

# Care not Custody: Implementing the Homeless Persons Docket

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**Prepared for the Montgomery County Council**

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## Executive Summary

- In the FY22 Budget, the County Council approved \$100,000 to create the **Homeless Persons Docket (HPD)**, following the recommendations of the Interagency Commission on Homelessness (ICH).
- The HPD will further the County's successes in combatting homelessness by diverting people from the criminal justice system, connecting them to services, and preventing misdemeanors from being barriers to housing.
- In overseeing the HPD in the long term, Council should consider national best practices and insights from the County's other problem-solving courts.
- **This report outlines practices and recommendations across five Best Practice Areas:** (1) services and legal process, (2) participant experience, (3) stakeholder collaboration, (4) monitoring and evaluation, and (5) funding and sustainability.
- **Overall, I find that the HPD is well-aligned to the practices of peer programs and is well-positioned to succeed.** The findings and recommendations in each Best Practice Area can be a starting point for future innovations in the program.
- Implementing the HPD successfully will ensure better care for our neighbors facing homelessness and allow the County to serve as a model for other counties nationally.

## Summary of Recommendations

### *Short-Term (Year One)*

- Host an inaugural graduation ceremony
- Create education and outreach materials for providers and potential participants
- Develop an exit questionnaire for participant feedback

### *Long-Term (After Year One)*

- Pilot the ICH's recommended HEART referral program
- Assess the need for a rotating or second docket location
- Integrate the HPD's monitoring and evaluation with the Mental Health Court, Adult Drug Court, and Reimagining Public Safety efforts
- Evaluate opportunities for state and federal funding

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## About the Fellow

David Paul is currently pursuing a Master of Public Policy at Georgetown University with a focus on community development and public safety. David first became passionate about local government as an undergraduate at Vanderbilt University. An important part of his undergraduate experience was interning at the Denver Rescue Mission, where he learned about the myriad challenges facing people who are homeless. After graduating in 2018, he worked as a Human Capital Consultant at Mercer in Atlanta, GA, where he helped state and local governments design compensation and talent development programs. At Georgetown, he has researched how local governments can foster collaboration between police departments and community organizations. David is grateful for the opportunity to work on issues of homelessness and public safety for the Council.



## Acknowledgements

Thank you to the Montgomery County Council for hosting the Summer Fellows program. Special thanks to Nicole Rodriguez-Hernandez and Pam Dunn for all their support of the Fellows as individuals and as a group. Sharan London, Linda McMillan, and Amanda Harris were essential in providing ideas and guidance for this project and their dedication to serving Montgomery County is inspiring. Finally, thanks to those within and outside Montgomery County who shared their insights on homeless court programs.

## Disclaimer

This report is limited in scope due to the constraints of continued teleworking and the limited duration of the Summer Fellows program. This individual report only reflects the views of the Summer Fellow and does not necessarily represent the views of the Montgomery County Council, the Department of Health and Human Services, the Interagency Commission on Homelessness, or any individuals referenced in the report.

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# Definitions

**Continuum of Care** – As defined by the National Alliance to End Homelessness (2010), a CoC “is a regional or local planning body that coordinates housing and services funding for homeless families and individuals.” The Montgomery County CoC includes service providers who will be referral sources and treatment/service partners for the Homeless Persons Docket.

**Docket** – A grouping of cases within a court. The Homeless Persons Docket will not be an actual “court” within the District Court and will not involve a judge, but it allows the State’s Attorney’s Office to place cases on the Stet Docket (see below) and dismiss charges.

**Expungement** – As defined by the American Bar Association (2021), “the process by which a record of criminal conviction is destroyed or sealed from state or federal record. An expungement order directs the court to treat the criminal conviction as if it had never occurred, essentially removing it from a defendant’s criminal record as well as, ideally, the public record.”

**Homelessness** – The Homeless Persons Docket will use an inclusive definition of homelessness, which is when someone is “in a shelter, on the street, doubled and tripled up with friends or family, in a motel, fleeing domestic or sexual violence, lacking a stable address or in a place unfit for human habitation” (Montgomery County Interagency Commission on Homelessness, 2019, p. 5).

**Nolle Prosequi** – Legal term, Latin for “we shall no longer prosecute.” In the context of the Homeless Persons Docket, this is when the State’s Attorney’s Office formally declines to prosecute a case against a person who has committed a misdemeanor. Often shortened and used as a verb, such as “the case was *nol prossed*.”

**Problem-Solving Court** – As defined by the National Center for State Courts (2021), a “specialized docket within the criminal justice system that seeks to address the underlying problem(s) contributing to certain criminal offenses.” Examples include drug, mental health, veterans, domestic violence, and homeless courts.

**Stet Docket** – A docket (grouping of cases, see above) that contains cases that are ‘on pause’ until reactivated by a prosecutor. In the context of the Homeless Persons Docket, the State’s Attorney’s Office would place a case on the Stet Docket while the participant completes the agreed upon action plan to have their charge(s) dropped.

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# Abbreviations

- ABA – American Bar Association
- ADC – Adult Drug Court (Montgomery County)
- ASA – Assistant State’s Attorney
- CoC – Continuum of Care
- DOCR – Department of Corrections & Rehabilitation (Montgomery County)
- DPH – Docket for Homeless Persons (Baltimore, MD); not to be confused with Montgomery County’s Homeless Persons Docket (HPD)
- DHHS – Department of Health & Human Services (Montgomery County)
- HMIS – Homeless Management Information System
- HPD – Homeless Persons Docket (Montgomery County)
- HPRP – Homeless Persons Representation Project
- HUD – U.S. Department of Housing and Urban Development
- ICH – Interagency Commission on Homelessness (Montgomery County)
- MHC – Mental Health Court (Montgomery County)
- OLO – Office of Legislative Oversight
- OPD – Office of the Public Defender
- PSC – Problem-Solving Court
- SAO – State’s Attorney’s Office

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# Introduction

Homelessness is a national crisis that is concentrated in major metropolitan areas, including the DMV area and Montgomery County. The root cause of homelessness is the widespread lack of affordable housing. As the COVID-19 pandemic laid bare, many families in Montgomery County are only one missed paycheck or unexpected hospital bill away from losing their housing [1].

Although losing one's housing is a major blow on its own, there are many policy failures that allow housing loss to set off a vicious cycle of homelessness. One of these is the **criminalization of homelessness**. For people experiencing homelessness, life-sustaining activities such as sleeping in a tent or parked car, public urination, trespassing to find shelter, and asking for money are illegal in most municipalities [2]. People accrue fines they cannot pay and criminal records that are barriers to accessing housing, employment, and other services. Individuals face periods in jail that contribute little to public safety and can exacerbate existing mental health challenges. Overall, these laws communicate to people experiencing homelessness that they are the problem and normalize broader public apathy toward homeless people.

Montgomery County took a strong step in the right direction in April 2021 when the Council approved \$100,000 in the FY22 Budget to create the **Homeless Persons Docket (HPD)**. This decision followed the recommendation of the Interagency Commission on Homelessness (ICH)<sup>1</sup> and was supported by the County Executive, community groups, and national organizations [3]. Like other "homeless courts" nationwide, the HPD will combat the criminalization of homelessness by diverting people experiencing homelessness from the criminal justice system and connecting them to services.

The first homeless court began in San Diego, CA in 1989, and there are now over 50 homeless courts across 20 states [4]. However, unlike the strong national models for drug courts, most homeless courts are relatively new and their practices vary greatly [5]. **It is therefore essential that Council and other stakeholders be willing to monitor the HPD's performance and evaluate opportunities to improve the HPD in its early years.**

This report **outlines promising practices** from homeless courts around the nation and from other problem-solving courts, such as the County's Mental Health Court and Adult Drug Court. Supplementing the original 2019 report ("Recommendations Report") from the ICH Committee on Decriminalization of Homelessness, **this report can be a starting point for future research and innovations in the HPD**. If the HPD is implemented successfully, it can be the foundation for full decriminalization of homelessness and further establish the County as a national leader on ending homelessness. Most importantly, it can provide better care for and protect the dignity of our homeless neighbors.

