

# The Homeless Court Program: **Taking the Court to the Streets**

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

*Mahatma Gandhi, 1947*

## **Homeless People Smile Too(th)**

Looking at a wall of people’s faces in contrasting photographs, with and without teeth, the judge pointed his finger and said, “I’d sentence that person different from that person.” The only difference between the two people pictured were their smiles—one toothless and one full of teeth. While Medicaid pays to pull teeth, it does not pay to put teeth back into a person’s mouth. The dentists who volunteer their services at St. Vincent de Paul Village restore the smiles to people who reside at the homeless shelter. Our tour guide turned to the judge and said, “That’s just the physical change that takes place here.”

This moment of candor occurred during a tour of St. Vincent de Paul Village in preparation for the Homeless Court Program (HCP) hearings being held there in the community room. The full team of

HCP key players was touring the Village to better understand the program activities that homeless people can access while also checking that the community room provided a safe courtroom environment. We had all heard of St. Vincent de Paul Village. We knew the tremendous effort Father Joe Carroll had undertaken for funding their programs. Over the years, we had worked with staff and people who had successfully overcome homelessness with assistance from the Village. Yet despite these interactions, few from our group had actually touched the building and grounds or seen it in action.

Throughout the tour, the HCP key players observed the child care center, kitchen (where 4,000 meals are served each day), assessment center, and medical clinic. In the back of the medical clinic sits the dental clinic, with photographs of faces, no teeth and teeth. The lesson from this tour highlighted the challenges we all face in understanding our community, the lives of the dispossessed, and the obstacles we all face in life. During the tour, a number of us said, "This really is a Village." Many times over, we heard people say, "There but for the grace of God, go I."

How does this relate to *Lawyers Working to End Homelessness*? What part does this play with the Homeless Court Program?

## Homeless Court Program

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

## Frustration and Despair

In 1989, I was working in the San Diego Office of the Public Defender as a deputy public defender in the misdemeanor arraignment department. I was responsible for explaining to the defendants courtroom procedures, the charges against them, their rights and possible defenses, and the proposed plea-bargain and sentence. Misdemeanor offenses at that time accounted for 80% of the criminal caseload in the Office of the Public Defender.

In 1989, it was not unusual for a person who was homeless to carry a pocket full of 20 or more citations. There were more than a handful of people on the streets with 50 to 100 warrants for “disturbing the peace.” The police issued citations as an invitation to get out of town—a clear signal the homeless were not wanted in San Diego. In practice, the police and the homeless were engaged in a game of cat and mouse. The police would conduct a sweep of the streets in downtown San Diego, issue citations, and force the homeless into Balboa Park. In an effort to clear out the park, police would then issue a new round of citations. Another round robin of citations and movement ensued.

The vast majority of citations issued were for Penal Code section 647(j), commonly known as illegal lodging. Penal code section 647(j) defines Disorderly Conduct, a misdemeanor, as the actions of 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 permission or in control thereof.” When issued a criminal citation for illegal lodging, the homeless person would receive a 4 by 7 inch piece of pink paper, a demand for a total bail payment of \$135.00, and the threat of a maximum of six months incarceration and \$500.00 fine.

During this period, the police complained that the people they arrested were released after serving a few days in custody. Judges were frustrated by the backlog of warrants that accumulated when defendants failed to appear for court. These same judges realized the futility of handing out sentences and issuing orders that would not be obeyed.

Homeless defendants often fail to appear in court not because of a disregard for the court system, but due to their status and condition. They struggle daily for food, clothing, and shelter. They are not in a position to adhere to short-term guidelines. They do not carry calendars. They are scared. In the past, court orders and sentences guaranteed their failure. They could not pay fines. Custody left them, society, and the court no better off than before they attended court.

When homeless people did appear in court, they tried to explain to the judge the sorry set of circumstances that had taken them from families, homes, and jobs to sleeping in the dirty bedrolls that lay beside them in court. Some were articulate and educated, and some were even working but unable to afford a rent deposit or a room.

"How do you plead to the charge?" the judge would ask.

"Guilty," they invariably answered.

They would come before the court and walk away with a sentence that required them to pay a fine, perform public work service, or spend time in custody. They picked up their court orders at the clerk's office and walked back to the streets, adding legal burdens on top of their other troubles.

