sober. Unfortunately, the need in San Diego is much greater than we can accommodate. The waiting list to be in the Passages Program is generally 3 weeks, though it can be considerably longer.

Legal Assistance for Homeless Women

I am an attorney and am relatively new to the Homeless Court process. I initially heard about the court from my husband who is a public defender and has counseled clients at Stand Down. When I visited the court for the first time, I was impressed with the warm and welcoming environment, which is different than the environment in a traditional court. In Homeless Court, the judge relates to people directly.

Besides attending Homeless Court, residents of our programs also have access to our legal department, which specializes in aiding victims of domestic violence. Through our legal department, eligible residents may receive assistance in obtaining a restraining order, as well as assistance with divorce, custody and visitation, and child and spousal support. While the legal department is an asset, it is limited in what it can offer to residents, which is why the Homeless Court Program has been so beneficial to residents. As previously stated, most residents have a variety of barriers that led to their homelessness. Often, a resident may have a criminal history which makes it more difficult for them to obtain employment. Many residents have fees resulting from their criminal activity which they struggle to pay. Removing or even decreasing fines and/or fees enables residents to begin saving money, resulting in positive steps towards self-sufficiency.

Currently, three of my clients are going through the program, which has been a positive experience.

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When they appear in court, I try to attend. However, I believe it's the responsibility of the residents to do the legwork. That's one step for them to achieve independence and self-sufficiency.

For example, two months ago a client went through the Homeless Court process with a DUI from 2006. She had been sober for a year, but was terrified of going to court because memories of the DUI were so painful. With help from the HCP, she was able to get past the burden of those memories and turn her fear into a positive experience.

Now she's working two jobs and is in our Supportive Independent Living program, the last phase of Passages. The Homeless Court helped her make a new life for herself.

Note: Aimee Castillo, Case Manager for the YWCA Passages program, contributed to this description.

KRISTE DRAPER

Staff Attorney, Children's Advocacy Institute

As an attorney and a facilitator of services for homeless youth, I provide legal and advocacy services to kids in an environment where they feel safe and secure. This means that I literally walk the streets with other social services providers, meet and talk with homeless youth, and provide them with services. I also run a legal clinic in an outreach center one night a week where kids know that they can come and talk to me if they have any questions. I give a lot of one-time advice and encourage kids that I meet to follow through with schooling and court appearances.

I fill in the gaps between legal and social services we have available in our community. Homeless youth typically do not advocate for themselves or for their rights. Most of the time, they have no idea what's available to them and what they are entitled to. Even when they know what needs to be done they are too scared of being rejected to do it. I work one-on-one with youth—building trust and taking them to appointments, role modeling appropriate social interactions with professionals and authority figures, and advocating for their rights. Most of the time the only reason a youth goes to get help or follows through

with an appointment is because I have told them it will be safe and they trust me.

I also set up long term legal relationships with youth who need more intensive help. I help coordinate services for them with other social services providers, I accompany them to Homeless Court, I help them get financial aid, get proper identification, work with probation officers, advocate in criminal court on their behalf, ensure they get health care, and work with them to get other welfare services they are entitled to. I also help with their homework and grocery shopping, and give them rides to the doctor's office. There isn't much I don't do with these kids.

I generally work with kids between the ages of 17 and 21. Most kids are "throwaways": they've been abandoned by their parents and have no place to go. Some are runaways; they may have been abused or neglected at home, and left because they felt safer on the street. These youth are no longer children but not quite adults. We cannot send them back home as it is not safe, and they are generally not interested in going into foster care and living in a group home or foster home. They have been living on the streets and taking care of themselves and generally do not want to go into a home but want to live on their own as adults. However, they often lack the social skills and life skills necessary to live completely on their own. They need help with rent, budgets, groceries, etc., just like every other youth in that age range.

First Client in Homeless Court

I can remember one of the first youth I brought to Homeless Court. She was living on the streets behind Home Depot and going to school every day to get her high school diploma. She had been in foster care for most of her teenage years, and had sworn off the system at age 18. I asked her for months to go to Homeless Court with me to deal with her trolley and illegal lodging tickets so that she could apply for financial aid for college with a clean record, but she refused. She was convinced that Homeless Court would not help her, just as the foster care system and every other system hadn't.

When I promised her that she would be safe and not get arrested, and that her fines would be taken care of, she agreed to go. Even while she sat in court, she didn't believe that her fines would be dismissed.

Not until the judge actually said, "Your cases are dismissed," did she believe it. At that moment I saw her smile for the first time, and when I dropped her off downtown after court, she told me she would like to go and apply for college now. Homeless Court helped her, believed in her, and respected all the work she had done. Based on that one encounter she was ready to give the "system" a try again, and that meant college. She signed up for college the next day; right now she's taking finals. That psychological burden of thinking no one believed in her is finally gone.

Her problems were typical of those faced by kids on the streets. All street kids have some kind of emotional disturbance. Think about their role models. Most of the time, they don't have anyone to look up to or learn positive behavior from. They're also on the defensive 24/7, so they can act out sometimes in an effort to protect themselves. You can't hurt them if they're expecting you to hurt them, and they're prepared. Kids will "front" and act tougher than they really are. They tell you horror stories of how tough or "bad" they are. That way, when you are disappointed in them or disgusted, it's okay because they were trying to make you feel that anyway. They will pretend that they don't need any help because they fear that they will ask and you will refuse. They are just disappointed once again. It is amazing how smart kids are when they need to protect themselves.

Homeless Youth

Teenagers especially are a tough population because they're becoming adults, and that's a hard process for most people to go through, even under the best of circumstances. They care about their looks, for example, and how they dress is important, as it is for most teenagers. They aren't worried about paying rent. The older you get, the more you have the luxury of experience. You can't ask teenagers to be more mature than they are. You can't push them too far.

We expect homeless youth to be far more grown up than we expect our own children. Think of an 18 year old applying for his or her own birth certificate, social security card, and ID and then going to the welfare office to apply for food stamps and filling out their own FAFSA application. Once they get their ID, they have to find a computer with a printer and write their own resume and look for a job—all the while trying

to find food to eat and a place to get a shower and clean their clothes. We would expect parents to help their children with all of these things, and yet when a youth doesn't have parents, we automatically place the burden on the youth. And if these things don't get done in a timely manner, we consider this a failure.

Often, people don't understand the difference between the homeless youth population and the traditional, older homeless population. As a culture, we need to treat homeless youth (age 16-24) separate from the adult homeless population so that both populations may be better served. Nearly all homeless youth are homeless because of unhealthy home life that may include physical abuse, sexual abuse, abandonment, and neglect. The people they are supposed to trust the most commit the abuse; the youth has no choice, since they are still growing and developing. Most of the time, they need an opportunity to continue their schooling, develop life skills training, and participate in some social role modeling.

Unlike most homeless adults, young people have not had a life before hitting the streets. They have not had a job or a license or a child, spouse, or home. They have not been on a sports team or gone on vacations. As a healthy society, we must provide our youth not just with a stable living environment and some job training skills but a LIFE. Most homeless adults know what they are missing when they are living on the streets. They know what they are working towards. The streets, poverty, abuse, abandonment—these are all the things homeless youth know, and we must give them a life as well as provide them with the skills and support they need to live it.

Homeless youth are different. They're not homeless because they have done horrible things or can't cope with the world. Most of the time, they didn't create the situation that made them homeless. Their parents probably abused them, or more likely, simply stopped caring for them. They abandoned them. Most kids living on the street have never been loved. That's why in the programs I work with, we try very hard to build trust and stability, like taking them to the welfare office or standing up with them in court. The kids know that every Monday night I will be at the center if they need me. Even if they don't talk to me or show up it is important that they know I am there.

Access to Services

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Unfortunately, the state has a horrible track record for helping kids. We are supposed to protect kids by removing them from bad homes and providing them with a better life. Between 30-40% of the kids on the streets who I see have been in foster care while the national average is 25%. Just think if 1 in every 4 kids you raised became homeless. Would you think you were doing a good job as a parent? Kids coming from foster care, whether they have "aged out" or run away, are extremely distrustful of everything society has to offer and all authority figures. They have been abandoned, abused, or neglected by their parent—the person who is supposed to love them more than anyone else—and then the state takes over and promises to set it right. Then they move through 11 different placements, never spending more than a year in a school or a home while they are abused either by another foster child or their foster parent, and therein not provided for. The foster care system does work for some kids but for the street youth I see that have been in foster care, it is just one more 'parent' that has made promises to care for them and hasn't followed through.

The same is largely true for the legal system. In fact, the legal system doesn't have the same recourse with homeless kids as it does with adults. If a kid under 18 is arrested she cannot be released to herself, so she sits in jail while the state finds a suitable placement or returns her to her parent. Remember, these kids generally don't commit violent crimes. Their crimes are representative of their situation: that they must conduct their lives on the streets and find food and shelter to survive. They may have a lot of trolley tickets because they need to get around town and don't have a bus pass. They may have illegal lodging tickets and loitering tickets, or they may have been caught with paraphernalia or been drunk in public. They also get arrested for stealing because they are hungry or cold.

I met one boy who was adopted by his foster mom and ran away at 13 because she was abusing him. He lived on the streets for 3 months showering at Ocean Beach before he was picked up for shoplifting. When the police asked him why he stole, he said that he planned to pawn the jewelry for food because he was hungry. Crimes are committed to survive, whether the crime is stealing for food or sleeping on the streets because you are tired and have no place to go.

Strategies for Homeless Youth

Homeless youth require separate strategies for entry into programs, and in general, what works for the older population usually isn't appropriate for an 18 year old. And I personally don't want them in shelters with older homeless people simply because most of these kids don't have drug and alcohol problems (yet). It is also common for adults to prey on street kids because society understands that kids are vulnerable and exposed without a means to protect themselves. An adult, for example, may get a kid to sell drugs or make them a prostitute. A kid's brain is not fully developed and they are not equipped to play the mind games some of the older adults can play—and need to play—to survive. Homeless kids want a family; they want to belong and have a role in life. We must be very careful that they get these things from healthy adults instead of people trying to take advantage of them.

By and large, homeless service providers are geared toward helping adults. Street kids are invisible. But there are some great programs in San Diego. There are transitional housing programs for youth over 18 that provide case management and other services. There is a group home for youth under 18 and a temporary shelter. There are also different programs that provide 'cool off' beds and family reunification services, if appropriate. There are also outreach centers where youth can get food, clothing, resource referral, and other basic needs. Homeless youth can also enroll and attend any school and receive services from the school. Youth over 18 also have access to all of the adult services provided in San Diego. Unfortunately, often both kids and adults don't realize that.

Wherever they go, homeless youth must receive wraparound services, which starts with basic needs and works up from there. Addressing only one or a few of the issues is not good enough; we must work with the whole person.