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<sup>1</sup> The ICH is the decision-making body of the County's Continuum of Care, authorized under Bill 7-20.

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## Research Sources

- Reports from the Montgomery County Continuum of Care (CoC) and Interagency Commission on Homelessness (ICH)
- Published academic and government research on homeless courts, with a focus on those related to implementation and long-term program management
- Discussions with stakeholders within the County and State, including the HPD Program Coordinator, ICH members, and staff within DHHS, District Court, County Council, and Maryland Judiciary
- Discussions with public sector and nonprofit stakeholders in peer jurisdictions, including Baltimore City, Nashville, Atlanta, and Denver

# Homelessness in Montgomery County

## *Housing First Successes, but Persistent Challenges*

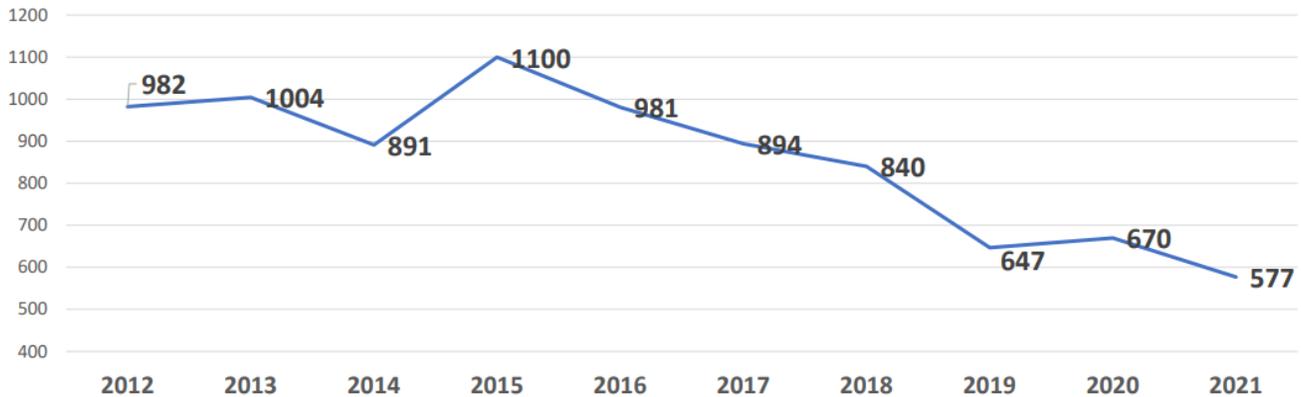
The County has a Housing First strategy for addressing homelessness. Rather than focusing on individuals' personal characteristics and choices as main drivers of homelessness, the Housing First approach recognizes that stable housing is the foundation for wellbeing and self-sufficiency [6]. With the mission of making homelessness "rare, brief and non-recurring" [7], the Montgomery CoC has become a national leader in connecting people with permanent housing. This model provides individuals and families housing and connects them to services for mental and physical health, employment, and education, among others.

Montgomery County achieved "functional zero" for veteran homelessness in 2015 and for chronic homelessness in 2019 [8]. This means that there are sufficient permanent housing units to house all veterans facing homelessness and all people with disabilities who have been homeless for more than one year total during the last three years. While these are great achievements, there are still 577 people experiencing homelessness within the CoC, 68 of whom are unsheltered [9].

The figures below are derived from the most recent Point-in-Time Homeless Count results for the CoC [10]. Although the first figure shows year-over-year declines in homelessness, progress has slowed during the COVID-19 pandemic. Furthermore, there are significant racial disparities in homelessness. Despite 18% of the County's overall population being Black, 60% of single adults and 78% of families facing homelessness are Black. Finally, as shown in the table, significant proportions of adults facing homelessness experience mental and physical health challenges. The ICH's Strategic Plan defines addressing racial disparities and providing comprehensive supports for diverse subpopulations as strategic priorities [11]. The Docket for Homeless Persons can help reduce racial and income disparities in criminal justice outcomes and improve outcomes for people with chronic health challenges.

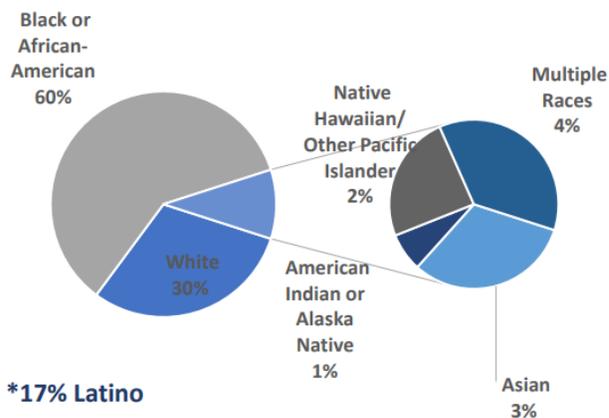
## Number of People Experiencing Homelessness (2012-2021) [12]

Annual Homeless Point-in-Time Count

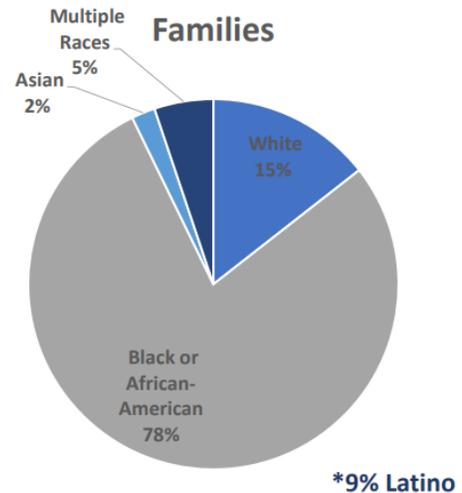


## Racial Disparities in Homelessness (2021) [12]

### Single Adults



### Families



## Subpopulations of Adults Experiencing Homelessness (2020-2021) [12]

	Adults Only in all Households 2020	Adults Only in all Households 2021	Percent Change 2020-2021
Chronic Substance Abuse	71	33	-53%
Severe Mental Illness	123	156	+27%
Dual Diagnosis	0	61	x
Chronic Health Problem	26	77	+196%
Living with HIV/AIDS	15	5	-67%
Physical Disability	61	118	+93%
Domestic Violence Victim History	35	82	+134%
Limited English	11	60	+445%

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## *Criminalization and Public Safety Burden*

Currently, there is limited data to quantify the criminalization of homelessness in Montgomery County. HPD reporting processes present an opportunity to better understand the number and types of offenses that lead homeless people to be involved in the criminal justice system. Currently, the best ways to understand criminalization in Montgomery County are feedback from people experiencing homeless in the County, national data on criminalization policies and service providers, and data on the public safety burden of mental health and homelessness within the County. Although my research timeline did not allow me to gather qualitative feedback,<sup>2</sup> I describe national data and local public safety data below.

The National Law Center on Homelessness and Poverty annually produces the *Housing, Not Handcuffs* report, which tracks anti-homelessness laws in 187 municipalities [14]. Baltimore, Elkton, and Frederick, MD are included in the report, but no cities within Montgomery County are included (see Appendix A). The report finds that laws prohibiting life-sustaining activities are becoming more prevalent over time. For example, 57% of cities in their sample had one or more laws prohibiting camping in certain public spaces, representing a 70% increase since 2006 [14, p. 12]. The NLCH also finds that these laws significantly contribute to disproportionate policing of people of color and people with disabilities [14, p. 50-51]. "Nationwide, a person experiencing homelessness is up to 11 times more likely to be arrested than a housed person" [14, p. 12]. Council has recently enacted legislation to prevent rental discrimination (Bill 49-20) and employment discrimination (Bill 35-20) based on criminal history. The HPD will help prevent individuals from gaining and maintaining criminal records for minor offenses in the first place.