The prosecutors, judges, and even the police were uncomfortable and frustrated with the futility of this revolving-door approach. A person who could not afford a room to rent could not afford a fine for being homeless. At the time, however, there were no alternatives. The criminal justice system had an established routine that unfortunately did not adequately meet the needs of this population with special issues.

We are supposed to call the police when things get out of hand so that the police can solve crime and restore order to our community. Officers wear the motto, "To Serve and Protect" on uniforms and patrol cars. In an attempt to answer complaints from the citizenry and guide them to action, the San Diego Police Department Crime Prevention Unit published a pamphlet entitled "A Citizen's Guide To Transient-Related Crime" that is a compilation of laws commonly violated by some transients, defined as "chronic law violators who infringe upon the rights of others." The violations listed

include being drunk in public, illegal lodging, urinating in public, camping on the beach or park, and habitation in a vehicle. While the community turns to law enforcement to bring order to our community, the citation, arrest, and incarceration of homeless people with public nuisance offenses pushes homeless people further outside society while also belittling law enforcement.

The illegal lodging citation represents the shortcomings of turning to law enforcement and a criminal justice system that relies on fines and custody to address the problems homelessness represents. Typically, the homeless defendant will appear in custody, enter a plea bargain, spend the weekend in custody, and be released to the streets on Monday morning. With no means to break this cycle, the person remains homeless.

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

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

When the homeless defendants appeared in court, I heard tales of hardship and renewal. Some people came to court telling me they had recently found a place to live. Others came in talking about the CIA and FBI. Many carried their worldly belongings in bags. A number were malodorous. All struggled with problems that the criminal justice system ignored. Invariably, the judge would

sentence them after taking a plea for an array of public nuisance offenses. They would be sentenced to fines they could not afford along with terms and conditions that frustrated their continued participation in society.

Clearly, the criminal justice system was failing to bring order to society and was perpetuating the pain and suffering of homeless people. I started attending the local bar association's homeless subcommittee meetings. At one meeting, two Vietnam veterans, Dr. Jon Nachison and Robert Van Keuren, addressed the civil attorneys and asked for their assistance at an event they created called "Stand Down." They explained that Stand Down is a military term signaling the removal of exhausted combat soldiers from battle to provide them an opportunity to rest and recover in a place of relative safety and security. They emphasized the importance of creating a community that transformed the frustration and despair of homelessness to self-respect and opportunity for integration back into society. They built a three-day tent community with a cornucopia of services and applied this concept to 700 homeless veterans doing battle on the streets. They distributed an eight page exit survey, tallied by the Veteran Administration (VA), from the first Stand Down, wherein 116 of 500 homeless veterans stated that their greatest need was to resolve outstanding bench warrants. This meeting and the Stand Down event were "eureka" moments for the Homeless Court Program.

## **Serving Justice on a Handball Court**

Homeless veterans of San Diego inspired the misdemeanor criminal court to leave the courthouse and join the Stand Down effort. In 1989, San Diego started the first Homeless Court Program in the nation, a special Superior Court session held on handball courts at Stand Down's three-day tent city for homeless veterans. At the court's location, three gray concrete walls at San Diego High School's athletic field surrounded foldout tables and chairs. Desert camouflage netting sheltered the court from the sun. The flag of the United States anchored one corner; the State of California's the other.



*Stand Down  
Homeless Court  
Program  
San Diego, CA*

The defendants appearing before this outdoor Homeless Court were veterans who live outdoors on the streets of San Diego, but for three days they would be sheltered in tents, receive employment counseling, housing referrals, medical and mental health care, and other social services.

The Veterans Village of San Diego, sponsors of Stand Down, established a three-day tent city designed to relieve the isolation of homeless veterans while assisting their re-entry into society. The annual event provides comprehensive services for homeless veterans, including employment, housing, medical, legal (civil and criminal), physical and mental health treatment, and numerous social services. But the event is more than a collection of services. The sponsors also concentrate on building community and developing the strengths of the participants as members of the community.

Following this first Homeless Court session at Stand Down in 1989, 130 defendants had 451 cases adjudicated. Between 1989 and 1992, the court resolved 4,895 cases for 942 homeless veterans.

The continued large numbers of homeless people participating in the HCP, coupled with their efforts to overcome the obstacles their condition represents, fostered the program's expansion from an annual, to a quarterly, then finally to a monthly schedule. 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 HCP started holding monthly sessions, alternat-

ing between two shelters (St. Vincent de Paul Village and Veterans Village of San Diego). In short, everyone was looking for order and control of their community, a way to make society fair and just.