That's what I try to do in my practice. I partner with different homeless youth service providers including shelters, transitional housing, group homes, and outreach centers. With some programs, their case managers will refer youth or have youth call me directly when they need help. I walk the streets one night a week with an outreach team and

meet with homeless youth, in addition to running a weekly clinic at an outreach center where youth will come and talk with me.

When we talk and they begin to trust me, I try to promise as little as I can. I agree to do only those things I can guarantee with 100% certainty. Since these kids have been abused and disappointed before, they are quick to disappear if things do not go as promised or as told. I also try to be a great listener, and I speak to them very plainly. If they say no to an offer of help, I know not to take it personally. Homeless youth have been let down, abused, used, and disappointed by just about everybody. They are naturally skeptical of the help I offer and rightfully so. I just spend more time with them or get one of the kids I do know to vouch for me, and usually they come around.

Again, most kids want to go to school, get a job, and be off the streets. They are generally receptive to working towards their goals with me as long as they believe that doing so will help improve their life. They have been told so many times that things will get better and promised so many things only to have them never come true, so naturally it takes time to help them believe again. Pregnant moms are generally the most motivated to work the system as they have a baby coming. When we agree to work together, we set up a legal agreement. I'm an attorney, so our relationship falls under attorney/client privilege. When you break through, you discover that they really do want a home and that they want to go to school and to college.

Conclusion

Because trust is such a big issue with kids on the street, I don't send as many kids to Homeless Court. I'd say I've sent 6 or 7 kids in the last 8 months. When they're ready, we have to have all their ducks in a row, and I stand before the judge with them. That's when it helps being an attorney.

I also believe there is a lack of early mental health diagnosis with this population. They may have ADD or a learning disorder or something more severe, which made them difficult to parent and perhaps led to their parents abandoning them. Or if they've been neglected or abused, that may cause mental health issues. Which comes first, the neglect that causes an

unhealthy environment and mental health issues or an inherited psychological or developmental problem that leads to abandonment? Does it matter? What is most important is that we offer services and support to address the issue at hand.

Most of us have an unspoken assumption, of course, that they got themselves into the position of homelessness. But most of the times they didn't. Kids do not ask for the streets or grow up dreaming of living in an abandoned gas station. They are on the streets for one of two reasons: no one wants them or they are only wanted to be abused or neglected. Our job is to provide them with the tools, resources, and skills to get them off the streets and stable as quickly as possible. They are the victims of circumstance; they are not the bad guys. They deserve at least one real chance with a clean slate to really make it in this world and be whoever they want to be. I know I was given a lot of chances while growing up! If I could give each youth I see one real chance, that would be my dream and I would be happy.

BERT CAPATI

*Job & Resource Coach,
St. Vincent de Paul Village*

DENNIS VERMEERSCH

Housing Coordinator, Second Chance/STRIVE

Dennis Vermeersch is the Second Chance/STRIVE point of contact for the HCP. He attends every Homeless Court session, stands with his clients before the judge, and records proceedings with notes on the court calendar. While he is present to answer any questions about the client or program that the judge may have, it is important to him to let clients speak on their own behalf. As a result, the court knows and understands the Second Chance program, which is good for the court, client, and program.

Bert Capati, the Resource Coach at St. Vincent de Paul Village (Village), works closely with Dennis to coordinate their response for the HCP. In his opinion, clients and the court need to understand how and why

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the HCP works. He states "I've found that the client's initial perception is that HCP is similar to the traditional court. Most of my clients do not understand the difference between the traditional court and HCP."

When Bert advocates for clients, he fills in the details about their achievements, struggles, and history—those experiences that don't appear in the case file. When he stands before the judge, Bert talks about the client's self-sufficiency, how he has held a job, reconciled with his family, and bought a car. This advocacy strengthens both the client and St. Vincent de Paul Village because the court recognizes the work clients do and credits them for program activities to satisfy their outstanding legal issues. When providers share this information and the court knows the individual's accomplishments, the prosecution and judge have more than sufficient reason to resolve the case.

Preparing for the HCP

When an individual's case manager refers a client to Bert, he asks the client to gather all outstanding legal documents, e.g., tickets, notices to appear, and warrants. At their meeting, Bert also tells the client to save all AA/NA meeting slips and bus passes, and double-up on meetings. Bert then has the client get advocacy letters from all of the different programs that they participate in, either here at the Village or through other outside resources. Then, Bert inputs all of their warrants and outstanding cases into the database program at the Village. Finally, the client gathers all of their certificates of achievements along with the advocacy letters and prepares a package highlighting their accomplishments for the court. A second client meeting is then scheduled two days before the counseling session with the defense attorney. Depending on the severity of the case, our clients might need to have more documentation such as Recovery Services documentation, doctor's letters, school verification, employment verification, etc. Bert also checks that they have completed all the tasks and gives them a preview of the Public Defender counseling session.

Like Bert, Dennis meets with clients before the counseling session with the public defender. Dennis also emphasizes the importance of the individual's participation in gathering documentation to illustrate the constructive activities he has accomplished for the

judge to notice the steps he pursued to improve his life. Dennis reminds the clients to gather documentation of all their cases so that if the client knows of a case that fell through the cracks, it can be added to the court calendar. This builds credibility as we work to solve problems, while ensuring that all of the person's cases are dealt with.

The judge, prosecutors, and defense attorney know Bert and Dennis. They see them at every HCP hearing. On occasion, the judge will even contact one of them to refer someone from the traditional court to have their cases continued and transferred into the Homeless Court.

Entry Criteria

Even before they enter the HCP, each client in the Village attends multiple classes. Completion of Assessments and Challenge to Change is the Village entry criteria for a client referral into the HCP. When someone enters a program, they are given an intake assessment to determine where they are in life, including mental and physical health. Clients are assigned to classes based on this assessment. A woman who has difficulty caring for her children may be required to attend parenting classes, for example. These initial case managers are responsible for referring them to other departments at St. Vincent's. This helps the provider identify their clients' needs, make referrals, track their progress, and develop a list of their accomplishments to present to the HCP court.

After clients complete these classes, their permanent case manager refers them to Bert to address their legal issues. Bert interviews participants to assess their needs and determine a course of action. They may gather an assortment of documentation, like a birth certificate, a social security card, a GED, or any other paperwork that will help them get back on track. There are two major reasons for this meeting: (1) to see outstanding legal documents, and (2) inform them they have the ability to impact the successful outcome of their cases.

Judi Patterson, the STRIVE Outreach Advocate, recruits people for their program. She goes out to prisons and churches to connect with people. Judy processes about 100 applications a month. It is the initial connection that provides the first step and

opportunity to open the door to hope. STRIVE is the fast track to building a career with self-esteem and empowerment. Her initial outreach is the calling card to get people into the program. Recently, the Social and Behavioral Research Institute at California State University San Marcos study of STRIVE's program found that ex-offenders who graduated from the program were significantly less likely to return to prison (recidivate) than ex-offenders who did not participate. In broad terms, about 30 percent of the program's graduates recidivated within two years, compared to nearly 70 percent for those who did not participate.

Second Chance/STRIVE established a different HCP entry criteria with an emphasis for people who change their lives by learning to work. Their entry criteria is the three-week STRIVE training. The STRIVE training starts with a handshake and ends with graduation. The handshake is not a simple matter. Nearly all our clients are told to do it again. They learn to make a good first impression, to look the other person in the eye, and grip with a firm hand. This handshake is the start of a rigorous three-week training session where 60 out of 100 people graduate at the end of the course.

Program Activities with Results

The Homeless Court recognizes that program graduates have made significant strides by completing something that benefits them—real credit, that has tangible results, like a record wiped clean. Second Chance clients feel a sense of relief and accomplishment when they go through the Homeless Court Program. They are able to move forward in their lives. Dennis points out that an outstanding warrant can keep someone from being able to rent an apartment, which means they may not have a permanent address, which is required for a job. Dennis shared a heartwarming story of a client who hadn't had a driver's license since 1982. He owed \$7,000 in fines. We sent him through Homeless Court and everything was resolved because he had worked hard in his programs. After the judge dismissed his cases the client asked, "Does this mean that I can go out and get a license and get a job?" The judge said yes. The man sat down in the first row of seats and started to cry as his emotions of relief, hope, and gratitude over-

whelmed him.

ADRIANE SORIANO

Senior Deputy Probation Officer, Community Research Foundation: IMPACT Program

Community Research Foundation (CRF) operates IMPACT (Intensive Mobile Psychosocial Assertive Community Treatment). The IMPACT program provides integrated, coordinated community-based psychosocial rehabilitation services for homeless adults in the Central/North Central regions of San Diego County who have severe and persistent mental illness as well as individuals with co-occurring mental health and substance disorders.

Services at CRF's IMPACT program are based on the principles of psychosocial rehabilitation, with emphasis on attending to the whole person and on the consequences of mental illness, rather than simply attending to the symptoms of the illness. The services focus on recovery, independence, and initiative and are individualized to meet the needs of each client. Clients actively participate in setting service plan goals and are encouraged to involve family and significant others in the recovery plan.

The IMPACT teams are staffed with select multidisciplinary teams that include mental health rehabilitation specialists, psychologists, psychiatrists, registered nurses, social workers, peer support aides, volunteers, a probation officer, and marriage and family therapists. The IMPACT program provides a full array of wraparound services to the clients which include clinical and intensive case management services, housing assistance, mobile crisis intervention, 24 hour crisis services, medication management and mobile delivery, psychosocial and psychiatric evaluations, mobile psychiatric care, vocational services, and integrated services for mental health and substance abuse problems.

The grant which funds the IMPACT program provides a position for a Probation Officer, or a "Criminal Justice Specialist". I requested to be transferred into this specialty position due to my education and background. I have been an employee of the County of San Diego for approximately 13 years and

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have a Masters Degree in Social Work. I have many years of social work experience and experience working with this clientele. I felt I could provide the IMPACT program and their clients with quality services.

Dual Diagnosis Clients

Dual diagnosis, also known as a co-occurring disorder, is when a person has been diagnosed with a mental illness as well as substance abuse and/or dependence issue. A person may have a psychiatric illness, for example schizophrenia, and a substance abuse issue, such as dependence to methamphetamine, which complicates or exacerbates the psychiatric disorder.

Treating this population, especially clients that have been homeless for many years, can be difficult and challenging. Many clients have resorted to self medicating by using alcohol and/or illegal substances to treat and manage their symptoms of depression, anxiety, mania, and auditory and/or visual hallucinations. The goal of the IMPACT program is to treat the co-occurring disorders simultaneously to provide optimal treatment for the client.