The burden of public safety responses to mental health situations and to nuisance offenses is significant. The aim of diversion programs like the HPD is to reduce recidivism, improve individual-level outcomes, and free public safety resources for other purposes. The County is making great strides in improving mental health response, including creating Mobile Crisis Teams. Nonetheless, public safety trends show room for improvement.

### Public Safety Trends

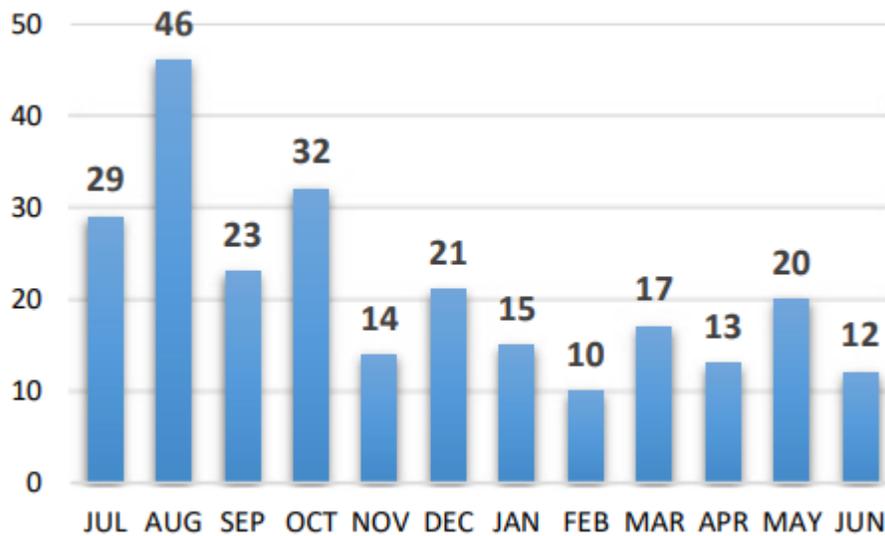
- Even as the County jail's average daily population decreased by 32% from FY11-FY15, the annual number of people booked needing immediate mental health treatment more than doubled to 2,137 [15, p. 4].
- MCPD officers were dispatched 19 times per day for mental health incidents between September 2017 and May 2020 [16, p. 49].
- 252 people experiencing homelessness were admitted to the Crisis Intervention Unit (CIU) from July 2019 to June 2020, an average of 21 per month [17].

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<sup>2</sup> Although not direct feedback from people facing homelessness, it is worth noting that a large majority of respondents to the County's Reimagining Public Safety Community Survey do not think MCPD should have the lead role in addressing "homelessness," "mental health response," "overdoses," and "addiction" [13]

Although MCPD data on non-violent offenses indicates that arrests and citations for loitering and for drunkenness are rare, there are still many reported trespassing and disorderly conduct offenses that likely disproportionately affect people experiencing homelessness [18, p. 20]. This data also does not reflect transit-related offenses, nor does it break out public urination and indecent exposure offenses. In addition to interactions with service providers, these contacts with law enforcement present opportunities for pre-booking diversion – connecting individuals with services *instead of* arrests or citations. As discussed in later sections, the HPD provides post-booking diversion that the County can complement with investments in pre-booking diversion.

**DOCR Data Dashboard: Homeless People Admitted to CIU July 2019 – June 2020 [19]**



**MCPD 2020 All Crime & Public Safety Report: Group B Offenses [20, p. 20]**

Group B Offense Category	2019	2020	% Diff
Bad Checks	83	28	-66%
Curfew/Loitering/Vagrancy	2	2	0%
Disorderly Conduct	1,058	608	-43%
Driving Under the Influence	2,804	1,655	-41%
Drunkenness	17	9	-47%
Family Offense (Non-violent)	135	109	-19%
Liquor Law Violations	1,475	479	-68%
Peeping Tom	19	18	-5%
Trespass of Real Property	755	508	-33%
All Other Offenses*	12,405	10,818	-13%
<b>Total</b>	<b>18,753</b>	<b>14,234</b>	<b>-24%</b>

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# Existing Programs in Montgomery County

Montgomery County’s CoC includes a wide variety of service providers and other stakeholders. Because the HPD will connect participants to the services they need for self-sufficiency, all service providers may ultimately have opportunities to partner with the HPD. **Shelters and outreach organizations** will be essential in familiarizing people experiencing homelessness with the HPD and providing referrals. **Legal aid and expungement organizations** will help ensure that participants reach the best possible outcomes for their criminal records and justice system involvement. **Housing, shelter, health, benefits administration, and workforce development organizations** will help participants gain stability and achieve self-sufficiency.

In addition to CoC providers, Montgomery County already has a Mental Health Court (MHC) and Adult Drug Court (ADC). Due to the high prevalence of mental illness and substance abuse disorders among people experiencing homelessness, both courts currently address many cases involving people experiencing homelessness [21].<sup>3</sup>

- The **Mental Health Court** is available to adult defendants with mental health diagnoses who have been charged with an offense related to a diagnosis, including but not limited to schizophrenia, clinical depression, bi-polar disorder, PTSD, and Traumatic Brain Injury. Treatment plans are unique to each individual and last a minimum of 18 months [22].
- The **Adult Drug Court** is available to defendants with substance abuse disorders who have committed non-violent offenses. The program lasts a minimum of 20 months and includes professional substance abuse treatment, recovery meetings, status hearings, case management, and residing in court-approved housing [23].

As described in later sections, these courts offer insights that can be applied to the implementation and monitoring of the HPD, including performance metrics, referral policies, and funding sources.