While I do not remember the name of the first HCP participant or the substance of his case, I do remember the audible sigh that came from the crowd when this brave soul walked before the judge on the handball court and proceeded to get his court docket from the court clerk's office.

The HCP is about more than just the resolution of criminal cases. It is as much attitude as it is process. The HCP practitioners do not simply move and resolve cases—they help to move people from the streets through their chosen program to self-sufficiency. While the HCP's primary focus is the adjudication of criminal cases, the movement of case files alone does not begin to describe the fundamental challenges and change that occurs when a homeless individual stands before the court, walks back into the audience, and returns to the shelter with successful resolution of his/her case. The effect of the HCP and its power to challenge and change participants extends to the key players that comprise the criminal justice system as well.

It was the second or third year of Stand Down's HCP when we noticed that a number of participants who had resolved their cases still carried outstanding cases throughout San Diego County. We counseled them to take care of these outstanding cases, saying, "if you do not go to court on these matters, you will still be looking over your shoulder, worried about being picked up by the police on warrants." Politely, sometimes with nervous laughter, they would respond by saying, "That court will not help or take care of us like the court did here." We persisted, "You know these cases will not disappear or go away, go with a friend, take someone from your tent, but by all means go to court on your case." Shortly thereafter, the South Bay court called the downtown courthouse, asking what Stand Down was and why so many people had shown up there.

The following year, the outlying courts joined in the Stand Down HCP.

From day one, the HCP at Stand Down was a court and community effort. Early on, local attorneys on the homeless subcommittee



approached the court, presenting a sound proposal to move the court to Stand Down. The lead clerk of the court, D. Kent Pederson said, “Yes, we can pick up the court and move it to a handball court,” making sure to transport case files without losing them. The court provided an on-site computer and its court docket, and clerks volunteered to help. And so, the HCP conducted its first session—mirroring exactly what would happen inside a courthouse, only this time it came to order under camouflage netting on an outdoor handball court at San Diego High School.

## Access to Court

In time, the HCP developed a monthly session to meet the growing demands of homeless participants working with local homeless service agencies. The Homeless Court Program provided access to court for homeless defendants while working with shelter service providers, holding proceedings in shelter community rooms, and recognizing individual effort for purposes of sentencing. The Homeless Court Program’s greatest achievement to date is the contribution of the service providers and homeless participants that resulted in the creation of a more inclusive criminal justice system and stronger community. The Homeless Court Program is a community working together, finding opportunity in adversity.

Homeless people voluntarily sign up in shelters—the first step in taking responsibility for their offense(s). By taking the initiative to sign up, the participants of the Homeless Court search for justice and a way to reconcile their past with their future. The Homeless Court Program enables homeless individuals who are engaged in an organized program or shelter to participate in a court session at a homeless shelter.

An experienced Homeless Court Program prosecutor said, “We want what is best for the community. We reward the positive efforts they have made, efforts that indicate they are less likely to re-offend.” This prosecutor continued, “They give more than traditional court participants. 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.”

The Homeless Court Program recognizes that each defendant is an individual working to overcome the wreckage of his/her past. A judge who presided over numerous Homeless Court sessions said, “It is important for those who work in the criminal justice 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 HCP innovation promotes access to court for people who have experienced homelessness. 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 the participants back into society.

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

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

## **Core Elements**

### *HCP is a Voluntary Program*

Homeless participants voluntarily sign up for the HCP, and the participant voluntarily enters the homeless shelter or 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 that 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 participants' 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 proceedings. The HCP plea agreement responds to the cases or offenses the homeless participants receive due to their condition and status of living on the streets. Additionally, the HCP agreement acknowledges the efforts that the participants undertake before their appearance in court. The plea agreement recognizes that the participant has completed the court order before the court imposes a sentence. The participant 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.

*HCP Employs Alternative Sentencing*

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ticipants to enter this court. Homeless persons who want to appear before this must sign up through one of a number of local shelters.

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

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

The shelters 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 shelter is in the best position to evaluate the client’s needs and design a plan with attainable goals and benefits. Most shelters offer emergency and transitional beds for their clients. Some provide independent living for clients who successfully complete their program. Other shelters provide basic services or support for clients seeking to access benefits, counseling, group meetings, 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 shelters share the desire to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness.

The shelter representatives write advocacy letters for each client. The advocacy letter is 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.

