

Responding to Homelessness

11 Ideas for the Justice System

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About the Center for Court Innovation

The Center for Court Innovation is a non-profit organization that seeks to help create a more effective and humane justice system by designing and implementing operating programs, performing original research, and providing reformers around the world with the tools they need to improve public safety, reduce incarceration, and enhance public trust in justice.

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Defining the Problem

Homelessness

For individuals and communities across the nation, homelessness is a persistent challenge. For the justice system, developing an effective response to offenders experiencing homelessness poses unique challenges—not the least of which are high rates of mental illness and substance use disorder, often co-occurring. Rates of post-traumatic stress disorder are also elevated, particularly for homeless women and veterans.

To improve their response to offenders who are homeless, many jurisdictions—led by law enforcement, prosecutors, public defenders, or the courts—are experimenting with initiatives that address underlying causes and seek to provide the practical support offenders who are homeless need to stabilize their lives. Homeless court is one of the best known approaches, but a wide range exists. This publication describes some of these approaches.

Formulating a Response

1. Explore the homeless court model

Homeless courts give homeless individuals the opportunity to resolve qualifying outstanding citations and warrants by participating in services. Participants voluntarily sign up through a homeless service provider and engage in a series of program activities before appearing in court. These program activities serve as a “sentence” for participants, even though they are completed prior to the court appearance. After the completion of services, participants present proof-of-participation at a homeless court session. Most cases are then dismissed. Court sessions are generally held somewhere other than the courthouse—on-site at a service provider or at another location easily accessible to the homeless population. Jurisdictions that lack the resources for an independent homeless court program may consider creating a regular citation dismissal calendar in a traditional criminal court.

Case Study

Created in 1989, the San Diego Homeless Court Program was the first homeless court in the nation. The Homeless Court Program helps people experiencing homelessness resolve a range of misdemeanor cases and some low-level felonies. Individuals with pending cases sign up through a homeless services provider and work with the provider to create a plan tailored to their needs. Service providers report on participants’ progress to the public defender. The public defender submits the names of participants who have completed their service plans to the court, which coordinates with the prosecutor to schedule court appearances. Court sessions are held monthly, rotating between two local homeless shelters. At the court session, participants present proof of their completion of services and advocacy letters from the service providers. The majority of cases are then dismissed, thus removing potential obstacles to housing entitlements and other benefits.

2. Partner with interagency working groups

Many jurisdictions have interagency working groups devoted to coordinating responses to homelessness. These working groups include human service agencies and community-based service providers, as well as other municipal agencies. The local working group can help develop a justice-system response to homelessness by assessing challenges and assets, researching existing models of justice-system responses to homelessness, and developing a local plan. Working group partners can also help to set goals and measurable objectives, which will make it possible to monitor and evaluate performance and identify areas for improvement.

Case Study

The Spokane (Wash.) Community Court is part of the Spokane Homeless Coalition, an interagency group focused on addressing homelessness in the greater Spokane region. When the court was created, the judge and representatives from the Spokane Prosecuting Attorney's Office and the Office of the Public Defender met with the coalition to learn more about the issue of homelessness in Spokane and develop an appropriate justice-system response. A weekly session of the Spokane Community Court is now held in the city's Downtown Library, which is a familiar resource to individuals in Spokane who are homeless. Representatives of the Community Court continue to attend monthly coalition meetings, which provide an opportunity to improve coordination with service providers and partner agencies.

3. Engage individuals on the street

Street outreach programs seek to engage the homeless and connect them to voluntary services, in part to avoid future contact with the justice system. Trained outreach workers canvass areas with high concentrations of street homelessness, building relationships with the homeless community and offering access to needed services. Outreach programs may be operated by service providers or government agencies or as partnerships between the two. For example, a community court may draw upon its own case managers or partner with a local community-based organization or even the local police to conduct street outreach for offenders who are homeless.

Case Study

The Downtown Austin (Texas) Community Court partners with the Austin Police Department to conduct joint street outreach to the city's homeless population. Case managers from the Community Court accompany officers during their downtown patrol and spread the word about available services. Any homeless individual who has a history with the court is eligible for court-based case management services.

4. Train first responders to work with the mentally ill

One promising approach to working with mentally ill homeless individuals is police-based programs that seek to respond more effectively to incidents involving the mentally ill. Known as Crisis Intervention Teams, they rely on officers trained by mental health professionals and family advocates in the complex dynamics of mental illness and techniques for de-escalating confrontations. Through partnerships with local mental health providers, Crisis Intervention Teams are able to link mentally ill individuals they encounter with needed services.