Client Barriers

One of the largest challenges in working with this population is the client's lack of insight into their own illness. Some client's illnesses are so severe that they refuse to believe that they are ill, and subsequently, refuse treatment and medication. In addition, some clients choose to manage their symptoms by using alcohol and/or illegal substances, as this is what is most familiar and comfortable to them. It is quite challenging to break through this barrier to treat the mental illness.

Another barrier to working with this population is the client's mistrust of people, i.e.: service providers and the "system" as a whole. Many of our clients have been transient for most of their lives and have been rejected by family members. Many of these clients have had prior negative contacts with various agencies and the court system, being seen as chronic abusers of the system. Naturally, this can create issues of mistrust and fear towards professionals and any professional structure. Our challenge at the IMPACT Program is to break through this barrier to enable us to effectively treat the client.

Another challenge our staff faces is attempting to maintain a client in housing. For those clients who have been transient by nature, it can be uncomfortable and foreign to be in housing and not on the streets. Thus, it is a challenge to break through this barrier and educate the client on how to maintain and keep stable housing.

The largest barrier our clients face is fear. Most of our clients are extremely fearful of going before the court. In addition, due to their illness, they have been unable to advocate for themselves in the court system. Our client's voices have not been heard, and thus, they are in need of an advocate to personalize and humanize them...to show the court that they are human beings and not just a case file. That is one of the positive aspects of my job, for I have the pleasure of getting to know our clients personally and am able to convey their message to the court. I also advocate for the clients who are unable to pay fines due to a lack of funding, whose probation conditions are unattainable due to their illness, or who have been on warrant status because they were unaware of what they needed to do for the court.

Sending Clients to the Homeless Court

I refer one to two clients monthly to the Homeless Court Program. When I receive a referral for one of our clients (whether self-referred or referred by the IMPACT staff), I set up an initial screening interview. This initial screening interview can take one to three hours, where I take a client's complete psycho-social, substance abuse, and legal history. I question the clients as to the circumstances of their life and what brought them to their current situation. I go back as far as I can (even childhood if necessary) to get a complete picture of the circumstances surrounding their life. We discuss the history of their homelessness, how their homelessness began, and what they experienced as a result of being transient. We discuss substance abuse history in depth, length of current sobriety, and the services the client is currently engaged in to support and maintain their sobriety.

During this initial screening process, I am attempting to assess whether or not the client qualifies for the Homeless Court Program. If they have a substantial amount of time of sobriety, appear committed to being sober, and are actively engaged in the IMPACT

Program and following their case plan, then I inform them that they qualify for the Homeless Court Program. If the client does not initially qualify, I offer suggestions of what actions the client could take (i.e.: AA/NA meetings, outpatient treatment, support groups, etc.) to strengthen their sobriety. I offer my assistance in achieving these goals and offer to meet with the client periodically to review their progress and offer support to the client.

If a client qualifies for the Homeless Court Program, I fax a referral to the program regarding this client. I then schedule a second meeting with the client approximately one week prior to their Homeless Court counseling session. At that meeting, I write the advocacy letter for the client based on the history I've received from the first interview. I then show the client the advocacy letter and have them proofread it, and allow them to add or remove any items they wish. I feel this process empowers the client and makes them feel that they are a part of the Homeless Court process. I have had clients begin to cry because this is the first time they've ever read a letter saying so many positive things about them; it's very powerful. I then give the clients copies of the letter to distribute to the court at the counseling session. I always tell all my clients that going to the Homeless Court is a great privilege, which is something I truly believe.

The Role of Advocacy Letters

I write individualized letters to give the court a picture of who the client is and why it is important to have their legal issues resolved. I indicate what the clients have accomplished while in our program, and even acknowledge accomplishments that most people might consider small, but are huge to the client. I feel it's important to provide specific and concrete information about the client, so the judge knows exactly what the clients have accomplished.

One of my favorite parts of the advocacy letter is the last paragraph where I list the client's plans for the future, how they feel about the IMPACT program, and where they think they would be in their lives if they were not involved with the IMPACT program. I use quoted responses from the clients. I am always amazed and humbled by the responses I receive. All of the clients have expressed deep felt gratitude to the IMPACT program, stating they would be "still living

under a bridge", "eating trash out of dumpsters" and even "dead on the street" without our services.

Helping Clients

The Homeless Court Program is a blessing to our clients in numerous ways. First and foremost, by clearing up their warrants and outstanding fines, they are able to apply for SSI, SSDI, and other government aid. The ability to have an income is something most take for granted, yet is so incredibly liberating for our clients. Some of our clients, after stabilizing their illness and housing, are even able to get part-time or full time employment. Some clients perform volunteer work to "give back" to the community. Having a clean record can open many doors for our population which were previously closed.

The Homeless Court also gives our clients "peace of mind". Some of our clients have had warrants for their arrest for many years and walk around in fear of being arrested. Others never apply for aid because they are fearful that their outstanding fines will be discovered. Some of our clients have lived in isolation for fear of the legal system. It is very empowering to have one's legal troubles cleared up and resolved. After court, some clients have told me, "This is the first time in my life that I've been free". I congratulate them and remind them that they have earned this privilege through courage, hard work, and dedication. After court, I continue to see the client and support them in their quest to remain law abiding and keep their record "squeaky clean". They certainly are proud of themselves, and in turn, the staff at IMPACT Program are proud to be a part of the Homeless Court Program.

SIENNA AMBROSE

*Co-Occurring and Outreach Counselor,
Pegasus East Dual Recovery Center*

I'm the clinical and outreach coordinator for Pegasus East Dual Recovery Center. I provide clinical support to the staff, our clients, and their families. I also lead team meetings and set our program curriculum. I've been working with clients in crisis intervention for three years. Mental Health Systems (MHS) Pegasus East

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serves adult male and female populations who have substance abuse or dependence problems.

Referring Clients

MHS is relatively new at referring clients to the Homeless Court Program, so we haven't sent many: three people in the last six months, and those were the clients who were definitely ready to appear before the court. The people that we work with are hard to send. All of our people are not highly functioning, and some of our clients are just not capable of going to court. At MHS, we individualize treatment, so we spend a lot of time trying to recognize our clients' individual needs and their differences. Life looks a little different for them.

Typically, our case managers counsel our clients for Homeless Court. They explain the process to them, and then stand with them in court as advocates. Individual counselors write our clients' advocacy letters. We try to individualize letters, which turns out to be easy for us since we individualize treatment. Our case managers try very hard to understand our clients' unique symptoms, and in our letters we feel that it's really important to show small successes. They don't have to be anything big.

The program has definitely helped our clients. They feel validated when they stand before the judge, who they know understands recovery, and knows how hard the work these people are doing really is. Our plan for the future is that when our clients go through the program, we try to use them, as alumni, to help new people coming into the Homeless Court Program.

Client Intake

We get self referrals as well as referrals from case managers. We also get "Prop. 36" clients. In 2000, California voters approved alternative approaches to custody through what is called "diversion." At least 25% of the Proposition 36 probationers have a serious mental illness. We work with this population.

We work primarily with dual diagnosis clients—people identified as substance abusers who also has co-occurring mental illnesses. Most people come to us with more than two disorders. Our dual recovery program is a nine- to twelve-month program, with six months of aftercare. We combine education and counseling for both mental illness and substance

abuse. In terms of the mental illness issues, we see people with schizophrenia and some post-traumatic stress disorder the most. We're working with two veterans now.

Our population often has problems following through with even the most basic tasks. We've found that in general their mental illness hasn't been addressed enough, perhaps because mental health treatment in general needs to be individualized. Most of our clients are uninsured or underinsured. As a society, we say that we need to get these people assessed and under medication, but there are long waits for treatment, and not enough money to educate providers.

CHARLES LYLES

*Community Projects Coordinator,
Veterans Village of San Diego*

I am the Community Projects Coordinator for Veterans Village of San Diego (VVSD), which is a residential substance abuse treatment program. One of my duties as Community Projects Coordinator is that of legal liaison for the Homeless Court. Participants in our program become eligible for the Homeless Court Program after 30 days. VVSD generally has between 20 and 30 people waiting to participate in the Homeless Court Program, and I usually refer between 8 and 15 people to each monthly session. Once a counselor discovers a legal problem, they schedule an appointment for their client with me to discuss the matter and to seek possible solutions. Since I am the VVSD legal liaison, I eventually interview all prospective VVSD residents with legal matters and refer them to the appropriate legal resource, one of which is the Homeless Court Program. Our interviews are candid: I ask clients what they believe they may have outstanding and then I conduct a search for all outstanding warrants by going to the county clerk office to find any open or outstanding matters, and to the DMV, if it's appropriate. At that point, we have a complete picture of what needs to be addressed.

After the investigation, I meet with the client's case manager to verify the client is attending the appropriate services which directly apply to their offenses, such as anger management classes, substance abuse

and mental health counseling, PTSD assistance, etc. We then discuss the overall progress of the veteran.

When it is clear the client is ready for court, I counsel him/her one more time, and begin to prepare them for the HCP session. I talk with each client about how to conduct themselves in court, what it means to show respect, and to how present themselves positively. I make sure to acknowledge that each client carries "a long tail" of problems, and that this is usually the only thing the judge and prosecutor will know about the client. I stress that they have earned the privilege of being in Homeless Court and that they need to impress upon the court that they are no longer the same person who committed those offenses.

Our clients still participate in our recovery program after their cases are resolved in Homeless Court as a means to encourage them to continue dealing with "the wreckage of their past." With many of their legal barriers removed by the Homeless Court, they are now ready to enter the second phase of our treatment program which is the employment phase. This phase includes career counseling, skills assessment, getting a career (not just a job), and vocational training.

All of our clients are veterans, and each veteran population faces different problems. Veterans returning from Iraq and Afghanistan have more motor vehicle issues and moving violations, usually complicated by drug or alcohol issues, or anger management problems. Older vets get cited for illegal lodging tickets, public intoxication and trolley tickets. One of my clients had 60 trolley tickets over a six month period.

One of our greatest success stories is Michael Smith. Before he entered the Homeless Court Program I escorted him to the courthouse to take care of outstanding warrants. He had a serious history with the law and was nervous the entire time we sat in the courtroom. We both knew there was a profound risk he would go to jail since he was considered a flight risk for having numerous Failures to Appear. When we put him on the docket, the prosecution and defense couldn't believe he had come to court of his own free will.

While he sat in court, he saw another man sitting in the audience who was just maintaining with the false belief no one could tell he was obviously intoxicated. At that point, Michael had a moment of clarity—he turned to me and said, "That used to be me." He

explained, "I thought I had it together back then. I did not think others would notice my condition." He later told me that seeing someone who used to be like him was one little step that helped him turn his life around.