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

#### *No One Goes into Custody*

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

## **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 defen-

dant 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 of \$300.00, the court requires a defendant spend six 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 session (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 shelter program for at least 30 days (from the initial point of registration to the hearing date) before 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. Shelter staff ensure that the homeless participants are already successful in their efforts to leave the streets before they enter the courtroom.

The HCP builds community and justice by working with homeless service agencies to lay the foundation for homeless participants to prepare for a court hearing after having already completed their “sentence.” There, they show significant strides from the streets and through their program activities; they exhibit self-sufficiency. Building from the ground up, the HCP provides a foundation for homeless participants to stand before the court and resolve their cases successfully, with finality, in one hearing.

The HCP illustrates that homeless participants do want to address their cases and lead law-abiding lives, just as the court wants to resolve cases in an efficient and cost effective manner.

## Process

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

### *Step One: Outreach/Roadshow*

Initially, to help staff and case managers understand and visualize the HCP, an attorney from the Office of the Public Defender visits local shelters and service agencies to explain the HCP's 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," 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 the "HCP Interest List." Potential participants provide their name (including aliases), date of birth, gender, and ethnicity for purpose of identification. The agency fills out contact information (agency name, case manager, and contact person's phone number) and forwards the list to the Office of the Public Defender for a search of case files. The Office of the Public Defender coordinates the participation of those whose

names appear on the interest list, delivering the list to the prosecution and court. Participants receive an agreement to appear calendar, which acts as an organizing device for those who cannot afford day planners. This also serves as a notice to show the police that the participant has a future court date.

*Step Three: Plea Offers and Negotiations*

The prosecutor reviews the case files of the defendants on the court calendar and then 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, the impact of criminal behavior on the community, and the number of outstanding cases. The city attorney offers a plea bargain in anticipation of proof and an acknowledgement of each participant's involvement in his or her respective program. Cases outside the city of San Diego are negotiated between the deputy public defender and deputy district attorney on a case by case basis.

The public defender may negotiate further with the prosecutor after learning more about the defendant's individual situation during a pre-hearing consultation. In most instances, these negotiations end with an agreement reached.

*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 proceedings, 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). Cases from the County of San Diego in the jurisdiction of the District Attorney are addressed on the HCP calendar when negotiations are final. No felony charges are calendared for HCP. However, attorneys with the Office of the Public Defender coordinate the surrender of felony clients into the courthouse as referrals from the Homeless Court Program with proof of participation in program activities.



*Step Five: Active Cases Set for Hearing*

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

*Step Six: Defense Attorney Consultations*

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

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

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

*Step Seven: The Hearing*

The hearing is scheduled for the third Wednesday of each month. Hearings are alternately held at one of the two largest shelters in the San Diego area (St. Vincent de Paul Village or Veterans Village 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 all stand at the front of the room. The judge takes the bench, either standing at a podium or seated at a table. The defense attorney states the agreement, says whether the recommendation is a dismissal or a plea, and then 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.

When the participant stands before the HCP, he/she stands before the court as a human being. The court sees the participant as

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

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 prosecution about the offer for disposition and, in most cases, the charges, warrants, and penalties are formally dropped as previously agreed. The defendant's record is clean. On average, 90% of the Homeless Court cases are dismissed.

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

*Step Eight: Follow-Up*

The deputy court clerk transfers the case disposition information written on the 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.

## **Replication of the Homeless Court Program**

In July 1999, 10 years after starting with Stand Down, the Homeless Court received a grant from the Department of Justice Bureau of Justice Assistance to hold monthly court sessions. This

grant funded all the key agencies that comprise the Homeless Court: the Office of the Public Defender, City Attorney of San Diego, San Diego County Superior Court, Veterans Village of San Diego, St. Vincent de Paul, and an evaluation by SANDAG (San Diego Association of Governments). In April 2001, at the grant's end, all the key players integrated funding of the monthly court sessions into their regular budget.

The American Bar Association Commission on Homelessness and Poverty asked me to conduct an HCP presentation for their business meeting in San Diego on February 17, 2001. The Commission conducted an Internet search on innovative homeless services in San Diego prior to the meeting and found a mock up of an HCP website prepared by a volunteer. While this web site was never launched, it provided vital exposure to the HCP. This website led to my presentation at the business meeting, which in turn led to my joining the Commission, the publication of an HCP how to manual (2002), an ABA resolution supporting the HCP (2003), and a national conference (2004).

