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## Creating a Home Base for Treatment in Homeless Courts

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## Creating a Home Base for Treatment in Homeless Courts

### Abstract

As the number of unsheltered homeless increases, an alternative to criminalization, homeless courts, have also become more common. 18 States currently have one or more specialty court programs dedicated to meting out alternative sentencing to the local homeless. Homeless courts are a rehabilitative process with the end goal of reintegration into society. They allow nonviolent misdemeanors to be resolved without jail time or fines. In lieu of traditional sentencing is community service and mandated self-improvement. This chapter examines the current criminalization, and history, of homelessness in the United States. Of primary interest is the development of homeless courts as an attempt to respond to the underlying problems causing homelessness. Going back to the nation's first in San Diego, the purpose of this investigation is to compare and contrast the strategies and goals of different specialty courts and to determine which if any have been successful in reducing the homeless population.

### Keywords

homeless, homelessness, problem-solving courts

### Disciplines

Courts | Criminology and Criminal Justice | Public Affairs, Public Policy and Public Administration | Social Justice

### Comments

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To understand the recent rise in homeless courts it helps to see the size of the problem they are trying to ameliorate.

### The Situation:

- On a single night in January 2019, there were roughly 568,000 homeless Americans.
- This is 17,800 more than there were in 2016. In that time, the number of *unsheltered* homeless individuals also grew, by an alarming 35,000. This uptick shows no sign of abating, from 2018-2019 the unsheltered population grew by 8.7%.

### The Situation 2:

- With unsheltered homelessness accounting for over  $\frac{1}{3}$  of the whole population, laws that effectively criminalize homelessness have far reaching impacts. And as the population grows, these are affecting more people.

### Disproportionate impact:

- The National Law Center on Homelessness and Poverty defines the criminalization of homelessness as “the punishing of life sustaining conduct” for those without a home.
- It is harder for homeless people to remain innocent of aptly named ‘quality-of-life’ offenses like vagrancy, loitering, or public intoxication, seeing as they are living on the streets.
- The criminal record that can be gained simply by having no other place to be makes it harder for them to secure housing, a job, government benefits, and more. This approach impedes the success of and disenfranchises a struggling populace whose primary offense is arguably destitution.

This is where homeless courts come in, and where we very briefly go back in time to the environment that led to the first homeless court in 1989.

### History:

- **There were the Economic Shocks of the 70s & 80s:**
  - Like the oil shortages & rampant inflation of the 70s, and then the savings and loan crisis of the 80s & 90s.
- **Regan’s HUD budget cuts in the 80s:**
  - That saw the number of public housing units fall from 517,000 (in 1976) to 150,000 (in 1982).
- **Deindustrialization took place more gradually, and is still relevant today**
  - 1980=19.3 million manufacturing jobs; 2010=11.5 million.
  - In 1950 college grads made 25% more than high school grads, as of 2012 it was over 100% more (Buera & Kaboski, 2012).

- So despite all its benefits, the switch to a service sector economy seems to have erected barriers to social mobility.
- **The Deinstitutionalization movement is also still relevant today**
  - The number of patients in asylums and psychiatric hospitals dropped from 558,000 (in 1955) to 72,000 (in 1994).
  - At present, 20-25% of America's homeless have severe mental illnesses, compared to only 6% of the general population.
- **All these factors led to the Court at Stand Down:**
  - In 1988, a three-day tent community with services where homeless veterans could pause their battle with the streets and "stand down" distributed a VA survey that revealed that the largest issue for 116 homeless veterans was outstanding bench warrants.
  - At the event's next annual meeting in 1989, the San Diego Superior Court set up a mobile station: the Court at Stand Down. Within three years, it had resolved 4,895 cases for 942 homeless veterans.
  - In 1995 it became available to the general homeless population.
  - In 2006 the American Bar Association promulgated standards for these courts based on the one in San Diego.
  - Fast forward to today where 20 states and counting have at least one homeless court.

So, what *are* homeless courts? Many adhere to the ABAs guidelines based on the San Diego Stand Down model. However, there are also many crafting their own unique versions to fit the specific needs of their communities. Even so, we can still extract some basic shared features to get an idea of how these courts operate.

#### We start with the process of Identification:

- Clients find their way to homeless court primarily via 2 methods. The first is signing up for it themselves, usually at a homeless shelter or soup kitchen.
- The second involves referral by either social workers, officers, prosecutors, judges, or charities, depending on the specific municipality.

