

Homeless Court Programs

The Issue: People experiencing homelessness often receive citations for public nuisance offenses and then fail to appear in court. Homeless defendants fail to appear in traditional courts, not because of a disregard for the court system, but due to their status and condition. For many homeless people, their day is consumed with a search for food, clothing and shelter. Most homeless persons are not in a position to fight the procedural or substantive issues a case presents. The homeless are aware that the court also requires a decent appearance. Not wanting to make a bad first impression, a homeless person with poor hygiene or without a place to store belongings may choose not to appear in court at all. Many homeless people are reluctant to attend court given the uncertainty of court proceedings and the threat of custody. Unresolved legal issues can ultimately preclude homeless people from accessing desperately needed services such as employment, housing, public assistance and treatment programs.

The Solution: Homeless courts are special court sessions for homeless defendants to resolve outstanding misdemeanor offenses and warrants. Several jurisdictions in California have instituted Homeless Court Programs, including Contra Costa County, Alameda County, and Santa Clara County. San Diego County began the first homeless court program in the country in 1989.

Homeless court programs 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.

Homeless courts build 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 courts 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 the homeless court program, and to create appropriate alternative sentencing. Alternative sentencing substitutes participation in agency programs for fines and custody. Homeless court programs are designed for efficiency: cases are heard and resolved, and people are sentenced, in one hearing.

To counteract the effect of criminal cases pushing homeless defendants further outside society, this court combines a progressive plea bargain system, alternative sentencing structure, assurance of “no custody” and proof of program activities, to address a full range of misdemeanor offenses and bring them back into society. Alternative sentencing substitutes participation in agency programs for fines and custody. These activities include: life-skills, chemical dependency or AA/NA meetings, computer or English

literacy classes, training or search for employment, counseling or volunteer work. 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. The court agreement of "no custody" acknowledges the participant's efforts in their program activities to satisfy court requirements. Local homeless shelters and agencies are the gateway for participants to enter this court. Homeless persons who want to appear before this court must sign up through one of a number of local shelters and/or service providers. Prospective participants work with a shelter caseworker to design a plan to move towards self-sufficiency. The shelter representatives write advocacy letters for each client. The advocacy letter is symbolic of the relationship between the client and the agency while including a description of the program, the client's start date, and accomplishments, programs completed and insight into the client's efforts.

Benefits of the Homeless Court Program: Homeless Courts expand access to justice and reduce the number of hearings necessary to successfully complete court orders by integrating the shelter system into the "currency" participants present for sentencing. Advanced preparation and fewer hearings translate into efficiency during courtroom hours and reduced court costs.

Shelters and service agencies save precious resources when clients move toward self-sufficient lives with cleared criminal cases. Without homeless court programs, a client might successfully complete the agency program only to be incarcerated on an outstanding criminal case and, afterward, return to homelessness. When cases are resolved through the homeless court the homeless service providers do not have to redouble their efforts. The shelters address the underlying problems homelessness represents. 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.

For participants, the Court hearing is an opportunity to separate the past, as represented by the cases before the Court, from the present (and future) by presenting the accomplishments described in the advocacy letters, along with plans for future improvement. The strongest recommendation for creating a homeless court program 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 the homeless court program in San Diego 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%).

Homeless courts help the community by engaging homeless people in gainful activity, thereby removing them from doorways, parks and gathering places where they are unwanted and susceptible to arrest. It helps homeless people move back into productive

lives by addressing the legal issues that often create barriers to accessing employment, housing, public assistance and treatment programs.

The benefits to a county that has instituted a successful homeless court program are extraordinary. Homeless courts bring about significant reductions in the number of hearings necessary to resolve cases. Homeless courts 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.

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.

Homeless Courts are presently operating in the following jurisdictions:

Alameda County, CA	Phoenix, AZ
Ann Arbor, MI	Pima County/Tucson, AZ
Bakersfield, CA	Sacramento, CA
Bernalillo County, Albuquerque, NM	Salt Lake City, UT
Contra Costa, CA	San Bernardino, CA
Denver, CO	San Diego, CA
Fresno County, CA	San Joaquin, CA
Houston, TX	Santa Clara, CA
Humboldt, CA	Santa Maria, CA
Kern County, CA	Sonoma County, CA
Los Angeles, CA	Vancouver, WA
Maricopa County, AZ	Ventura County, CA

For More Information: This memo summarizes two very helpful tools on homeless courts: "The Homeless Court Program: Taking the Court to the Streets," documents San Diego's successful Homeless Court Program and "Homeless Courts Conference Coursebook," contains the materials circulated at the American Bar Association (ABA) National Conference on Homeless Courts on October 8, 2004 in San Diego. Both of these resources can be found at http://www.abanet.org/homeless/homeless_courts.shtml. The ABA Commission on Homelessness & Poverty has been instrumental in establishing homeless courts across the country. The Commission has developed a number of educational resources and routinely provides technical assistance. The ABA has also approved policies related to homeless courts, including basic principles for homeless court programs.