The ABA Commission on Homelessness and Poverty is a key collaborator and major impetus for the replication of the HCP. In addition to being the sponsor of the national Homeless Court conference, the Commission coordinates and funds other conference presentations and hosts the Homeless Court website.

The October 8, 2004 conference, held at the University of San Diego's Joan Kroc Peace and Justice Institute, was attended by more than 130 persons and featured panelists from a number of Homeless Court Programs. The Commission published a conference book with articles from 10 Homeless Courts, each developed from the San Diego model, highlighting individual perspectives of all the key players and features from national homeless advocacy organizations based in Washington, DC. This book was published with generous support from the Commission, Oklahoma's Crowe & Dunlevy PC, and QUALCOMM.

In 2004, the Commission launched a new website on homeless courts that includes background information along with various resource materials and a listserv. The site is located at [http://www.abanet.org/homeless/Homeless\\_Courts.html](http://www.abanet.org/homeless/Homeless_Courts.html).

Plans for this website include the addition of tool kits designed specifically for judges, court administrators, prosecutors, defenders, and service providers as well as video clips from interview and productions from other HCPs.

Currently, the HCP has been replicated in 14 communities in California (while 7 communities are in the developmental stages) and 13 jurisdictions across the United States, and Stand Down events occur across the country. HCP serves as a model of how other jurisdictions can establish a program to better serve homeless defendants and meet their special needs. The following communities illustrate the growth and development of the HCP over the years.

*Alameda, California*

The Alameda County Homeless & Caring Court Program held its first regular session one week after the Commission conference in October. The Hon. Gordon Baranco of Alameda Superior Court and Alameda County Public Defender Diane Bellas participated in the Commission's October 2004 conference panel. They developed a detailed protocol: Intake Form, Calendar, How HCP Works, and Chronology of its evolution from February 2003 to April 2006. The Alameda HCP was featured in numerous newspaper articles. Its future efforts will focus on building provider services. Additionally, it will host the HCP Roundtable in October 2006.

*Ann Arbor, Michigan*

Judge Elizabeth Hines contacted the Commission after learning about the Homeless Court on the ABA website and requested copies of the manual, conference course book, and video. Judge Hines, affiliated with the community team charged with drafting a plan to end homelessness, developed interest in information about addressing the special legal problems of homeless people into the Street Outreach Court. The Street Outreach Court expanded upon the San Diego model developing a protocol that focused on an "action plan" over treatment plans and accepting clients who are at risk of becoming homeless.

*Arizona (Phoenix, Tucson and Flagstaff)*

A group of Arizona judges, court administrators, lawyers, and law students attended the Commission's National Conference on Homeless Courts in San Diego. The attendees from Arizona were impressed with the concept of courts geared to homeless populations and the benefits they provide to their communities. A handful of attendees followed up with the Commission to seek additional resources after the conference. They developed a white paper for homeless court pilot projects in Arizona. This collaborative effort was led by Judge Louraine Arkfeld, Jeremy Mussman, Special Assistant Maricopa County Public Defender, and Patience Huntwork, Chief Staff Attorney, Arizona Supreme Court. Judge Arkfeld requested an article on homeless courts for the Winter 2005 edition of the Judicial Division Record. The site for this article is <http://www.abanet.org/jd/publications/jdrecord/2005winter.pdf>.

Tucson already has a Homeless Court and has plans to expand its scope. The City of Phoenix held a hybrid Homeless Court at its local Stand Down event in a warehouse in South Phoenix. One of the primary obstacles to the development of a complete Homeless Court Program in Phoenix is the challenge of integrating the cases from 23 jurisdictions into one courtroom. This challenge, coupled with the need for a central authority, makes it difficult to find a decisionmaker to implement a Homeless Court across the city.

*Albuquerque, New Mexico*

The Albuquerque court has worked hard to build community exposure and trust. Eight members of the Albuquerque court traveled to meet with the San Diego HCP in January 2001. Presiding Criminal Judge Victoria Grant held the first Homeless Court on June 5, 2002, with two participants appearing. In time the court grew from quarterly to bi-monthly sessions with an average of 25 referrals each session.

*Houston, Texas*

I met with Lynda Greene, Community Director for the DeGeorge at Union Station, a supportive housing community for veterans,

judges, and advocates on Veterans Day to discuss the possibility of creating a HCP in Houston. This meeting coincided with my Affiliation in Ashoka Innovators for the Public during their Induction ceremony held November 11-14, 2003.