## Overview of the Homeless Court Model

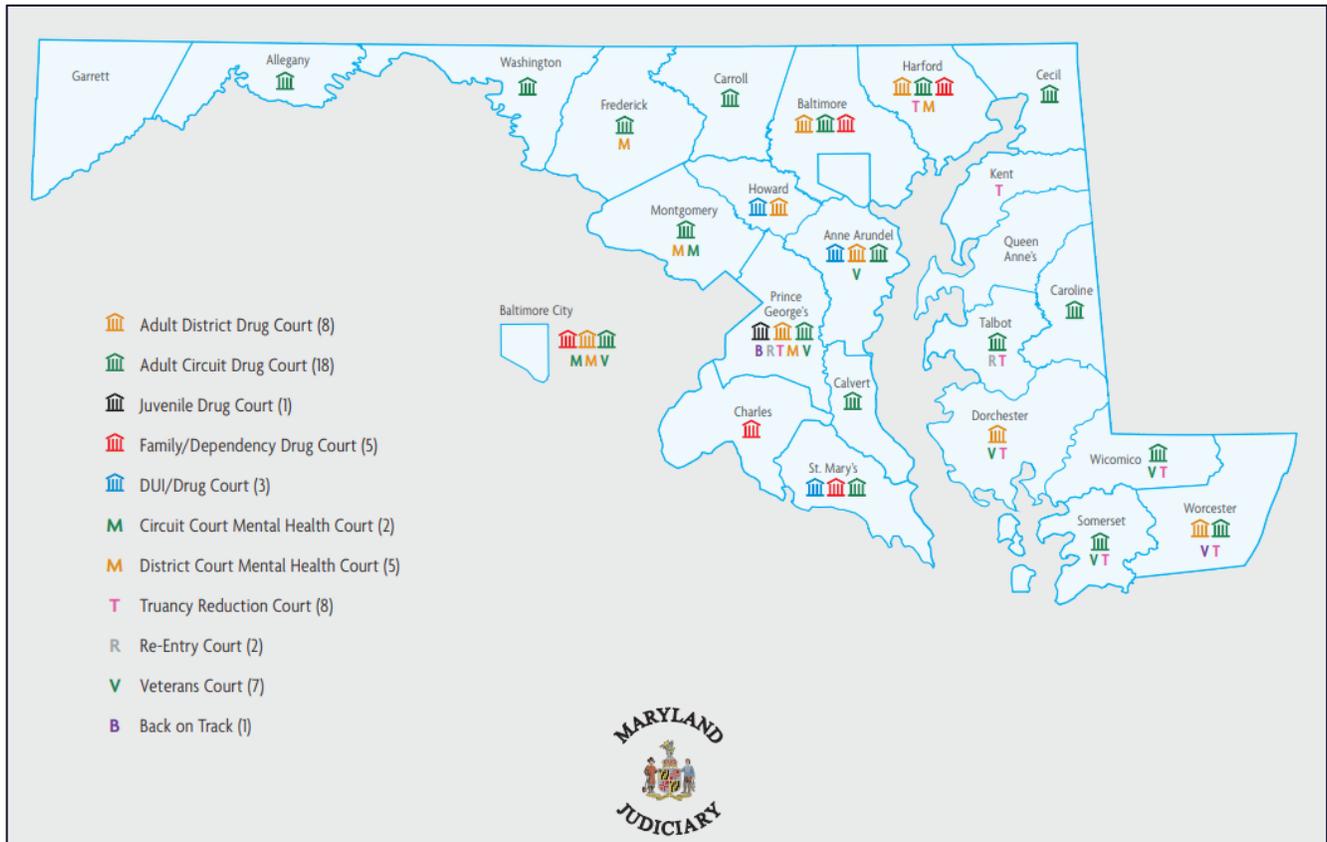
### *Problem-Solving Courts*

Before outlining the specific design of the HPD, it is important to discuss homeless courts generally and situate them within the larger legal system. Homeless courts are a subset of “problem-solving courts” (PSCs), which also include drug courts, mental health courts, veterans’ courts, and others [24]. PSCs differ from traditional courts because they seek to address the underlying causes of criminal behavior and assign defendants treatment plans in lieu of traditional correctional sanctions. Within Maryland, PSCs receive guidance from the Administrative Office of the Courts [25]. The map below shows operational PSCs within the state.

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<sup>3</sup> Determining the number of cases within these courts involving people who are homeless was outside the scope of this project, but future evaluations of the HPD, MHC, and ADC should do so.

## Operational Problem-Solving Courts in Maryland [26]



Nationally, homeless courts have proliferated to the extent that there are some recognized best practices but there is still significant variation [27]. By contrast, even though there are over 3000 drug courts compared to the 50-60 homeless courts nationally [28], drug courts have largely converged on one model consistently applied across municipalities. Leading scholars emphasize that additional rigorous evaluations are needed to assess which elements are most successful [29]. Nonetheless, the American Bar Association has defined seven guiding principles for homeless courts, which have guided implementation in many municipalities [30, see Appendix B]. Based on these principles, the ICH Recommendations Report provides the following general description of homeless court programs:

“The concept is for a specialized docket to address minor offenses with which homeless defendants are routinely charged due to their circumstances. Prosecutors, defense counsel, and the court adopt criteria for participation and involve community-based service providers to screen participants for voluntary use of the program. Defendants need not waive due process rights, but their cases are continued to permit them an opportunity for engagement in treatment services to improve their lives in lieu of traditional court sanctions, like fines, public service, and jail time. Those who complete appropriate services or treatment within the time assigned by the court will have their charges dismissed or otherwise resolved in order to render them eligible for housing, public benefits, and employment” [31, p. 5]

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In my research, I draw primarily on the following homeless court programs because they fit one or more of the following criteria: (1) recently implemented, (2) well-documented with evaluations, (3) comparable in design to the HPD, and (4) are in a city or county similar to Montgomery County.

- Atlanta, GA
- Baltimore, MD
- Denver, CO
- Nashville, TN
- San Diego, CA
- Santa Monica, CA

## *Pure Dismissal versus Therapeutic Justice*

RAND scholar Maya Buenaventura (2018) identifies that a key differentiator between homeless courts is whether they follow a “pure dismissal” model or a “therapeutic justice” model. Pure dismissal courts “allow participants to have their cases resolved in one hearing if they provide proof that they have participated in rehabilitative activities” prior to the hearing [32, p. 14]. The first ever homeless court (San Diego) has followed this approach, dismissing the vast majority of cases and rarely assigning action plans, allowing them to resolve hundreds of cases per year. Two of the peer cities I contacted, Nashville and Denver, also follow this approach [33].

By contrast, the therapeutic justice model requires participants to complete individual treatment plans in order to have their cases dismissed and expunged. Although each approach connects participants with service providers, the therapeutic justice model prescribes involvement with specific providers over a time period and institutes accountability measures [34]. This is more similar to other PSCs, including the County’s Mental Health Court and Adult Drug Court [35], and the Baltimore, MD and Atlanta, GA homeless court programs follow this model [36]. As discussed in the next section, the HPD will follow the therapeutic justice model.

## *Outcomes*

Buenaventura and others note that there have been few publicized evaluations of homeless courts, with Buenaventura’s analysis of the Santa Monica Homeless Community Court being the only peer-reviewed evaluation of one following the therapeutic justice model. While this lack of a strong evidence base should encourage Council and HPD implementors to be especially rigorous in monitoring and evaluating the program, outcomes data from homeless courts are promising.

Santa Monica had a 61% graduation rate (176 of 290 participants) between February 2007 and September 2017 [37, p. 104]. Buenaventura compares program graduates with eligible people on the Service Registry who had not participated. She finds that enrolling in the court was associated with someone spending 123.7 more days in permanent supportive housing and 43.4 more days in transitional housing compared to non-participants in the two years following graduation [37, p. 105]. Of the 92 program graduates who spent any days in permanent supportive housing in the two years after the program, 77 (83.7%) were still in their housing at the end of the two-year period [37, p. 105]. The study did not include data on recidivism or other justice-involvement outcomes.

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Baltimore’s DHP, which is highly comparable to the HPD, released a 5-year progress report in 2018. Out of 287 total participants, 230 (77%) completed the program, accessing a variety of housing, health, and employment services and having their charges dismissed [38]. While the report does not precisely estimate cost savings, it notes that a night in jail costs the city \$149, implying that its diversion efforts save the city thousands each year on correctional costs alone.

The only other prominent homeless court evaluation is of San Diego’s Homeless Court Program in 2001 [39]. The evaluation showed that participants were less likely to be arrested and committed less serious crimes than non-participants 90 days following their hearings, and interviews with participants indicated that participation led to less fear of police and the judicial system. However, these results are 20 years old and relate to a pure dismissal model.

For brevity, I will not detail the positive health and recidivism outcomes associated with Mental Health Courts and Drug Courts nationally. However, Council should expect that the HPD will improve individual outcomes and provide a significant return on investment, especially if it integrates insights from peer programs.

## ICH Proposal for the Homeless Persons Docket

### *HPD Background*

The ICH’s Special Committee on the Decriminalization of Homelessness, formed following a convening of advocates and stakeholders in April 2019, provided a Recommendations Report to the County Executive in January 2020 [40]. This report proposed the Homeless Persons Docket as well as six other recommendations related to decriminalization. Funding and implementation of the HPD was delayed until 2021 due to the COVID-19 pandemic. The \$100,000 allocated to the HPD in the FY22 Budget will primarily be used for physical materials for docket sessions and stakeholder education, transit rides and rideshare trips for participants, and compensation for the Program Coordinator. The \$100,000 recognizes that there will be additional start-up costs in year one, but the HPD’s ongoing funding needs will be unknown until after observing how many people choose to participate in its first year.