When his turn came to appear, the judge looked at the picture in the file, and then at him, and couldn't believe that it was the same person. After Michael told his story, I spoke about the progress he had made in his programs. The judge decided that based on what our program offers and his work at VVSD, he would dismiss all of Michael's misdemeanors and refer him to the Drug Court, as long as he spent one year with VVSD and one year participating in aftercare.

Since then, Michael has gone back to school, worked with child protective services to get his son back, and obtained a job. His appearance in Homeless Court was the turning point.

When clients like Michael go through this process they experience a sense of relief. They also have a new view of how the legal process works. Depending where they are on their road to recovery, their experience at Homeless Court gives them momentum. I know seven people who obtained jobs as truck drivers after they went through the Homeless Court Program and completed our program. They are all still sober and doing well.

DONALD BROYHILL

Resident Manager, Salvation Army

I'm the resident manager and Homeless Court Program Coordinator for the Salvation Army Adult Rehabilitation Facility in San Diego. Our facility offers in-patient residence care for six to twelve months to homeless clients. We serve people in the 21 to 65 age group, male and female. We do not discriminate based on gender or religion, and we currently have 95 males and 14 females residing in our facility.

As the Resident Manager, I evaluate whether or not our clients meet our entry criteria for the Homeless Court Program. My job is to see if they are a good fit. As a graduate of the program, being part of the Homeless Court Program is my way of giving back.

Counseling for the Homeless Court

I interview and counsel my clients heavily before

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the monthly court sessions. To be selected, a person has to be 90 days sober, be active in a good program, and have misdemeanors outstanding. I look at how long they have been in the program and whether they have any legal issues. If they qualify, we talk about the program—I pass on my firsthand knowledge of the program too—and I add their name to the interest list. We send about 7 people per month which translates to 84 people a year.

The Homeless Court allows participants to address the legal barriers that prevent them from improving their lives. For example, we recently sent a client who owed \$3,000 in unpaid fines to court. He wanted to work, but he knew that if he got a job his wages would be garnished and he wouldn't be able to get off the street. So he survived by taking illegal, under the table jobs. Once his fines were dismissed at the Homeless Court, he could get a legal job, pay taxes, and contribute to society.

Work Therapy

The Salvation Army focuses on work therapy to improve the lives of our clients. For us, work therapy means training people to report to work every day, on time, and dressed appropriately. The Salvation Army helps people retrain themselves so they can get and keep a job. That, and a spiritual education, helps keep people off the streets. At this facility alone, we have a wide range of tasks that people can do: we have desk people, people who sort our donations, truck guys, cooks, and kitchen workers. It all boils down to getting to work on time, doing your job, and getting through the week.

So many people get jobs, make it to one or maybe two paychecks, but get laid off after a month because they stop reporting for work. Our training program helps address the issues that prevent clients from keeping a job. Often the little acts of getting up—shaving, showering, and getting to work on time—become big steps for our clients. Those things are key to avoiding homelessness. That's why we teach life skills. At the bare minimum, if you don't have pride in yourself and your work, how do you expect to keep a job?

But we're just one program, and we recognize that we can't meet the needs of the entire homeless popu-

lation. All of the programs in San Diego together help the population. Each one gives something unique to a person in need, because we're all unique.

I know one client, for example, who jumped from one provider to another. He really wanted to get sober, but he had trouble finding something that would work for him. He stayed with us for one month and got drunk. Later on, he wound up at St. Vincent's and has a year and a half sober. Whatever works. There's a wrench for every nut out there.

Lacking life skills is definitely the biggest challenge for our population. Not understanding personal hygiene, not being able to communicate, much less hold a job keeps our incoming clients on the street. But having overwhelming legal problems also keeps people homeless. For example, when I went through the Homeless Court, I had 9 felonies and 15 misdemeanors on my record.

Like me, our clients are first and foremost afraid of the legal system. At the beginning of every Homeless Court session, Steve Binder (the deputy public defender) tells everyone that we're here to celebrate their accomplishments. Participants are recognized for their sobriety and for taking care of their legal issues. That's really a big deal for them because they're used to the system—judges, prosecutors, police—punishing them for things they have done. A lot of people want to get sober but they're afraid to because of the legal issues, the financial issues, and the changes they will have to make.

That is why I stand behind my clients when they go to court. It is difficult for homeless people to go before the judge since they often have a history of being sent to jail. I know this from personal experience because every time I stood before a judge I went to jail. Someone familiar supporting them in the session helps give them confidence. Joe Bryant, resident manager when I went through the program, served as my model. He walked me through the process, even taking me down to the courthouse over and over to check tickets. He was behind the guys 100%. His support is what motivates me to do so much for my clients today.

First-hand Experience with the Court

Most of the people in our program have substance

abuse problems—either with alcohol or drugs—and all are homeless when they arrive. Because I now counsel clients, I can see that I was a typical client three years ago when I went through the Salvation Army's program. I had been homeless for almost 7 years. Because I have been an alcoholic for over twenty years—and only sober for the last three—I had no life skills when I began the program. I was living under a bush and eating out of dumpsters. I was also a borderline schizophrenic with emotional problems. I've been in and out of jails and hospitals. While everyone is different, I think my experience is fairly typical of the clients we serve.

Sometimes I don't think the general public realizes how difficult it is for homeless people to address their legal issues. The average person gets a ticket and pays it. A homeless person gets a ticket and can't pay it and is afraid to go to court, so the ticket becomes a warrant. Now multiply that times ten or more tickets, and you have somebody who simply can't dig out. The Homeless Court helps people like him get a fresh start.

Once I became sober and decided to go through the Homeless Court process, I was afraid of two things: that all the progress I was making in my program was going to be thrown away because I would be arrested in court, and that I would have to pay the fees and fines I owed. When I was reassured that I wouldn't be arrested, I felt great. I make sure to pass that great feature of the court program on to the people I evaluate.

Homeless people with legal issues always worry about their ability to pay back fines. I spent seventeen years on probation, and by the time I went through the program I owed \$24,000 in fines and fees. I knew that once I started to work my wages could be garnished to pay my fines, and I didn't think I owed the money. At the end of my Homeless Court experience the judge not only terminated my probation, but reduced my fines by \$17,000 to \$7,000 owed on felony cases. That was a very liberating experience. Suddenly I didn't have anyone hounding me for money. To this day, I'm still paying off my debt; I'm down to \$2,000, which is fine with me.

For some, going to Homeless Court is only the first step on that road toward improvement. For others, the Homeless Court just stops the overwhelming fear they feel on the streets. For me, it meant that I had the confidence to go to regular court and take

care of my felonies. The Homeless Court shows society that people can solve their problems and improve their lives

JULIE DEDE, MSW
*Director of Social Services,
St. Vincent de Paul Village*

At St. Vincent de Paul Village, we have 870 beds of transitional housing and 137 beds of permanent housing as well as a continuum of services on-site including mental health services, substance abuse treatment, licensed child care, a career and education center, and a medical clinic that provides psychiatric and dental care in addition to physical health care—in other words, everything people need to move from the street to self-sufficiency. All of our services are available to people experiencing homelessness and not just those who live on our premises. The programs that serve people who still live on the street help us make a connection so that when a person becomes interested in seeking assistance we can use this window of opportunity to get people connected to a variety of services.

Our programs serve as a gateway to connect homeless people to appropriate services. Our typical clients are people with substance abuse issues, mental illness, and physical disabilities. We're also seeing a lot of older people (65 and up) as well as people who have traumatic brain injuries or other cognitive issues. Traumatic Brain Injury is a term that has gained greater usage since the current Iraq war, but we have been assessing for cognitive impairments for several years.

Our work is never done, and the system could improve by increasing access to beds for clients who need respite care for recovery from surgery or illness. The community also needs more emergency psychiatric beds and permanent housing options for people who have been denied disability benefits but who simply cannot work. We have some excellent resources for SSI advocacy but the resources are stretched. Lastly, many people would benefit from assistance with clearing up evictions and other debt issues, including child support, that are keeping them from self-sufficiency.

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Client Legal Challenges

In addition to physical and mental health issues, our clients often face challenges in addressing their legal issues. People who come here run the gamut of emotions—from fear, to suspicion, to a very heavy mistrust of people in authority. Often we hear things like, “They’re just going to hold me down,” when they talk about the law enforcement system because they haven’t had a positive interaction with law enforcement or authority figures.

Because service providers and the court recognize the challenges homeless people face when addressing their legal issues, the Homeless Court Program has become a critical component in the fight to end homelessness. Monthly Homeless Court sessions are held within the provider system at a shelter where clients feel more comfortable and voluntarily participate. Clients see the sessions as a step in their work toward success, and by having the court come to them creates a positive experience which lays the foundation for tackling other problems. While many other cities have Homeless Courts with varying entry criteria and protocols, I’ve never heard of any Homeless Court Program that holds sessions in a traditional courtroom.

A lot of times our clients have let things go. They may get a parking ticket and instead of paying it, they ignore it until it gets to be a bigger problem. The Homeless Court facilitates problem-solving and success by helping clients to address their legal issues. We’ve found that a positive Homeless Court experience lays a foundation for a pattern of behavior that helps participants deal with problems when they arise down the road. It is great to have a judge say, “Based on your hard work in your programs, I’m dismissing your case.” That’s a huge burden lifted, and really gives participants a new start at solving other problems as well as a bit of confidence that they might not have otherwise had.

Our caseworkers write advocacy letters for their clients, which give them a tangible record of their success and something to provide the judge that shows their progress. Advocacy letters help the court to see what specific accomplishments a client has achieved. Without an advocacy letter, the judge and prosecutors would have to go on their faith in our program.

Having the case manager’s letter personalizes the process and highlights the hard work the client has done—the reconciliation aspect of Homeless Court—in addition to providing the client with a sense of accomplishment and increased self-esteem.

Challenge to Change (HCP Entry Criteria)

The Challenge to Change (“CTC”) program is a two-week class that people take to move from our short term to long term housing. This class, along with the assessment process, is our “entry criteria” for the referral of clients into the HCP. The class has been a part of the Village since the early days. It was created by a volunteer who acted as a kind of motivational speaker and succeeded at prompting folks to make positive changes in their lives. After he left, we continued to follow his lead by motivating our clients to succeed and showing them their position on the spectrum of change.

There is a cheerleading component to CTC that encourages our clients to reflect on their past, present, and future and motivates them to work towards where they want to be. It has been very successful in motivating clients to take the next step towards stabilization.

Clients are referred into CTC from our rigorous assessment program. Assessments are important to both our clients and our staff. They help our multidisciplinary team determine how we can help someone who has often just moved off the street. The interview segment of the assessment is twelve pages long and asks some very personal questions. After they complete the interview, clients complete a battery of standardized assessments. We do assessments early in a client’s stay at the Village in order to quickly begin helping them focus on their goals. An assessment is our first comprehensive glimpse of a person’s life and history.