In March 2006, Andre Simpson (long standing HCP coordinator, Vice President and C.O.O. of Veterans Village of San Diego) and I were invited to Houston by Scot More, the Community Resource Manager for the Coalition for the Homeless of Houston/Harris County, who coordinated a one day workshop on the Houston Homeless Court. The workshop for service providers, government officials, and court personnel spread the word, refined the program screening and the application process, and increased the scope of cases heard. All of this was combined with efforts to strengthen and build representation for the clients.

*Kern County, California*

In March 2002, I traveled to Bakersfield to consult on the HCP. I met with staff from the Greater Bakersfield Legal Assistance, Inc. (GBLA), Judge Staley (judge at Stand Down), Judge Wallace (presiding judge), shelter providers, and court staff. The day of meetings culminated with Judge Wallace giving approval for an HCP pilot project. One month later, Judge Staley and Josh Rudnick (staff attorney with GBLA) came to San Diego to observe a session of the HCP and to meet the San Diego HCP key players.

On November 27, 2002, Bakersfield held its second HCP session in the dining room of the Bakersfield Homeless Center, owned by the city, operated by Bethany Services since 1991 (which leases the facility for \$1.00 a year). The Bakersfield HCP holds to the premise that no one is going to jail. Additionally, the court recognizes participation in program activities when sentencing. Child Support Services sends an outreach officer to meet with homeless participants. On that day, over 10 people stayed to talk with the outreach officer after the court hearing.

*Reno, Nevada*

After attending the Commission's HCP conference in October 2004, Judge Janet Berry returned to Reno and discussed the home-

less court concept with her fellow judges and administrators at a regional judicial council. The Commission provided Judge Berry with copies of the conference course book along with a VHS video on homeless courts in preparation for a meeting with the Specialty Court Coordinator, Mental Health Court Coordinator, and Specialty Court Judge on January 28, 2005. Judge Berry's office followed up with the Commission to request additional materials and determine how to pull the prosecution into the process while developing the provider role in the HCP. Judge Berry notes cases are resolved in their HCP through "reverse sentencing," when the court orders credit for time served to clients who have already completed their activities in homeless service agency programs.

*Seattle, Washington*

Commission member Casey Trupin and Ishbel Dickens (a former Curtin fellow) presented the Homeless Court to King County Coalition for the Homeless, city council members and court personnel. This introduction led to the Seattle Homeless Court for Veterans Forum on Collaborative Justice on June 27, 2005. In the spring of 2006, the Seattle HCP held its first session with an eye on expanding to the general homeless population.

*San Joaquin County, California*

On Friday, January 27, 2006, San Joaquin held its first Homeless Court session at St. Mary's Interfaith Community Services, serving a total of 7 defendants and resolving 29 cases. This effort was spear-

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headed by Hon. Barbara A. Kronlund. The court renewed its efforts for the development of an HCP after attending the HCP court session, and the full panel presented a workshop at St. Vincent de Paul Village for the State Judicial Branch Conference on September 8, 2005. After four sessions, the San Joaquin HCP is at maximum capacity. Building on the San Diego model, San Joaquin's Homeless Court opted to accept referrals of people who are borderline homeless and address probation conditions in felony cases.

*Vancouver, Washington*

Vancouver created an HCP after receiving materials from the Commission. I was contacted by a reporter doing a story on the new court and was then put in contact with the defense attorney affiliated with their HCP. While Vancouver does not have a public defender office, they rely upon private defense attorneys to staff their traditional and homeless court. The defense attorney who volunteers at the Vancouver Homeless Court said their efforts have taken on a life of its own as other attorneys come forward to volunteer their time. They currently have 10 volunteer attorneys. The Columbian newspaper ran the article as the front-page story on Sunday, December 26, 2004.

*Ventura, California*

"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 society must serve in some way," said John E. Dobroth, Judge of the Superior Court. The Ventura HCP built off the efforts of Tina Rasnow, Self-Help Legal Access Center–Coordinator for the Superior Court of Ventura. Their first session on July 28, 2000 was a pilot project in conjunction with an annual Stand Down event. They had 17 defendants with a total of 55 open cases. Two months later, all but one defendant had completed or exceeded the court's expectations. In 2001, the Judicial Council of California presented the Kleps Award to the HCP of Ventura County.