The HPD is governed by a variety of stakeholders, including:

- Homeless Persons Representation Project
- Office of the Public Defender
- Montgomery County State’s Attorney’s Office
- Montgomery County Department of Health and Human Services, Services to End and Prevent Homelessness
- Sharan London, HPD Program Coordinator

Although there are some program details that are still to be finalized and published, these stakeholders have determined most of the HPD’s design and operations [41]. Therefore, even at this early stage of implementation, it is possible to consider the program’s short-term and long-term

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development. Program details in this report are based on the ICH Recommendations Report, the HPD's draft Operating Manual, and conversations with County stakeholders.

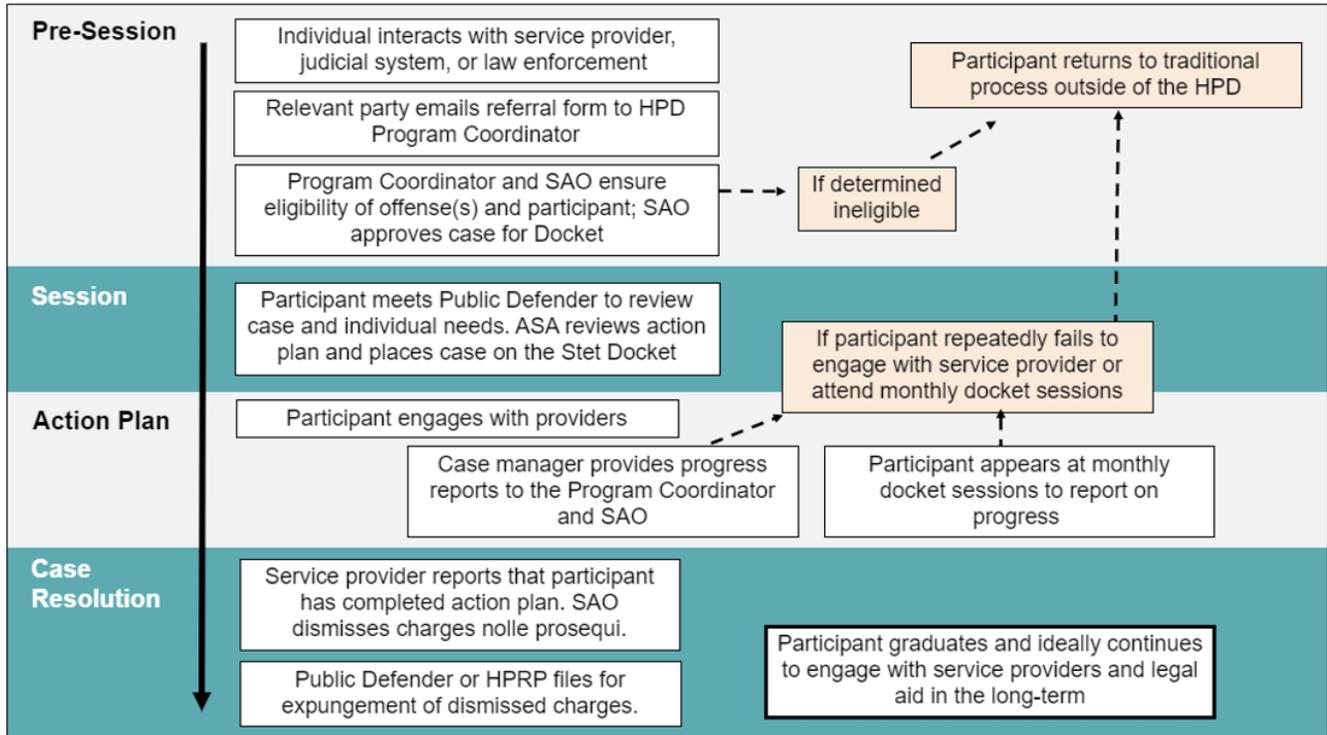
## *The HPD Model*

As mentioned above, the HPD follows a therapeutic justice model, rather than a pure dismissal model. Participants may be assigned action plans lasting up to 90 days and appear at the docket's monthly sessions to report progress [41]. However, the Assistant State's Attorney will have the discretion to reduce the required time length for specific participants if they demonstrate prior voluntary participation in services. Services assigned to participants will generally fall within five categories: housing, healthcare, behavioral health, benefits, and employment.

One essential aspect of the HPD is that it **is not an actual docket within the court system**, unlike most other homeless courts [42]. Rather, it is a community-based program through DHHS. It will not involve a judge but will only require a Public Defender and Assistant State's Attorney to meet with participants [43]. The ASA may place a participant's case on the Maryland Stet Docket while the participant completes their individual plan, effectively pausing the case until a later date. Once the participant completes their plan, the case is removed from the Stet Docket and resolved *nolle prosequi*. When a case is "nol prossed," it is simply not prosecuted by the state. After resolution, the Public Defender or HPRP will file for expungement of the participant's HPD charges.

A second unique aspect of the HPD is the **scope of charges it will be able to address**. Unlike some homeless courts that do not address transit or traffic offenses, such as someone jumping over a subway turnstile without paying, the HPD may address these offenses [44]. Misdemeanor drug offenses and theft are also eligible. The SAO including this range of offenses recognizes how the experience of homelessness impacts a variety of behaviors and will allow many more people facing homelessness to expunge their records.

The following graphic summarizes the steps in the HPD for a participant:



## Best Practice Areas

The following sections describe best practices from homeless courts around the nation as well as other types of PSCs, including the County’s existing Mental Health Court and Drug Court. The purpose of outlining these practices is not to prescribe specific practices for the HPD’s initial implementation. Rather, the goal is to lay out considerations for HPD implementors and for Council to guide the HPD’s long-term development as a program. Each Best Practice Area includes a set of identified best practices and a short-term recommendation, long-term recommendation, or both. **Overall, the HPD is well-aligned to the practices of peer programs and is well-positioned to succeed.** The findings and recommendations in each Best Practice Area can be a starting point for future innovations in the program.

The five Best Practice Areas are:

1. Services & Legal Process – Providing supportive action plans and expunging charges
2. Participant Experience – Ensuring the docket is unthreatening and accessible
3. Stakeholder Collaboration – Creating efficient processes that leverage people’s strengths
4. Monitoring & Evaluation – Gathering and analyzing data for program development
5. Funding & Sustainability – Gaining stable and diverse support for the docket

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## 1) Services & Legal Process

### Summary

**Best Practice 1:** Allow referrals from many stakeholders using a simple process

**Best Practice 2:** Balance participant accountability with avoiding burdensome requirements

**Best Practice 3:** Directly connect defendants to expungement services

**Short-term Recommendation:** Host an inaugural graduation ceremony

**Long-Term Recommendation:** Pilot ICH's recommended HEART program

### **Best Practice 1: Allow referrals from many stakeholders using a simple process**

Most homeless courts allow for referrals from service providers, law enforcement, City and State's Attorney's Offices, and Public Defenders. Service providers are often the largest source of referrals, but law enforcement officers are able to identify individuals with whom they have frequent contact [45]. Some courts allow for self-referrals or referrals from family and friends, while some restrict the group of service providers able to make referrals.

Although programs differ in the exact stakeholders who can make referrals, many noted the importance of having a simple process for those who can [46]. A long, intimidating questionnaire could make people with traumatic experiences with institutions become resistant. Furthermore, all stakeholders are already stretched for resources and the referral system should avoid increasing administrative burden.