Case Study

The Memphis (Tenn.) Crisis Intervention Team, developed by the Memphis Police Department in collaboration with the local chapter of the National Alliance on Mental Illness and two local universities, is the nation's first crisis intervention team. The Memphis team is a specialized unit that responds to crises involving people with mental illness. Widely replicated throughout the country, the Memphis Crisis Intervention Team is made up of officers from each precinct who volunteer to be trained in de-escalation techniques by mental health providers, family advocates, and mental health consumer groups. Trained officers are stationed at each precinct during each shift, ensuring 24-hour coverage for crises.

5. Offer opportunities for diversion from the justice system

Many justice systems operate diversion programs for non-violent offenders, whether led by local police, the prosecutor's office, the courts, or some other partner. Homeless individuals can be included in such programs—either in a targeted way or by simply meeting the general eligibility criteria.

Case Study

The Milwaukee (Wisc.) District Attorney's Office operates an early intervention program for non-violent offenders. A major component of this program involves identifying individuals with chronic substance use disorder or mental illness, populations that are disproportionately involved in the criminal justice system and disproportionately represented among the homeless population. Offenders are screened for risk of reoffense and offered either a pre-charge resolution or deferred prosecution. These alternative dispositions require offenders to complete service mandates, such as participating in drug treatment or housing services. Homeless individuals who receive deferred prosecution are referred to Milwaukee's Housing First initiative, a new supportive housing program that offers a flexible response to homeless individuals with substance use disorder, rather than a total sobriety model.

6. Explore pre-trial supervised release

Pre-trial supervised release programs, which allow defendants facing charges to remain in the community as they await trial, can give homeless defendants the same opportunity to avoid pre-trial detention as similarly situated defendants with the means to pay bail. (This is particularly important because research shows that detained defendants are more likely to be sentenced to jail or prison and to serve longer sentences.) Eligible defendants who choose to participate in a pre-trial supervised release program receive monitoring and court-date reminders, as well as referrals to social services. Participating defendants must provide information on how they can be contacted or located in the community and must comply with check-in mandates. Non-compliant defendants may be subject to more stringent monitoring, and the court reserves the power to remand them to jail if necessary.

Case Study

The San Francisco Pretrial Diversion Project operates Court Accountable Homeless Services, a community-based pre-trial supervised release program designed to keep homeless defendants facing felony or certain misdemeanor charges out of jail while awaiting trial. The district attorney, judge, and public defender work in concert to identify defendants eligible for the program. Defendants are screened for eligibility with an evidence-based risk assessment tool, which considers information from the police incident report, personal and criminal history, a defendant interview, and the defendant's contacts in the community. Most referrals to the diversion program occur at arraignment. Eligible defendants who choose to participate are diverted to social services and their progress is monitored by Court Accountable Homeless Services, which reports on participant progress regularly to the court. If a participant fails to appear in court or misses a check-in, outreach workers conduct a search in the community. Participants who are non-compliant are subject to increasingly intensive monitoring or, if necessary, remanded to jail.

7. Mandate brief and immediate on-site interventions

Some courts issue mandates that provide offenders who are homeless with immediate access to services. These mandates often consist of individualized sessions in the courthouse that are tailored to the offender's needs and may range from assistance with housing to job training to connections to mental health or health care services. Those who successfully complete their mandates may have their cases dismissed. The support offered by immediate on-site interventions can increase engagement and reduce non-compliance.

Case Study

At the Midtown Community Court in New York City, defense counsel and the judge have the option of directing an offender to an interview with a resource coordinator prior to arraignment. During this interview, the offender's housing status is identified. Offenders who are homeless may be mandated by the court to up to five individual counseling sessions at the court's on-site clinic. During these counseling sessions, a staff member helps the client set goals and connects the client with additional services. Staff maintain an extensive guide to local services and can make same-day referrals to a range of providers. Compliance is monitored by court staff.

8. Provide case management

Courts can also link offenders with case managers, either in the courthouse or in the community. Eligible offenders are given the option of accepting case management in lieu of a traditional sanction like jail. Offenders who successfully complete a prescribed number of sessions may have their cases dismissed or charges reduced.