The Ventura HCP compiled a Statistical Report from April 2001 through March 2002 which states:

Number of cases .....	428
Number of cases cleared <sup>1</sup> .....	344
Number of defendants (122 male; 114 female) .....	236
Number of defendants who successfully completed .....	189 (80%)
the sentence imposed in Homeless Court <sup>2</sup>	
Number of community service hours performed .....	8,322.5
(4,821 hours were documented as community service performed over and above sentence requirements.)	
Number of defendants who achieved sobriety <sup>3</sup> .....	32
Number of defendants who found housing <sup>4</sup> .....	25
Number of defendants who regained custody of .....	9
their children	
Number of defendants who found employment .....	23

These Homeless Court Programs illustrate people are willing to work, extend themselves and find innovative ways to deal with the obstacles homeless people face in dealing with the criminal justice system. They find a way to reach outside the confines of their regular 8 to 5 work day, leave the creature comforts of the courthouse and serve justice in the community. Each has a story to tell.

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1 Most of the offenses involved drinking or sleeping in public and various traffic-related infractions.

2 Many of the defendants who did not complete their sentence by the cut-off date for compiling these statistics (March 31, 2002), were still working toward successful completion. Thus the 20% who did not successfully complete their sentence by March 31, 2002 includes those who are performing their community service hours and are expected to satisfactorily complete their sentences.

3 Sobriety is defined as living clean and sober following release from in-house treatment program. An additional 6 defendants were identified as being clean and sober, but did not have a known history of substance abuse.

4 Housing is defined as living in an owned unit or rental unit under a term lease or month-to-month tenancy. An additional 3 defendants had arranged some form of housing with a relative, but did not occupy under a lease or rental agreement.

## Conclusion

Each of us has a story. Stories fill our lives. Art and literature give us stories that inspire us to look beyond ourselves, to see the world in a different way, in a new language or context. Charlie Chaplin gave us the Little Tramp. Innocent and misunderstood on first appearance, the Little Tramp is *literally* seen in the end of the



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Steve Binder is a deputy public defender with the San Diego Office of the Public Defender, where he has practiced since 1989. Steve represented clients in the mental health and welfare fraud specialty units. He founded the Homeless Court Program (HCP) in 1989 and authored a grant request for Dept. of Justice/Bureau of Justice Assistance funding for it. Mr. Binder has received many awards for his work on it. In 2004, the HCP was selected as one of fifteen finalists for the Innovations in Government Awards by the Ash Institute/Kennedy School of Government-Harvard University, and Binder received the Outstanding Community Service Award (2004) from the San Diego Bar Association. In 2002, the Board of Directors of Defense Programs in San Diego presented him the E. Stanley Conant Award. The National Coalition for Homeless Veterans presented him with the "Unsung Hero Award" in 2000, the Veterans Village of San Diego presented him the "Volunteer Attorney of the Year" in 1990, and the Public Defender Association presented him the "Community Service Award" in 1999. The American Bar Association presented the "Hodson Award" to the San Diego County Office of the Public Defender for outstanding service by a public agency with the Homeless Court. He is a Fellow with Ashoka Innovators for the Public, working fulltime to further replication of the Homeless Court Program. He currently serves with the San Diego Regional Task Force on the Homeless. He is Chair of the ABA Commission on Homelessness and Poverty. He was a Eureka Communities Fellow (2000-2001).

movie *City Lights* as a person. In *Les Miserables*, Victor Hugo introduced Jean Valjean, a character who is imprisoned for stealing a loaf of bread, but who is later given a second chance when the Monsignor hands him two silver candle sticks saying, "Go in peace. By the way my friend, when you come again...you can always come and go by the front door." In *The Wizard of Oz*, an uncertain and vulnerable Dorothy called out "There's no place like home" and eventually found hope and dreams on the other side of the rainbow. Each of us has a story. Some long to be understood, others want or need a second chance, all seek hope and opportunity.

Recently, the San Diego HCP has been the focus of the media. More than once, we have been asked whether the homeless participants who appear will have teeth. This inquiry serves as an important reminder that the story we receive and convey must reach people in a place and time when they can accept it. This applies equally to those who watch the news and those who are subjects in the news segment, be they housed or homeless. Meet them where they are and bring them to understand the community they live in, their place and importance in it...how we are all in this together. United we stand! The promise and spirit of these words fill the Stand Down event, the Homeless Court Program, and the streets of communities across the nation.

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 problems homelessness represents are discouraging and frustrating, it is important to remember: it is the condition of homelessness that is undesirable, not the people.

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