The HPD will allow referrals from a broad set of stakeholders, including service providers, HPRP, OPD, SAO, law enforcement, and self-referrals [47]. HPD stakeholders have developed a one-page referral form that stakeholders can send to the Program Coordinator by email. This referral form only requires participants to provide their name, date of birth, contact information, address/where they typically sleep, and an authorization.

### **Best Practice 2: Balance participant accountability with avoiding burdensome requirements**

The core philosophy of PSCs is that voluntary participation in services and treatment is more productive than punitive sanctions. However, ensuring participants complete their action plans requires accountability measures such as status hearings and case manager reports [48]. Atlanta does not require most participants to reappear in court between the initial hearing and the end of their action plan, when their charges are formally dropped [49]. On case-by-case basis, Baltimore monitors some participants through regular communication with service providers while requiring participants with prior failures to appear in court to attend docket sessions biweekly or monthly to ensure they are engaging with services [50]. Atlanta and Baltimore's practices are more applicable to the HPD than Nashville and Denver's "pure dismissal" courts, where participants appear in court once to have their charges dropped and expunged.

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The HPD will require participants to attend monthly docket sessions for the duration of their action plans to report on their progress [51]. Simple case manager progress reports will provide information about the services clients received and whether their engagement was satisfactory. This process not only provides an opportunity for the assigned service provider to report if a participant has fully stopped engaging in the program, but also allows a service provider to express that a participant is making strong progress even if they fail to appear at the session. This approach leverages service providers' strengths and their close relationships with participants.

### **Best Practice 3: Directly connect defendants to expungement services**

Expungement is the final piece of ensuring that criminal records do not pose barriers to housing and other opportunities. The most prominent homeless courts, whether pure dismissal or therapeutic justice models, ensure that participants can access expungement services directly through docket sessions [52]. In addition to expunging the charges that initiated a participant's involvement in the docket, Public Defenders offices and legal aid organizations can help participants file for expungement for previous charges. This approach avoids having to recontact participants in the future and takes advantage of the positive momentum created by the homeless court process.

In the case of the HPD, the OPD or HPRP will file for expungement following their final docket session when charges are formally dropped by the SAO [53]. The HPRP, having played a central role in Baltimore's docket, will be an invaluable partner in helping participants expunge past charges. As discussed in the ICH's Recommendations Report, Montgomery County should advocate for changes in Maryland state law to decrease waiting periods for expungement, which are currently three years for most misdemeanors.

### **Short-Term Recommendation: Host an inaugural graduation ceremony**

Across different problem-solving courts, the most powerful moment is when participants graduate the program [54]. For mental health courts and drug courts, including those in Montgomery County, graduations represent a major transition towards self-sufficiency. Graduations are less common among homeless courts since many follow pure dismissal models. Nonetheless, the HPD should host an inaugural graduation ceremony for participants who graduate in the first 6 months of the program. Following the practice of the Santa Monica program, this graduation should take place at the beginning of a docket session [55, p. 64]. Not only would this provide an opportunity for participants to celebrate their progress, but it would also allow participants who are beginning or in progress on their action plans to witness others who have overcome similar challenges. This ceremony would also serve as an opportunity to raise broader awareness of the HPD and its initial progress. After this initial event, HPD implementors could determine how to conduct future graduations going forward, such as whether to have graduations at regular intervals or to graduate participants each month the day they complete their action plans.

### **Long-Term Recommendation: Pilot ICH's recommended HEART program**

As the HPD proves to be effective at connecting hard-to-reach individuals to services, Council can consider piloting the Homeless Engagement Alternatives Resources & Treatment (HEART) program

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outlined in the ICH Recommendations Report. By complementing the HPD’s post-booking diversion with strong pre-booking diversion, HEART would further institutionalize a comprehensive system to divert people experiencing homelessness from the criminal justice system. The program would:

- Permit law enforcement officers to refer a person experiencing homelessness to the HEART Program Coordinator instead of arresting them or issuing a citation
- Encourage officers to offer participation to non-offending individuals based on previous interactions
- Allow social referrals from “service providers, family members, friends, or community members who witness behaviors that could lead to an arrest for an eligible charge” [56, p. 8].

Combining HPD and HEART would help create an environment where all stakeholders are empowered to assist people facing homelessness in accessing support when they need it most. It would also reinforce ongoing efforts within the County to reimagine public safety and improve law enforcement officers’ interactions with community members. Although the ICH Recommendations Report estimates annual costs of \$30,000, more funding may be required to allow for a dedicated Program Coordinator, robust outreach, and stakeholder education [56, p. 8].

## 2) Participant Experience

### Summary

**Best Practice 1:** Host docket sessions in a trusted, convenient location

**Best Practice 2:** Make the courtroom environment unthreatening

**Best Practice 3:** Host docket sessions at a consistent, convenient time

**Long-Term Recommendation:** Assess the need for a rotating location or second monthly location to ensure accessibility

### Best Practice 1: Host docket sessions in a trusted, convenient location

Homeless courts were created in large part because advocates recognized that appearing in a traditional court setting is both intimidating and logistically challenging for people experiencing homelessness [57]. For those who have mental illnesses and have had negative experiences with law enforcement, appearing in a court building is often traumatizing. Especially in municipalities with weak public transit and where unsheltered people are effectively barred from downtown areas, appearing at a court appointment on time can be a significant challenge [58]. Those without stable mailing addresses may not receive fines or orders to appear in court, resulting in arrest warrants.

In interviews with service providers who have hosted their cities’ homeless courts, they described how clients appreciated the familiarity of the location and proximity to services they frequently seek, such as meals at shelters. Location near other service providers is especially important in cities such as Nashville where public transit and parking availability are poor [59]. Although some homeless courts, such as Atlanta’s, are still held in the usual court building, these are frequently located nearby large service providers in downtown areas [60]. A final observation from ABA materials is that some

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homeless courts, such as Alameda County and Ventura County, CA, rotate the location of the docket between service providers on a consistent schedule [61].

Like many other homeless courts, the HPD will be hosted within the facilities of a service provider trusted by the most vulnerable people experiencing homelessness [62]. The Progress Place building, which is used by Shepherd's Table and Interfaith Works, will host the HPD the second Wednesday of each month. Its location close to the Silver Spring WMATA station makes it relatively accessible by public transit. Although typically someone would need to seek Public Defender services by going to the District Courthouse and proving their income, the HPD could potentially streamline this process by automatically qualifying HPD participants based on their eligibility for the HPD [63]. This would prevent participants from having to make an additional trip and appointment, reducing program attrition.

### **Best Practice 2: Make the courtroom environment unthreatening**

A common observation for PSCs is that they have the asset of the "black robe effect" -- individuals often take orders and advice from judicial actors more seriously than the same information from service providers [64, p. 63]. Homeless courts have different approaches to balance the authority of a "court" with the empathy of service providers. Nashville has taken measures to make the "makeshift courtroom" feel less intimidating by having the judge not wear a robe and not setting up tables to emulate a courtroom [65]. However, other courts, such as in San Diego and Denver, still seek to make the service provider room feel like a "legitimate" courtroom [66]. All publications and peer program contacts indicated that judges, public defenders, and prosecutors having strong interpersonal skills and caring demeanors is crucial.

As the HPD will not have a judge, participants' interactions with the Public Defender and Assistant State's Attorney are the most important. Initial case review meetings with the Public Defender will help participants feel at ease with the process, while the discussion of action plans with the ASA will convey the accountability involved in the process. An additional consideration is ensuring that court interpreters or bilingual public defenders are available for participants not fluent in English.