The assessments can also help our clients begin to heal. Assessments are not just surveys. Rather, the assessment process incorporates a positive approach to determine the client’s complete history and goals for the future.

A lot of times when a homeless person shares their story with people, they hear things like, “Get over it,” or “Why don’t you just get a job?” Of course, this doesn’t really help them change. When one of our staff listens to them and says, “You’re right. Your situation

right now really isn't good," the person may be able to move forward into a life that really does become good for them, whatever we both determine that "good" means. Our staff can sit down with them and say, "You may not be working now, but look at what you have done in the past. How can we get back there?" The potential client can start to build a rapport with us. For some clients, the whole process is really cathartic.

Measure of Success

We measure success individually. Each program has individual outcomes—for clients with mental health issues, psychological well-being is a sign of success; for people dealing with substance abuse, staying clean and sober for 4 months is successful; and for those people with education barriers, raising their education level is an accomplishment.

Our overall program outcomes are two-fold: clients need to move out into their own permanent housing (not including housing in another program) and they need to have a permanent income through either employment or benefits. Once they have accomplished these two tasks, they have succeeded and we have achieved our goals as a program.

We need to assure the court and the prosecution that people coming through the Homeless Court process have really met the requirements of both the program and the court. I am interested in developing a certification process for providers who refer clients to Homeless Court. I think there needs to be someone responsible for working with providers to funnel people in and to check that programs are really meeting the public's needs. By the time an agency refers a

client to Homeless Court the client has already taken steps to make positive changes so that the client is no longer likely to commit another offense. As a result, they are no longer a concern for public safety. With a "certification process" we can establish a solid threshold of what we want a client to have achieved before they are referred to the program, while still—and this is important—recognizing that all providers will have different kinds of requirements based on the needs of the populations they work with. We cannot standardize the program by implementing uniform entry criteria, but it seems to me that we can have a firm statement of program principles that providers must meet before they refer clients to the Homeless Court. A provider can't just say a person deserves to have his drunk in public tickets waived because he is in transitional housing. The person may not have dealt with the issue beneath those tickets—his drinking. Finding temporary housing is not enough in that case.

Obviously we do have rigid standards for programs now or the Homeless Court would not be as successful as it is. But some kind of certification process would ensure high standards and help us to work with the court to maintain the integrity of the program. The bottom line is that the service provider community should be proactive in terms of developing entry criteria and guidelines for referral to the Homeless Court. As the experts in helping homeless people, service providers must take the lead to ensure the continued effectiveness of the Homeless Court—for the sake of our clients, the court, and the community.

TRACY STONE

Homeless Court Program Participant

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PARTICIPANTS

My experience with the Homeless Court began when I started working with IMPACT as a client. IMPACT is a program that helps homeless people who are dual diagnosed. For me, being dual diagnosed means that I'm both an alcoholic and have a mental illness. Specifically, I'm bi-polar with an anxiety disorder, and I drank because it made me feel mellow.

IMPACT is great because it provides all the services people like me need. I went through the Homeless Court Program because I had a lot of public nuisance tickets and drunk in public. Homeless Court is one of the programs that IMPACT sends clients to, so after I got sober and started living, I went through.

IMPACT saved my life. Based on my history and my illness, I would definitely be dead now if IMPACT hadn't rescued me.

Early Life

I've always used alcohol to deal with my mental illness. I grew up in a rural community in Louisiana. All my relatives drank and made moonshine. The first time I ever got drunk I was in the 3rd grade. By the 9th grade, I was fighting with my father a lot and wouldn't come out of my room.

When I was 14 years old, I remember that my dad asked me if I wanted to run away. When I said yes, he took me to the interstate, told me to get out, and sat in the car until some stranger picked me up. I remember the man asking me, "Do your parents know you're running away?" I told him to look in the rear view mirror. "See that guy in the car back there? That's my dad." That blew him away.

The man was driving to New York City. It took a day and a half to get there, and I stayed there ten years. I met people who showed me the ropes—junkies, prostitutes—they taught me how to survive on the streets. Even before I left New York for good, I started hitchhiking. I've been from Oregon to Maine. I've been across the country several times, drinking the whole time. It was all about partying, partying, partying. I rode for a party, and I met all kinds of people.

Mostly I panhandled to get money. Like a lot of alcoholics, I had to have a beer every fifteen minutes to stay drunk. I also went back home a couple of times. I remember when I was 17 years old, my brother came home from boot camp from the Air Force. We were drinking 100 proof vodka from glass jugs. I drank so much that I went into a coma and was out for 4 days. No one even took me to the hospital.

I've never worked for any period of time because I had to have a beer so often. I hopped freight trains. That felt like riding a Harley. There was so much freedom. I'd always go where rich people were because they would give me money. I also didn't eat very much on the road because I could get a quicker buzz when I wasn't eating. I spent most of my 20s and 30s like that.

I remember a few things about that period. Once in Las Vegas, I was hit by a city bus and thrown 30 feet through the air. Then about 15 years ago, I was on the Santa Monica Pier when some college students told me they would give me money to dive off the pier. I did, and they gave me 37 cents.

Then about 10 years ago, I was in Kendall, Florida. I mixed wine with liquor and was driving to the store when I had a blackout in the middle of the I-95 freeway. I ran into a cop car and caused a 5 car pileup. I spent 11 days in the hospital and was in the emergency room for 2 days. And then, of course, I was sent to jail. I've been to jail about 100 times.

Hitting Bottom

Despite all I'd been through, nothing prompted me to change my behavior—probably because I just hadn't hit bottom yet. Being in jail never felt like the bottom to me. When I'd get out, I just made up for lost time. People would take me to their preachers. I would listen to them and take them seriously, but I never changed.

I hit bottom here in San Diego in October 2006. I had been to the hospital three times in two weeks, unconscious with alcohol poisoning each time. I remember when I woke up after the third time, the

nurse told me, "You're going to die." I think I laughed and said, "We're all going to die." But then she replied, "Yes, but you're going to die real soon."

I don't know why, but I asked to see the doctor. It turns out that I had actually died on the table and the doctor had brought me back to life. My body had shut down—I went into heart and liver failure. I was actually dead. After the doctor told me this, he added, "And there won't be another time."

I realized that he was saying that they wouldn't revive me if I returned to the hospital. When I left the hospital, I had enough money in my pocket for one beer. I bought one, and for the first time in my life, it didn't do anything for me. It tasted the same as it always had, but it just felt . . . like it didn't matter to me. That was the last drink I've had. I've been sober for over a year now.

But I did have problems even after I had made that decision. I went into detox for a 15 day program. But after those 15 days, I was not ready to leave. I begged them not to put me back on the street. I told them that I needed to be locked up, because I knew what would happen.

The Importance of Homeless Court

People don't realize that there's more to getting your life back together than just going through recovery. You can recover and still have these things hanging over your head that keep you from moving on to getting a job, a car, whatever. I worked hard on my addiction and got my medications under control, and because of my successful completion of IMPACT and the Homeless Court I can now go to school and eventually get a job.

Currently I attend cosmetology school. However with my background, I feel that I have a lot to share with people who are struggling. And because I've lived on the street for most of my life, I can listen and relate to them. For those reasons I am thinking about becoming a caseworker.

My father always used to tell me that I was never going to amount to anything. I heard that so many times when I was growing up that I started to believe it, so I continued to live destructively. It's a vicious cycle that I want to help people get out of. I want to let them know that I've been there and that they are not alone.

CHRIS STEPHENSON

Homeless Court Program Participant

Honestly, when I was on the street, and even while in recovery, the Homeless Court wasn't on my mind. I just wanted to stay healthy out there, and then stay sober. But then two of my caseworkers approached me with information about the program, and it sounded like a great thing. It turns out that the Homeless Court Program is a total gift.

I first became homeless in July 2000. My brother died in March 2000, and I had what people call "survivor's remorse." He drank himself to death, and I was bitter that he had succeeded and I hadn't, despite having been drinking since the age of 10.

When I was a kid, I would drink anything with alcohol in it, including cough syrups, vanilla extract, even colognes. I'd even given myself vodka enemas. I did it because I felt good when I drank, like I was a healthy human being.

I remember not being able to hold a toothbrush because my hands were shaking so badly. I had to put the toothbrush down on the counter and pick it up with my mouth.

So after my brother died, I hid up in my apartment and spent the money I had on alcohol and rent. When my money ran out, I packed a backpack and hit the street, recycling to get alcohol.

I lived near Mission Bay, recycling and drinking. Alcohol was my only subsistence, and I would wake up wherever I had passed out the night before. Every day I'd get the clerk in the liquor store to front me a bottle of vodka and pay him when I turned in my recycling. When my blood alcohol started to come down, I would hallucinate and shake. Someone told me that was the DTs.

The day I went to the court session was hard. I had open container tickets, public chronic intoxication citations, and fines from a 2000 DUI. I got there and had suffered an anxiety attack, a symptom related to a brain injury I received in a 1996 car accident. I couldn't breathe and had to leave the room at St. Vincent's before my name was called. When this happens, I have a method to keep me focused and stop the anxiety. Fortunately, my caseworker Adrienne

SECTION IV

was there. We spent about an hour in the hallway. We were still there when my name was called, but the public defender pushed it back and made me the last case the judge would hear. When it was my turn, Adrienne stood there with me and the judge dismissed my cases. I couldn't keep from crying.

I can't explain how much more free I felt when my legal issues were resolved. I had removed another obstacle in my life that was holding me down. Now if a cop comes by and wants to talk to me, I'm okay, I can concentrate on what he is saying without worrying about getting arrested. Mostly, the Homeless Court experience has helped me be a better sponsor. The program is just one more thing I can share with a sponsee to motivate him to make positive changes and stay on track.

Chris Stephenson passed away on July 31, 2008 at the age of 41. Chris lived by his motto, "You got to give it away to keep it." He shared his personal experience with everyone—dedicating time for this interview, speaking to peers, and sharing his message at the recognition lunch for Judge Deddeh. His generosity touched us far beyond the credit he gave to those who helped him in his time of need. He is desperately missed by family, friends, and the staff who worked with him. Chris will forever be an inspiration to peers and professionals alike.

MYSS PAM

Homeless Court Program Participant

One would not expect the first Homeless Court client to come from a middle-class Catholic family. But that is how my story begins. I was born in 1960 in Los Angeles, California in the Pico Fairfax area in a two-parent family. I was the oldest of seven children. My father operated a restaurant and my mother worked for an insurance company.

I was always a "good girl" growing up. I attended Catholic schools and eventually graduated from a Catholic high school. But it was my attraction to the seemingly glamorous life of the streets which led me to become homeless, living on the streets of Los Angeles.