Case Study

At the Downtown Austin Community Court, qualifying offenders experiencing homelessness—with prosecutor approval—are given the plea option at arraignment of a sentence to case management. Case managers work with judges and prosecutors (most defendants are not represented by counsel) to develop a case plan that is responsive to individual needs but also proportionate to the defendant's offense and criminal record. Defendants who have long records of low-level crimes are eligible for intensive case management and rehabilitation services. These services are comprehensive and can include treatment for substance use and mental health disorders, legal assistance, assistance securing identification documents, and help applying for permanent housing. Defendants and case managers regularly report progress to the judge, who can also reduce outstanding fines and quash outstanding warrants.

9. Promote access to voluntary services

Courts may offer a range of voluntary services for homeless individuals, regardless of their court status. Services may include housing eligibility screenings, case management, assistance with securing identification documents, medical and psychiatric evaluations, legal services, or assistance with applications for benefits or housing. Services may be provided on-site by court staff or partner agencies or through external referrals.

Case Study

The Orange County (Calif.) Community Court offers voluntary services to offenders and walk-in clients who are experiencing homelessness. A paralegal in the office of the public defender handles intake, and homeless individuals can access services through a wide range of on-site service providers and government agencies. Services include job training, mental health counseling, assistance applying for veterans benefits, and assistance applying for food stamps or health benefits. These service providers can refer clients to external providers for additional assistance.

10. Provide targeted interventions for frequent offenders

Prosecutors or courts may maintain lists of the most frequent misdemeanor offenders in a jurisdiction. Individuals on these lists who are homeless can be flagged when they come into contact with law enforcement or the courts, enabling delivery of intensive targeted services. In some cases, a designated prosecutor may oversee the cases of frequent offenders.

Case Study

The City Attorney in Minneapolis, Minn., maintains a “Downtown 100” list, which tracks the cases of the 100 most frequent offenders in the city’s downtown business district. Businesses in the downtown area underwrite the cost of staff, including two full-time probation officers who serve as case managers. Individuals on the list who are homeless can be connected by these case managers with social services and referred to the local homeless court program.

11. Work with the formerly incarcerated and other at-risk groups to prevent homelessness

Some prevention programs are collaborations between criminal justice agencies and service providers that link formerly incarcerated individuals, veterans, or other at-risk groups with services such as transitional housing to support their return to the community. In the case of the formerly incarcerated, program staff ideally engage clients prior to their release, coordinating services and assisting them in applying for benefits and identifying housing options. This “in-reach” strategy is designed to ensure continuity of services for clients upon release.

Case Study

The Ohio Department of Rehabilitation and Correction and the Corporation for Supportive Housing in Ohio operate Returning Home - Ohio, a pilot program designed to provide permanent supportive housing to individuals returning to the community from state prisons. Through coordination with the corrections system, the Department of Mental Health, the Department of Alcohol and Addiction Services, and supportive housing providers, the program offers rental subsidies, client enrollment, in-reach services, reentry planning, and housing and supportive services to clients who have histories of chronic homelessness or are at risk of homelessness.

Related links

Center for Court Innovation: <http://www.courtinnovation.org>

San Diego Homeless Court Program: <http://www.homelesscourtprogram.com>

Spokane Community Court: <https://my.spokanecity.org/courts/municipal-court/therapeutic/>

Spokane Homeless Coalition: <http://www.spokanehc.com>

Downtown Austin Community Court: <https://www.austintexas.gov/department/community-court>

Memphis Crisis Intervention Team: <http://www.memphistn.gov/Government/PoliceServices/CrisisInterventionTeam.aspx>

Milwaukee County District Attorney's Office: <http://county.milwaukee.gov/DistrictAttorney7715.htm>

Court Accountable Homeless Services: <http://sfpretrial.com/court-accountable-homeless-services/>

Midtown Community Court: <http://www.courtinnovation.org/project/midtown-community-court>

Orange County Community Court: <http://www.occourts.org/locations/community-court.html>

Minneapolis City Attorney's Office: <http://www.ci.minneapolis.mn.us/attorney/>

Ohio Department of Rehabilitation and Correction: <http://www.drc.ohio.gov/web/bcs.htm>

Returning Home - Ohio: <http://www.csh.org/csh-solutions/serving-vulnerable-populations/re-entry-populations/local-criminal-justice-work/returning-home-ohio/>

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