### **Best Practice 3: Host docket sessions at a consistent, convenient time**

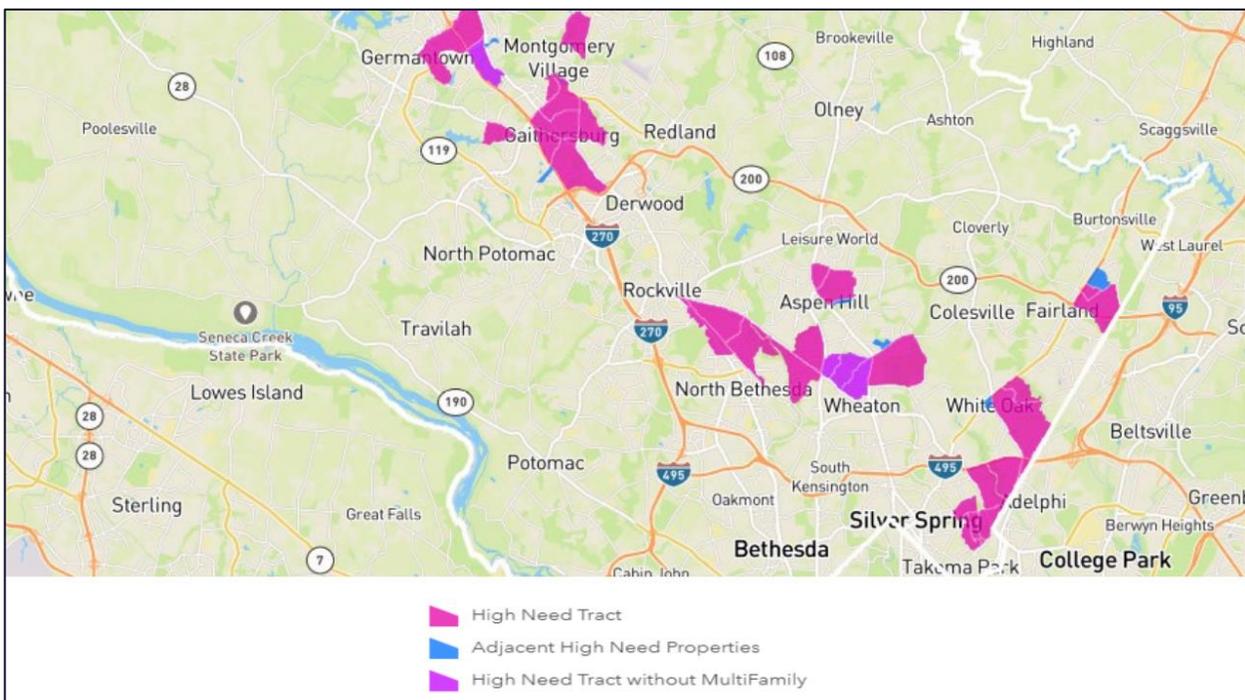
One pragmatic observation is that the best times to host dockets is during afternoons in the middle of the week [67]. This prevents docket times from conflicting with most holidays and provides sufficient time for participants to travel to the docket on the day of the session. An additional observation from one contact was that it is more challenging to promote attendance in the same week that participants receive government benefits. By holding the docket on the second Wednesday afternoon of the month, the HPD will ensure that sessions are convenient and less likely to conflict with other available services.

**Long-Term Recommendation: Assess need for a rotating location or a second monthly location to ensure accessibility**

One recommendation is to assess the costs and benefits of establishing a docket location farther north and west in the County, such as in Gaithersburg or Germantown. After 9-18 months of operating the Progress Place location, the Program Coordinator and service providers should have sufficient time to assess whether the HPD is inaccessible to people living in other areas of the County. Although not a direct measure of the number of people experiencing homelessness in an area, the ICH’s recently developed Homeless Prevention Index identifies County census tracts where community members are at risk of housing loss and poor health [68]. The map below indicates that many tracts in Germantown and Gaithersburg have significant homelessness risk. The HPD could gain additional insights on geographic need by:

- Analyzing address/place most recently slept data from referral forms
- Gathering qualitative information from conversations with participants
- Analyzing geographic locations of referral sources, such as service provider addresses
- Integrating HPD data collection with the County’s HMIS (see *Monitoring & Evaluation* section)

**Homeless Prevention Index Map**



Operating a second site would require additional working hours for the Program Coordinator and judicial actors as well as establishing an additional partnership with a hosting service provider. While these costs would be significant, they would need to be weighed against the estimated return on investment of diverting additional individuals from the criminal justice system.

Rotating the site of the docket on a regular basis (such as every three months) may avoid a substantial increase in the costs of the program while still making it geographically accessible to

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different groups of people. However, this may confuse participants and create situations where a participant’s first appearance is in Silver Spring and second appearance is in Gaithersburg.

Depending on the number of participants in the program, the most straightforward option may be to accept that paying for transportation to Silver Spring for participants living in north/west parts of the County may sometimes be expensive. One stakeholder in the Maryland Judiciary noted that PSCs in Maryland have benefitted from partnering with Uber Health to provide rides to program participants [69]. Although the most cost-effective option is providing bus tokens, which the program can purchase at a discounted rate, a partnership like this would be effective when transit is not an option for a participant.

### 3) Stakeholder Collaboration

#### Summary

**Best Practice 1:** Establish a central ‘point person’ for the Docket

**Best Practice 2:** Provide robust training for service providers

**Short-term Recommendation:** Create provider and stakeholder education materials

#### **Best Practice 1: Establish a central ‘point person’ or office with primary responsibility for the docket**

The HPD and problem-solving courts generally are valuable because they provide ways for the justice system and service providers to collaborate effectively to serve a certain population. However, new collaboration can create new challenges. Nearly all homeless court publications and interviews with national contacts indicate that it is essential to have a ‘point person’ or office for the program [70]. However, there is not a consistent practice across jurisdictions.

- Atlanta has staff within the Municipal Court assigned to their Homeless Court, including a Director and two clinical social workers [71]
- Baltimore coordinates the program through the United Way of Central Maryland [72]
- San Diego has a Steering Committee comprised of ten members from the judicial system and service providers [73]
- Santa Monica has a Senior Analyst within the Health & Human Services Division who serves as their Homeless Court Coordinator, who in turn coordinates a team of service provider and justice system representatives [74, p. 70]

For the HPD, the central point of contact is the Program Coordinator. As the Program Coordinator is a part-time role within DHHS, the HPD is most similar to Santa Monica’s approach. The Program Coordinator is responsible for accepting and processing referrals, convening regular meetings of stakeholders, collecting data, and producing reports about the docket [75]. Currently, the plan is for HPD implementors to meet monthly before the docket to discuss program progress and issues, taking advantage of the fact that stakeholders will need to be present for the docket session itself.

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## **Best Practice 2: Provide robust training for service providers**

Although service providers do not need to understand every detail of the HPD, strong training materials can help ensure that there are consistent practices for referrals and case manager reporting for action plans, even as there is staff turnover. San Diego has created an hour-long video training for service providers in its network that details participant eligibility, the Homeless Court Program process, and guidance for new providers [76]. Although trainings materials – in written or in video format – can be tedious for service providers and for the HPD implementors creating them, they provide an opportunity to address points of confusion that arise from a new, unique program.

At this early stage, the HPD does not have published training materials. San Diego's published materials would be a good starting point for HPD training materials. Staff from programs with more comparable models – Baltimore, Atlanta, or Santa Monica – may be willing to share materials as well. Webinars should be recorded and posted so that other service providers can hear any Q&A that goes beyond the published materials.

### **Short-Term Recommendation: Create provider education and outreach materials**

The HPD already has a strong set of program partners and network of service providers in the CoC. Nonetheless, with a large number and variety of stakeholders in the County and limited program resources, HPD implementors should consider different education and outreach materials for service providers and their clients. Although there may be champions for the HPD within different program partners, it will take sustained efforts to ensure all relevant service provider staff are familiar with the program. HPD implementors can create one-pagers, participant stories, and template emails that can be distributed to providers as well as periodic emails that update service providers on program changes that affect them. Similarly, HPD implementors will need to collaborate with law enforcement leaders to train officers on how to make referrals to the HPD and share HPD information to people experiencing homelessness in non-enforcement interactions.

