



AMERICAN BAR ASSOCIATION

Commission on Homelessness & Poverty

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HOMELESS COURTS:

TAKING THE COURT TO THE STREET

In 1989, San Diego established the nation's first Homeless Court Program (HCP), a special voluntary Superior Court session held at local homeless service agencies for homeless defendants to resolve misdemeanor criminal cases. Local homeless service agencies—not law enforcement—are the gateway for participants. Prospective participants work with shelter caseworkers to design a plan to move towards self-sufficiency prior to appearing in court. To counteract the effect of criminal cases pushing homeless defendants further outside society, Homeless Courts combine a progressive plea bargain system, alternative sentencing structure, assurance of “no custody,” and proof of program activities, to address a full range of offenses. Alternative sentencing substitutes participation in agency programs for fines and custody, including: life-skills training, chemical dependency or AA/NA meetings, computer or English literacy classes, training or search for employment, counseling, and education—programming aimed at helping the participant improve their situation. The assurance of “no custody” acknowledges the participant's efforts to satisfy Court requirements.

Additionally, shelter representatives write advocacy letters for clients. The letters are symbolic of the relationship between the client and the agency and include a program description, the client's start date, accomplishments, programs completed, and insight into the client's efforts.

By taking the initiative to voluntarily sign up, participants seek justice and a way to reconcile their past with their accomplishments, to reclaim their lives and build a future. Homeless Court enables homeless individuals who are actively engaged in an organized program to address their outstanding legal issues by participating in a court session at the agency— where the goal is to remove the legal obstacles to their participation in our community, resulting in charges dismissed, and terms and conditions of probation satisfied.

Court clerks research cases for participants referred into the Homeless Court. The defense attorney meets with the participant in advance of the hearing to review their case and then discuss what program activities will help transform their lives for the better. Together, they focus on treatment, accomplishments in services, and establishing a strong foundation of support systems to promote the achievement of fullest potential and self-sufficiency. Terms for resolution are presented, and the court reviews the advocacy letter. **More than 90% of the cases are dismissed**, as accomplishments are reconciled against offense, clearing slates and freeing participants to reclaim their lives. When participants enter a guilty plea, they receive ‘credit for time served’ in program activities to satisfy the terms and conditions of their plea. Cases are typically addressed and resolved in one hearing.

STAND DOWN

At Stand Down, an annual three-day community event designed to relieve the isolation of homeless veterans and facilitate their re-entry into society, the HCP counsels participants on Friday and links them with on-site services for the court hearing on Saturday.

For more information on San Diego Stand Down visit: <https://vvsd.net/standdown/>

For more information on Stand Down events across the country visit: http://nchv.org/index.php/service/service/stand_down/

THE ABA SUPPORTS THE DEVELOPMENT OF HOMELESS COURTS

In 2003, the American Bar Association adopted policy in support of the development Homeless Courts—a comprehensive, systemic approach to addressing the needs of homeless misdemeanor defendants through multidisciplinary strategies that include coordination among the criminal justice, health, social service and education systems, and the community. Through that policy, the ABA urged state, local, and territorial courts to facilitate the develop of Homeless Court Programs as treatment-oriented diversionary proceedings that may result in the dismissal of misdemeanor offenses upon completion of shelter/service agency activities, as a means to foster the movement of people experiencing homelessness from the streets through a shelter program to self-sufficiency.

In 2006, the ABA adopted additional policy outlining the following principles for Homeless Court Programs:

- (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. The ABA Commission on Homelessness & Poverty has developed a series of educational resources and provides free technical assistance in an effort to foster replication of the Homeless Court model across the country.

For more information on Homeless Courts, please visit ambar.org/homeless and contact Kelly Russo, Director, ABA Commission on Homelessness & Poverty at (202) 662-1699 or Kelly.Russo@americanbar.org.