No one volunteers to be homeless, and certainly, I didn't. However, the allure of street life led me to drinking alcohol when I was eighteen years old. Then

curiosity led me to marijuana smoking, which I inhaled. Finally, by 1975, the desire to get a bigger high led to free basing cocaine. Drugs are expensive, and if used heavily, as I eventually did after the death of my father, there is no money left to pay the rent.

People always ask me what it is like to be homeless. At times, it was an adventure, but it is a Darwinian world—survival of the fittest. One survives by doing what one knows best. To support my drug habit I started prostituting and then shoplifting. I ran up more than \$90,000 worth of warrants in San Diego County. I never picked up a drug offense, probably because I only used drugs and did not deal them. Needless to say, the petty theft warrants were quite a weight to carry around, because if I had been arrested, I would be in jail for some time.

Eventually, I became tired of the drug world and the street life. I checked myself into the chemical dependency program at St. Vincent de Paul Village in 1993. This was, and still is, a very good program: six months in length with thirty days inpatient. I was actually there for two years. There was a group of twelve of us and we are still together. Father Gill was particularly inspiring to me. We tried new techniques that are still used there today. The most rewarding thing about the program was just getting my life back.

Meanwhile there were these petty theft warrants. I first heard about the proposed Homeless Court from a flier at St. Vincent de Paul shelter where I was in rehabilitation. I was its first client on Halloween Day, October 31, 1994. There I was with more than \$90,000 worth of warrants. I was afraid that I would be going to jail and drove my attorney, Steve Binder, up the wall. As they say on the streets, "Fear is the bitch."

The judge on that historic day was Judge Danielson. This was in the Downtown Courthouse, although later Homeless Court sessions would be held at shelters such as St. Vincent de Paul. I pleaded guilty to petty theft and the remainder of the charges were dismissed. I got credit for time served based on the many hours I had completed in the St. Vincent de Paul Village chemical dependency program and the NA meetings I attended. There it was, a great load lifted off my back replaced with peace of mind.

My success in the program and Homeless Court inspired me to work in drug and alcohol rehabilitation, and to qualify I obtained a certificate for drug and alcohol counseling from San Diego City College

in 1994. I volunteered to do drug counseling for Drug Court when Judge Bonnie Dumanis was presiding there. She had a great understanding of the main problem of homeless people coming to court: they are scared to death. I later worked for Community Connection and St. Vincent de Paul Men's program. I am now working for Volunteers of America.

My life's ambition is to have my own drug and alcohol rehabilitation service to help others who are where I once was.

APPENDICES

APPENDIX A: ABA POLICY ON HOMELESS COURT PROGRAMS

AMERICAN BAR ASSOCIATION
Commission on Homelessness and Poverty
Senior Lawyers Division
Standing Committee on Legal Aid and Indigent Defendants
Commission on Effective Criminal Sanctions
Steering Committee on the Unmet Legal Needs of Children
Commission on Mental and Physical Disability Law
Commission on Domestic Violence
Judicial Division
Standing Committee on the Delivery of Legal Services

ADOPTED BY THE HOUSE OF DELEGATES
August 2006

RECOMMENDATION

RESOLVED, That the American Bar Association adopts the following principles for Homeless Court Programs to the extent appropriate for each jurisdiction:

- (1) Prosecutors, defense counsel, and the court should agree on which offenses may be resolved in the Homeless Court Program, and approve the criteria for individual participation, recognizing that defendant participation in Homeless Court Programs shall be voluntary.
- (2) Community-based service providers should establish criteria for individual participation in the Homeless Court Program and screen individuals pursuant to these criteria.
- (3) The Homeless Court Program shall not require defendants to waive any protections afforded by due process of law.
- (4) All Homeless Court Program participants shall have time for meaningful review of the cases and issues prior to disposition.
- (5) The Homeless Court Program process and any disposition therein should recognize homeless participants' voluntary efforts to improve their lives and move from the streets toward self-sufficiency, including participation in community-based treatment or services.
- (6) Participation in community-based treatment or services shall replace traditional sanctions such as fines, public work service and custody.
- (7) Defendants who have completed appropriate treatment or services prior to appearing before the Homeless Court shall have minor charges dismissed, and, where appropriate, may have more serious misdemeanor charges before the court reduced or dismissed. Where charges are dismissed, public access to the record should be limited.

APPENDIX B:
2009 HOMELESS COURT CALENDAR

SAN DIEGO - 2009 HOMELESS COURT CALENDAR

<table><tr><td>January</td><td>St. Vincent de Paul Village</td><td>2009</td></tr><tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td>2</td><td>3</td></tr><tr><td>4</td><td>5</td><td>6</td><td></td><td>8</td><td>9</td><td>10</td></tr><tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr><tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr><tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td></tr></table>	January	St. Vincent de Paul 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Provider Case List from Prosecution

Defense Counsel Clients

Court Hearing

Other

KEY

HOMELESS COURT INTEREST LIST

San Diego:

North County:

Shelter Staff to Complete First Five Columns

[illegible]

APPENDIX D:
AGREEMENT TO APPEAR

AGREEMENT TO APPEAR
HOMELESS COURT PROGRAM

Participant: _____
Name: _____

DOB: _____

Shelter

☐ St. Vincent de Paul
Village
1501 Imperial Ave.
San Diego, CA 92101

☐ Veterans Village of San Diego
4141 Pacific Highway
San Diego, CA 92110

Counseling with Defense Attorney

Date: _____
Time: 9:00 a.m.

Court Hearing
Date: _____
Time: 1:00 p.m.

Without admitting guilt, I PROMISE TO APPEAR, AT THE above,
date, time and shelter to address my (misdemeanor/infracton) criminal case(s).

Date: _____ Signature: _____

AGREEMENT TO APPEAR
HOMELESS COURT PROGRAM

Participant: _____
Name: _____

DOB: _____

Shelter

☐ St. Vincent de Paul Village
1501 Imperial Ave.
San Diego, CA 92101

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4141 Pacific Highway
San Diego, CA 92110

Counseling with Defense Attorney

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Without admitting guilt, I PROMISE TO APPEAR, AT THE above,
date, time and shelter to address my (misdemeanor/infracton) criminal case(s).

Date: _____ Signature: _____

APPENDIX E: SAMPLE STATEMENTS OF SERVICES

Homeless Court Program
Homeless Service Provider
Statement of Services

Agency Mission Statement:

Describe the importance of collaboration between your agency and the HCP:

What criteria do clients meet in your program to be eligible for the HCP:

Checklist of Services offered by your agency:

- Assessment/Orientation
- Life Skills
- Education (literacy, training, skill development, high school/college/technical)
- Counseling (individual, group, family/parenting, anger management, PTSD, therapy)
- Substance Abuse (AA/NA, Chemical Dependency, Relapse Prevention)
- Medical (physical/mental health)
- Government benefits (SSI, GR, VA, etc.)
- Housing
- Employment

- Total number of activities:

Comments:

Contact:

APPENDICES

Homeless Court Program
Homeless Service Provider
Statement of Services

St. Vincent de Paul Village (SVdPV)

Agency Mission Statement:

The mission of St. Vincent de Paul Village is to help our neighbors in need break the cycle of homelessness and poverty by promoting self-sufficiency through an innovative continuum of care, multi-disciplinary programs and partnerships that come together in the spirit of our CREED to teach, learn from and challenge our neighbors and one another.

The agency also has a CREED that guides work with clients.

Our CREED:

- | | |
|--------------|--|
| Compassion: | Concern for others and a desire to assist |
| Respect: | An act of giving particular attention or special regard |
| Empathy: | Understanding, an awareness of and sensitivity to the feelings of others |
| Empowerment: | Helping others to help themselves |
| Dignity: | Counting all people worthy of our esteem |

Describe the importance of collaboration between your agency and the HCP:

The HCP is essential to helping clients achieve self-sufficiency. The SVdPV program is built on the goals of helping clients achieve self-sufficiency by obtaining permanent housing and permanent income. In order to do that they meet weekly with a Case Manager who work with the client to develop goals aimed at removing barriers and building on strengths. One of the major barriers is legal issues. Clients who have legal issues looming worry about seeking employment or other needed services and interacting in the larger society for fear that their legal issues are going to catch up with them. Clearing up tickets releases clients from this fear and allows them to move forward, access the services they need and it gives them a sense of pride and self respect.

What criteria do clients meet in your program to be eligible for the HCP:

In order to participate in the Homeless Court Program through a referral from SVdPV a person must be living in one of SVdPV's residential programs. The resident must, at minimum:

- Be in compliance with program requirements including following program rules, completing up to 10 hours of shared living responsibilities (aka chores) each week, attending resident House meetings, and returning for curfew each night
- Meet regularly with a Staff Contact or Case Manager
- Attend Resident Orientation
- Complete a class titled Challenge to Change - a 20 hour motivational class that has experiential work and homework and focuses on goal setting, motivation for change and building self esteem;
- Participate in the Assessment process - a three appointment process that includes a battery of standardized written assessments and a 90-minute social history interview.
- Clients who are facing drug or alcohol related charge must also be enrolled and participating in SVdPV's Recovery Services program that includes attending recovery groups and sober support meetings.

Although all cases are entered on their own merit, supporting documentation must demonstrate an effort by the client to change and exhibit responsibility. Examples of ownership include but are not limited to:

1. Trolley Ticket: Possession of bus pass
2. Drug/Alcohol: Recorded logs of participation in recovery services (AA/NA attendance, substance abuse education, certificates of treatment completion, etc)
3. Illegal Lodging: Documentation of housing plan/program

Checklist of Services offered by your agency:

- ✓ Assessment/Orientation
- ✓ Life Skills
- ✓ Education (literacy, training, skill development, high school/college/technical)
- ✓ Counseling (individual, group, family/parenting, anger management, PTSD, therapy)
- ✓ Substance Abuse (AA/NA, Chemical Dependency, Relapse Prevention)
- ✓ Medical (physical/mental health)
- ✓ Government benefits (SSI, GR, VA, etc.)
- ✓ Housing
- ✓ Employment

St. Vincent de Paul Village began as small soup kitchen. It is now San Diego's largest residential homeless service provider. SVdPV provides a comprehensive continuum of services to homeless people in a "one-stop" site including: providing basic resources for survival – shelter for over 860 men, women and children each night, food, clothing as well as a wide range of services to address barriers to self-sufficiency including medical and dental care, mental health and psychiatry services, chemical dependency services, case management, adult education, career counseling and job placement and the Homeless Court Program.