#### After identifying potential clients, their Eligibility for the local homeless court program must be confirmed:

- These standards are Court dependent and vary widely. But there are 3 to be found at almost every homeless court. These are a requirement that the individual be homeless, that their offense be nonviolent, and that they be willing to work towards self sufficiency.
- For example, the Maricopa County Regional Homeless Court in Arizona accepts only nonviolent homeless offenders who are expressly trying to secure income, enroll in a

program with a qualified social services provider; and have regular contact with their case managers.

It is impossible to discuss this subject without touching on Service Partnerships:

These courts are usually a partnership of multiple entities. While the gov't oversees the legal and formal proceedings, community-based nonprofit organizations provide oversight and services. They also encourage participation, and homeless shelters will often serve as a venue for court. Some examples of public/private cooperation:

- in Contra Costa, California there are teams that find unsheltered homeless people, assess their needs, and facilitate connection to shelters and services.
- in Maricopa County, Arizona, 27 qualified charities (including the Salvation Army) provide homeless transitional care programs.

The Formal Proceedings of homeless courts are more informal than other specialized courts:

- This is evident in that (as just mentioned) many conduct their business in shelters or community centers, not courtrooms. The Denver, Colorado homeless court found that by changing their venue from City Hall to a local shelter, the rate of court attendance skyrocketed. The familiar staff, less intimidating atmosphere, and decreased transportation cost increased the likelihood of homeless persons showing up on their court date.
- **The typical homeless court operates via the 'Pure dismissal' model:** defendants are offered an action plan to better themselves (agreed to by a judge, but drafted and overseen by private partners), if they accept, court fines and fees are waived, and the defendant is not taken into custody. At the hearing evidence of progress is given, and the judge dismisses the case after a single hearing.
- **In the traditional model of therapeutic justice:** (such as is used by the Santa Monica homeless court) court personnel monitor treatment for roughly 1 year.

Alternative Sentencing in many ways defines the homeless court model of rehabilitation:

- The "credit for time served" model is one where participants engage in activities meant to address their homelessness instead of incarceration or fines. (LIST ACTIVITIES)
- In the pure dismissal model, compliance monitoring of these activities falls to the community partners.

So, what are their Goals?:

- Well, (22/37) want to either promote self sufficiency, or address the root causes of the defendant's homelessness.

- Other common goals are reducing the municipality's court costs, promoting access to court, and encouraging homeless participation in the legal system by adopting a less antagonistic approach.
- So, have they met these goals?

#### Outcomes:

- A 2001 study of the San Diego Stand Down Court found that 97% of respondents had their "overall satisfaction with the court process" improved. In a similar vein, 75% reported a reduced fear of police, 46% were more likely to seek permanent housing, and 38% were more likely to apply for a job.
- A 2007 study of the Pinellas County homeless court in Florida recorded a 79% compliance rate with program requirements.
- Finally, a 2018 study of Santa Monica homeless court graduates found that on average, over a 2-year follow-up period, they experienced a 124 day increase in permanent housing usage, and a 43 day increase in transitional housing usage.

#### Outcomes Slide 2:

- If these studies are indicative of the majority, then homeless courts are meeting their stated goals. The increased capacity of their graduates for self-sufficiency, combined with larger improvements in image and accessibility, confirms the effectiveness of the model developed at Stand Down. And by streamlining the court process the pure dismissal model reduces costs for many locales. A large part of this is the outsourcing of oversight and service provision to private partners.
- One common issue shared by homeless courts is what seems to be an inevitable drop-off in participation & compliance:
  - The San Diego study found within a period of months that the rate of clients appearing for their court dates dropped from 76% to 50%.
  - The Florida case study's 79% compliance rate was a decline from nearly 100% in the first few years.
  - And the Santa Monica court had only a 61% graduation rate.

#### Conclusion and Policy Recommendations:

- In the end, these courts will not end homelessness. However, as long as homelessness and its effective penalization exists, homeless courts are an effective means of correcting inequity and reintroducing justice to a marginalized population.
- We have three suggestions: & given how heavily jurisdictions rely on community partners, the first two are different ways to standardize the roles of these private organizations.

- First, we encourage national organizations to develop education and training programs accessible to organizations that work with homeless courts. If adhered to, this would help assuage concerns over equity, due process, and privacy.
- Second, to address the same concerns that arise from the 'pure dismissal' model's highly discretionary justice, homeless courts should adopt checklists of compliance expectations to help guide decisions.
- Our third and final suggestion is to encourage more research on the subject. At the moment academic literature on homeless courts is sparse, and more would allow for deeper analysis as we try to deal with the effects of our nation's growing homelessness crisis.