Contact: Bert Capati, Job and Resource Coach
Career & Education Center
St. Vincent de Paul Village
1501 Imperial Ave.
San Diego CA 92101
(619)645-6442

APPENDICES

Veterans Village of San Diego (VVSD)

Agency Description:

Veterans Village of San Diego (VVSD) is dedicated to extending assistance to needy and homeless veterans of all wars and eras and their families by providing housing, food, clothing, substance abuse recovery and mental health counseling, job training and job placement services. We believe in the inherent worth of each and every veteran and his or her right to a rehabilitation program which leads to renewed self-worth and independent living.

VVSD is currently licensed by the state of California to house and treat up to 151 homeless male and female veterans. Our new facility, which will be under construction in June 2007, will expand our capacity to over 300 beds. VVSD offers residents a safe, clean and sober village-like setting for several months to a year or more depending upon individual needs. The program, originally formulated as a social model, is now integrated with structured case management and mental health therapy and simultaneously addresses the addiction, post traumatic stress disorder, medical needs, legal problems, family issues, spiritual development and employment training and placement requirements of each resident.

The following services are provided by the program:

- Assessment/Orientation
- Life Skills
- Education (literacy, training, skill development, high school/college/technical)
- Counseling (individual, group, family/parenting, anger management, PTSD, therapy)
- Substance Abuse (AA/NA, Chemical Dependency, Relapse Prevention)
- Medical (physical/mental health)
- Government benefits (SSI, GR, VA, etc.)
- Housing
- Employment & training services
- Clothing
- Transportation assistance

Target Population:

Needy and homeless veterans of all wars and eras and their families.

What criteria do clients meet in your program to be eligible for the HCP:

In order for a VVSD client to access the Homeless Court Program, they must be actively participating in a VVSD program. At a minimum the client must:

- Have 30 days or more of active participation in our program
- Be referred to the HCP by their Case Manager/Counselor
- Be in compliance with their treatment plan if residing in residential (attending all groups/classes, meeting, case management sessions, therapy if appropriate)
- Be mentally/emotionally stable to participate in the HCP
- Obtain an advocacy letter which highlights their participation in their respective program

Contact:

Primary

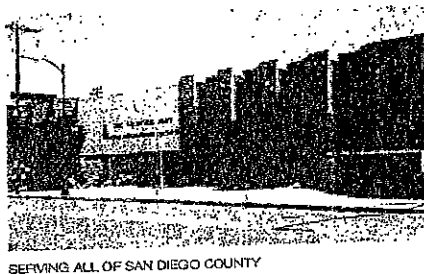
Charles Lyles
Community Project Coordinator
Veterans Village of San Diego
4141 Pacific Highway
San Diego, Ca. 92110
Phone: (619) 393-2093

Alternate

Andre Simpson
V.P. & C.O.O.
Veterans Village of San Diego
4141 Pacific Highway
San Diego, Ca. 92110
Phone: (619) 497-0142

APPENDICES

APPENDIX F: SAMPLE ADVOCACY LETTERS



WILLIAM BOOTH
FOUNDER



THE SALVATION ARMY

ADULT REHABILITATION CENTER

1335 BROADWAY • SAN DIEGO, CALIFORNIA 92101-5708 • (619) 239-4037

DATE: 10/7/08

TO: S.D. Homeless Court.

Re: John Doe

Dear Court Officer:

John Doe has been a beneficiary of the San Diego Adult Rehabilitation Center since 3/19/08. While currently participating at the San Diego Salvation Army Adult Rehabilitation Center, John Doe participated in the following classes (Classes are listed along with the number of classes attended):

25	Group Counseling	5	Saturday Step Study
108	Outside AA/NA Meetings	12	Relapse Prevention
25	Individual Counseling	0	Re-Entry Groups
8	Anger Management	0	After-Care Groups
5	Beginner Step Study	25	Nicotine Anonymous
12	12-Step Study	25	Bible Study Classes
25	Christian Living Classes	5	In-House AA/NA Meetings
25	Chemical Dependency	0	GED Preparatory Classes

If you have any questions, do not hesitate to contact the undersigned at (619) 239-4037 ext. 344.

Very truly yours,

Donald Broyhill
Resident Manager



September 12, 2006

To Whom It May Concern:

Al Pavich
President and
Chief Executive
Officer

David Siegler
Vice-President and
Chief Financial
Officer

Andre Simpson
Vice-President and
Chief Operations
Officer, Programs

Board of
Directors

Phil Landis
Chairman

Mike Madigan
Vice Chairman

Gene Auerbach

David Bain

Bruce Boland

Joe Ciokon

Will Hays

Anthony Moya

John Smith

Mr. _____ is a resident in good standing at Veterans Village of San Diego Rehabilitation Center, 4141 Pacific Highway, San Diego, CA 92110. He entered our program on April 01, 2006. Veterans Village of San Diego is a Certified Inpatient Residential Treatment and Recovery Facility offering a wide range of services for veterans recovering from drug and alcohol dependence.

Mr. _____ graduated from Phase 1 (intensive treatment) in August. During Phase 1, he attended 12 weeks of intensive treatment, with classes each week in Anger Management; Family Dynamics; Healthy Boundaries; Alcohol/Drug Education; 12-Step Education; Relapse Prevention; Journaling; Ending Criminal Behavior. He also got a 12-Step sponsor, and exceeded our requirement for attending 90 AA or NA meetings during his first 90 days. He now attends five 12-Step meetings, and is working on Step 5 with his sponsor.

Mr. _____ is now in Phase 2, enrolled in the Wellness and Vocational Enrichment (WAVE) program at the VA Medical Center. This is a job readiness program for disabled veterans that involves 30 hours of training per week. His work at WAVE does not pay well, but Mr. _____ hopes eventually to work his way into more gainful employment as a result of his participation. Mr. _____ is being treated for severe arthritis. He is also being treated for trauma as result of duty while he was in Air Force.

This veteran has been highly accountable for his past actions during his stay here. He has been diligent in attending program activities, and has displayed willingness in taking suggestions for building a strong recovery. He has lost a great deal due to his addiction. I believe Mr. _____ has earned a chance to start over with a clean slate.

If there are any questions regarding Mr. _____ participation in our program, please contact me at my office at (619) 393-2024, or at the address listed above.

Gary Parker, MA
Program Director

Terry Wells
Case Manager

Founders of STAND DOWN for Homeless Veterans
Vietnam Veterans of San Diego, dba Veterans Village of San Diego
4141 Pacific Highway, San Diego, California 92110 • 619-497-0142 • fax 619-497-0263 •
www.VVSD.net
VVSD is a nonprofit, charitable 501(c)(3) corporation. EIN #95-3649525

APPENDICES



March 11, 2008

To Whom It May Concern:

Mr. John Doe is currently a resident of Veterans Village of San Diego; he is a homeless and unemployed veteran with no income. Mr. Doe entered our facility on 01/02/08.

Phil Landis
Acting CEO

Harry Guess
COO

Andre Simpson
Vice-President,
Chief Operations Officer
of Programs

David Siegler
Vice-President: Grants
and Special Projects

Board of Directors
Phil Landis
Chairman

Gene Auerbach
Vice Chairman

David Bain

Vic Bianchini

Bruce Boland

Joe Ciokon

Linda Drabek

Will Hays

Harold Koenig

Anthony Moya

John Smith

Jonathan Tibbitts

James Waters

Veterans Village of San Diego is a Certified Residential Alcohol and Drug Treatment Facility, and is licensed by the State of California Department of Alcohol and Drug Program. We offer a wide range of services to the veteran who is recovering from Drugs and/or Alcohol addiction. This program has three phases: Phase 1, the AOD Treatment Phase; Phase 2, the Education/Employment Phase; Phase 3, the Employment/Reintegration Phase.

John is currently in Phase 1 of our program. During this portion of treatment Robert is attending classes in; Progress in Recovery, a 24 session AOD education course, a 12 session course in Family Dynamics, a 12 session class in Anger Management, and a 12 session course in Relapse Prevention. He is regularly attending AA meetings every week.

John is scheduled to move from Phase 1 to Phase 2 in the coming month. He is a very active in our recovery community and constantly trying to find ways to improve himself. John has volunteered to become a coach with the Special Olympics in June. I feel that going through the homeless court process is important to both his recovery and providing him with a second chance at life.

If there are any questions concerning Mr. John Doe, please feel free to contact me at (619) 393-2093.

Sincerely,

Charles Lyles
Community Projects Coordinator

Andre Simpson
Vice President/ COO

Founders of STAND DOWN for Homeless Veterans
Vietnam Veterans of San Diego, dba Veterans Village of San Diego
4141 Pacific Highway, San Diego, California 92110 • 619-497-0142 • fax 619-497-0263
VVSD is a nonprofit charitable 501C (3) corporation EIN #95-3649525

www.vvsvd.net



Children's Advocacy Institute

Executive Director
Robert C. Fellmeth

Council For Children
Gary H. Redenbacher

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Gary Richwald, M.D., M.P.H.

Council Vice-Chair

Robert L. Black, M.D.

John M. Goldenring, M.D., M.P.H.

Hon. Jan L. Goldsmith

Louise Horvitz, M.S.W., Psy.D.

Hon. Leon S. Kaplan

James B. McKenna

Thomas A. Papageorge

Blair L. Sadler

Gloria Perez Samson

Alan Shumacher, M.D.

Owen Smith

Emeritus Members

Bert Harvey, M.D.

Paul A. Peterson

August 11, 2008

To Whom It May Concern:

My name is Kriste Draper and I run an advocacy and legal clinic for homeless youth in conjunction with many of the different social service providers for homeless youth here in San Diego, CA.

I am writing to assist Jane Smith in clearing up a last lodging ticket that was accidentally missed during her April, 2007 Homeless Court appearance.

Ms. Smith is currently getting ready to start her second semester at City College on February 1, 2008. She has worked very hard to broaden her support network and is now working with her San Diego City College EOPS counselor (Extended Opportunity Programs and Services) to ensure that she is on the right track to graduate with a degree to child development. Ms. Smith also continues to work with her case manager, therapist, and education and career specialist provided by Providence Court, Catalyst program. She is also working with Catalyst's housing specialist to find family housing for herself and her boyfriend as they are expecting a child in late April. As she is preparing for the baby she maintains a close relationship with her doctor's office, the WIC program, and other social welfare programs to ensure that she and her baby are getting all of the pre-natal support they need.

Thank-you for taking the time to clear up this ticket as it will go a long way in helping Ms. Smith in her goals of creating a healthy home for her new family and finishing her college degree.

Sincerely,

Kriste Draper, Esq.
Children's Advocacy Institute
5998 Alcala Park
San Diego, CA 92110
(619) 260-4806

University of San Diego
School of Law
5998 Alcala Park
San Diego, CA 92110
(619) 260-4806
(619) 260-4753 (Fax)

717 K Street
Suite 509
Sacramento, CA 95814
(916) 444-3875
(916) 444-6611 (Fax)

Reply to:
☐ San Diego
☐ Sacramento

www.cachildlaw.org



APPENDICES

Kelly R. Jones, BA
VCARE Case Manager
St. Vincent de Paul Village

January 5, 2009
To Whom It May Concern:

The following is a report regarding client (8/24/1962). Client has been a resident at St. Vincent de Paul Village's short-term transitional housing program since 12/4/2007. During this time, client has participated in the VCARE (Village Comprehensive Approach to Reach and Empower) Case Management program. The goal of VCARE is for clients to improve their mental health and move from stabilization to empowerment and action.

Client is scheduled for weekly case management meetings for approximately one hour. Since late December, client has attended approximately 9 case management meetings, 2 community meetings, and been highly engaged in appointments. Client participates in the creative writing and art groups through the Village's Career and Education Center. He also volunteered to serve as the VCARE representative on the Village Council, a group of resident leaders. Client saw a physician on 1/25/2008 for a mental health assessment and takes his prescribed medication regularly.

Client has a history of substance abuse and has been attending our Recovery Services program since 1/17/2008. He participates in the co-occurring disorders group and attends 2-3 sober support meeting per week. Client maintains a bed in the Clean & Sober area of living within this residence where he can be randomly tested for drugs. During client's stay here, this writer has not observed any signs of the client being under the influence of illegal drugs or alcohol.

It is this writer's observation that client is demonstrating progress in his life skills and is very dedicated to improving his mental and physical health and making positive changes in his life. If there are any questions or concerns regarding this client, please contact me at 619-233-8500 Ext. 1598 or at kelly.jones@neighbor.org.

Sincerely,

Kelly R. Jones, BA
VCARE Case Manager

February 11, 2008

RE: John Doe
DOB: 01/01/1941

Dear Honorable Judge,

This letter is to inform you that Mr. John Doe is currently enrolled in the Community Research Foundation's IMPACT Program, which provides wrap-around services to the chronically mentally ill and homeless population. Mr. Doe has been a client of the IMPACT Program since 02/08/07. Mr. Doe has been an ideal client, and continues to be compliant and cooperative while in the program. Since becoming an IMPACT client, Mr. Doe has accomplished the following:

- *Transitioned from 20 years of homelessness, to a board and care facility setting, to a single room occupancy (SRO) setting where he currently resides
- *Working with the IMPACT Substance Abuse Specialist on responsible alcohol consumption. Mr. Burke reports drinking "24 hours a day" for most of his life, but currently has severely decreased his consumption to one eight ounce can of beer per day
- *Attends 2 AA meetings per week
- *Working with the IMPACT Registered Nurse on medical issues
- *Working with the IMPACT Psychiatrist, and is consistent with appointments and taking prescribed medications on a regular and responsible basis
- *Remained out of the County Mental Health and Crisis House systems since his enrollment in the IMPACT Program, thereby displaying increased psychological stability
- *Worked with IMPACT caseworkers on how to maintain healthy peer relationships
- *Re-established contact with his family members (i.e.: siblings and close friends)
- *Re-learned necessary daily living skills, such as proper hygiene and diet
- *Applied for SSI funding, and had his VA pension benefits reinstated

Mr. Doe is genuine in his commitment in making a positive change in his life and becoming a productive citizen within the community. In addition, Mr. Doe continues to remain compliant with his IMPACT case plan, and is consistently keeping his IMPACT appointments responsibly. Mr. Doe's long term goals are to find a female companion with which to share his life with. "With IMPACT's help, I have gained my self respect back. My life was way out of control." Mr. Doe is very appreciative of the services he receives and states, "Without IMPACT, I'd probably be in jail or begging on the streets and eating out of dumpsters. Actually, I'd probably be dead by now. But, I've cleaned up my act and have my self esteem back."

Thank you for your time and consideration in this matter.

Sincerely,

Adriane Soriano, MSW
Deputy Probation Officer
IMPACT Program Criminal Justice Specialist

APPENDIX G: INFORMATION SHEET FOR CASE WORKERS

Homeless Court Program Information Sheet

The Homeless Court Program (HCP) gives homeless people access to court. Local shelters host a special court session for misdemeanors cases. Judges give court sentences for program activities in which participants are already involved. Clients ideally will be in a residential program.

To Sign Your Clients Up:

Homeless Court is *program-driven*; in order to maintain integrity each agency must have their own criteria and screening process.

- A representative/case manager from each agency/program will screen their client to see if they meet the needed criteria
- The client's representative will fill out an interest list with all needed information. Please note any special concerns about any of the clients cases, make sure you document all names and/or SS#s that your client may have been using, and write down your name so that if any additional info is needed they can get a hold of you.
- The interest list will be sent via email to the Public Defenders office on or before the date required to Steve.Binder@sdcountry.ca.gov
- An 'Agreement to Appear' form will be filled out and signed by each client as a promise to appear at both the counseling appointment and at the court hearing. Times, dates, and location to appear are documented on this form. (One copy of this form is given to the client and one is kept in the clients file.)

After the interest lists have been received, court clerks will research the clients legal history getting needed information on each of their cases being addressed. The client and a representative of the referring agency will then attend a counseling session with an attorney from the public defenders office. The Counseling session is usually held 1 week prior to the court date.

Counseling Session:

Bring proof of your program activities to HCP counseling session and court session.

What to bring: 3 copies of each (for Public Defender, Prosecutor & Judge)

- Letters from case workers or agency representatives
- Certificates of Accomplishments
- Medical documents (NA/AA)
- School records, (proof of enrolment/GPA and current status)
- Proof of other accomplishments/achievements

Court Date:

Remind your clients how important it is that they attend as Agreed. Be there with them to represent your program and and to support your client as well as the Homeless Court Program. You can leave after your clients have seen the Judge and received paperwork from the court clerks.

What HCP Will and Will Not Take Care of:

The HCP addresses misdemeanor cases:

- Full range of misdemeanor cases
- Traffic cases

The HCP cannot resolve:

- Felony cases (this include probation terms and costs)
- Misdemeanor cases outside of San Diego County
- Domestic Violence or Prop. 36 cases
- Parking tickets
- Civil cases
- Impound or DMV fees
- Juvenile cases or costs

APPENDIX H: IS IT A CRIME TO BE HOMELESS?

Is it a crime to be homeless?

Afraid to go to court?
Tired of being thrown in jail?
Worried about warrants?
Looking to resolve outstanding misdemeanor cases?



What is Homeless Court?

Purpose:

The Homeless Court Program (HCP) gives homeless people access to court. Local shelters host a special court session for misdemeanor cases. Judges give court sentences for program activities in which participants are already involved.

Progress

The HCP helps you move from the streets through a shelter program to self-sufficiency. You stand before the court with advocacy letters and certificates, proof of your activities, accomplishments and aspirations. The court reviews this documentation. You are sentenced to activities in your shelter program. These include: life-skills, chemical dependency or AA/NA meetings, computer training or literacy classes, training or searching for employment, counseling of volunteer work.

Proof

You come to court with advocacy letters, certificates and other documentation from your program(s). These documents show the court what you have accomplished. Most of the participants who come before the court with alternative sentencing documentation will get credit for time served in the program. Many will have their case(s) heard and settled in one hearing.

Alternative Sentencing:

The HCP sentences you to activities in the shelter program. This replaces the traditional court sentence options of fines, public work service and custody.

Process:

You sign up for court at the shelter. There is a four-step process from sign-up to court hearing.

- WEEK ONE: The program submits to the Office of the Public Defender (OPD) the list of the participants who have requests court access. The OPD delivers the list to the court and prosecution.
- WEEK TWO: The court and prosecution prepares cases on the list for the next scheduled Homeless Court at the shelter.
- WEEK THREE: The assigned defense attorney meets with you one week before the court hearing to review and prepare cases.
- WEEK FOUR: Court personnel arrive at the shelter and hear your case.

If you are living in a shelter, or working with a rehabilitation agency you can approach the court and appeal for justice.

Sign up:

Ask your shelter representative how you can sign up to appear at Homeless Court. The North County HCP hearings alternate between the New Resolve and Brother Benno's residential facilities. Shelters include, but not limited to, Interfaith Community Services, Casa Raphael, Alpha Project and Turning Point.

Caution

The HCP cannot resolve felony cases, cases outside the city of San Diego, or parking tickets. However, attorneys can provide general information and will discuss these matters with you.

Bringing the law to the streets, the court to the shelters, and the homeless back into society

THESE 12 STEPS CAN LEAD YOU FROM THE THREAT OF JAIL TO A NEW HOME.

1. Sign up for the Homeless Court in the shelter and set a date to hear your case.
2. Meet with your defense attorney from the Law Offices of the Public Defender.
3. The court staff and prosecution team review your records and prepare cases for court.
4. Create a life plan and work a program for rehabilitation, counseling, recovery, life skills or employment training.
5. Meet with your caseworker to prepare all necessary documents and letters of support for your hearing at the Homeless Court held in the shelter.
6. Your defense attorney will negotiate, on your behalf, with the prosecutor, before the hearing.
7. Attend the Homeless Court and consult with your defense attorney. Bring evidence of your accomplishments and other important documents.
8. The judge comes to the shelter, where the prosecution and defense present your case.
9. Approach the bench, face the judge, confront your past and look the future.
10. If you accept responsibility for the offense, the court offers you an alternative sentence to complete your rehabilitation program.
11. Once your case is resolved, another hurdle has been cleared.
12. You are free to follow the steps of your life plan, and move toward a new home in the community.

"I had four outstanding warrants for sleeping on the beach and open containers of alcohol. 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. I felt like a tremendous weight had been lifted. It just gave me the confidence to deal with whatever I had to."

John MacKanin
VVSD alum and HCP participant
celebrating 10 years sobriety in January 2009

"Homeless Caring Court provides an opportunity for the justice system to remove barriers to individual recovery that the system sometimes creates. The homeless court process recognizes that each individual, in the circumstances in which she/he finds herself/himself, can attain a sense of self worth and recovery that the justice system will affirm. At the same time, the "pay it forward" approach still holds individuals accountable for their actions, while recognizing that "one size" (to recovery) does not necessarily "fit" everyone. We provide not only access, but (in many instances) fairness and justice."

Hon. Gordon Baranco
Alameda County Superior Court



740 15th Street, NW
Washington, DC 20005
(202) 662-1694
homeless@abanet.org
www.abanet.org/homeless



Law Office of the Public Defender of San Diego
233 "A" Street, Suite 800
San Diego, CA 92101

Contact: Steve Binder, Deputy Public Defender
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steve.binder@sdcounty.ca.gov