HPD implementors can also be creative when it comes to outreach to potential participants. Peer programs have had Public Defenders visit shelters to encourage people to self-refer or speak with staff about the programs [77, p. 26]. Creating pamphlets or even template text messages for service providers and people facing homelessness to share with potential participants can help quickly spread awareness about the program. A first step will be to create a webpage for the HPD, hosted on the DHHS Services to End Homelessness website, that service providers and potential participants will find when they search for the HPD online. As for developing training materials, peer programs and staff with the MHC and ADC may be helpful.

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## 4) Monitoring and Evaluation

### Summary

**Best Practice 1:** Ensure strong data collection from the start

**Best Practice 2:** Focus on outcomes beyond recidivism and link outcomes with CoC goals

**Short-Term Recommendation:** Develop an exit questionnaire for participant feedback

**Long-Term Recommendation:** Integrate the HPD's evaluation with other PSCs, the broader CoC, and Reimagining Public Safety efforts

### **Best Practice 1: Ensure strong data collection from the start**

While peer programs differ in the exact metrics they track, contacts agreed that it is important to define a strong monitoring and evaluation framework at the beginning of the program and set up processes to collect program data [78]. It becomes challenging to balance the desire for data collection with the needs to keep the referral process simple, keep sessions efficient, and avoid burdening program partners. However, with strong initial design, it is possible to collect a rich set of data through referral forms, case reviews and progress checks at docket sessions, action plans, case manager reports, and exit questionnaires. Stakeholders emphasize that failing to collect participant data early will prevent the program from analyzing its early outcomes, tracking participants after graduation, and quantifying its funding needs [79].

HPD implementors are currently designing these processes and possess a wealth of experience in program design and evaluation, including the Homeless Persons Representation Project's experience implementing the DHP in Baltimore. Although it is beyond the scope of this project to analyze how to integrate the HPD's data collection with the County's Homelessness Management Information System (HMIS), the HMIS can provide a platform to ensure data on participants is linked to their other interactions with the CoC. It will also be important to consult with judiciary staff on whether and how to link HPD data with the Maryland Judiciary's SMART reporting system [80].

### **Best Practice 2: Focus on outcomes beyond recidivism and link outcomes with CoC goals**

One stakeholder in the Maryland Judiciary noted that while reducing recidivism is a key part of PSCs' return on investment, it is essential to track participants' progress in a variety of areas and to do so in detail [81]. The goal should be to demonstrate positive developments – large and small – in a participant's life since engaging with the program, recognizing that incremental improvements that fall short of full program completion are still positive. The HPD can use metrics that align with the CoC's Housing First strategy and robust existing reporting practices. There are a variety of resources that provide guidance and examples of metrics used by PSCs, diversion programs, and homeless courts specifically. The table below includes a selection of measures, related HPD goal, and sources that recommend them. Demographic measures have not been included for brevity.

## Potential HPD Measures

Measure	Related Outcome/Goal	Sources
Appearance rate at initial docket session, among people referred	Referral system and outreach effectiveness; program retention and engagement	Standard measure
Appearance rate at follow-up docket sessions	Program retention and engagement	Standard measure
Offense types	Understand criminalization of homelessness	Baltimore DHP [82]
Ineligibility rates among people referred	Referral system and outreach effectiveness	Standard measure
Action plan steps in each of 5 service areas	Provide comprehensive services	MoCo Mental Health and Drug Courts [83]; Baltimore DHP
Rates of satisfactory and unsatisfactory engagement with services	Program retention and engagement	MoCo Mental Health and Drug Courts; National Center for State Courts [84]
Transfers to other courts	Interagency Collaboration; Program retention and engagement	Baltimore DHP
Volume of cases per session and year	Efficient program operations; Referral system and outreach effectiveness	Standard measure
Cost per case	Efficient program operations; Return on investment	National Center for State Courts
Number/rate of delayed cases	Efficient program operations; Program retention and engagement	National Center for State Courts
Graduation rate	Program retention and engagement	Standard measure
Number of charges expunged	Reduce number of participants with criminal records	Baltimore DHP; San Diego Evaluation [85]
Housing status 30 days / 1 year / 2 years after graduation	Housing retention; long-term engagement with services	Santa Monica Evaluation [86]; ABA Service Provider Toolkit [87]; San Diego Evaluation
Income 30 days / 1 year / 2 years after graduation	Employment; Benefits access; long-term engagement with services	National Center for State Courts; ABA Service Provider Toolkit
Offenses committed 30 days / 1 year / 2 years after graduation	Reduce recidivism; Reduce number of participants with criminal records	San Diego Evaluation; MoCo Mental Health and Drug Courts
Mental health or substance use service engagement 30 days / 1 year / 2 years after graduation	Long-term engagement with services	San Diego Evaluation; MoCo Mental Health and Drug Courts; ABA Service Provider Toolkit
Qualitative feedback on interactions with Public Defender, ASA, and Program Coordinator	Unintimidating, effective participant experience	National Center for State Courts; San Diego Evaluation
Qualitative change in comfort with interacting with police and judicial system	Reduce fear of government and other institutions	San Diego Evaluation; Santa Monica Evaluation

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### **Short-Term Recommendation: Develop an exit questionnaire for participant feedback**

Common tools for collecting program data are exit questionnaires and exit interviews of participants. As part of its program evaluation, San Diego's Homeless Court Program interviewed program graduates, while drug courts and mental health courts often interview participants as they approach graduation [88]. The HPD's exit questionnaire should include questions that directly link to those asked in referral, case review, and action plan documentation in order to capture participants' development over the course of the program. As was the case in San Diego, the questionnaire can capture participants' changed perceptions about the justice system and generally engaging with government and nonprofit actors [89, p. 21]. Finally, participants can provide recommendations for improving the program experience. Centering participants' perspectives, combined with getting continuous feedback from service providers, will help HPD implementors identify unexpected issues and demonstrate well-functioning stakeholder collaboration. When possible, the Program Coordinator and case managers should seek to get feedback from participants who disengage with the docket, although this will not be possible in many cases.

### **Long-Term Recommendation: Integrate the HPD's evaluation with other PSCs and Reimagining Public Safety efforts**

In recent years, the CoC has achieved significant goals for reducing homelessness, the Mental Health Court has been implemented, and the County has begun to grapple with how to improve citizens' experiences with law enforcement and justice actors. While it is easy to consider these in isolation, the logic behind the HPD implies that the County should collectively analyze the experiences of people experiencing or at-risk of homelessness. After the HPD has been in operation for at least one year, Council should request a report that documents:

- The number of people experiencing homelessness who have participated in the Adult Drug Court, Mental Health Court, and HPD
- Quantitative and qualitative data from the programs on demographics, offense types, program completion and drop-out rates, and recidivism
- Quantitative and qualitative data on law enforcement and service provider interactions with people experiencing homelessness and people with mental and physical health challenges

The goal of this report would be to gain a holistic understanding of the County's diversion efforts from initial contact with law enforcement and service providers to positive, long-term developments toward self-sufficiency. This report would link the County's Reimagining Public Safety goals with programmatic efforts to serve those who are most vulnerable to gaps within our law enforcement and criminal justice systems. Finally, it would provide an opportunity for the HPD and the County more broadly to showcase policy successes and continue its national leadership on these issues.

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## 5) Funding and Sustainability

### Summary

**Best Practice 1:** Provide sufficient dedicated resources to avoid straining program partners

**Best Practice 2:** Engage the local bar for legal assistance

**Long-Term Recommendation:** Evaluate opportunities for state and federal funding

#### **Best Practice 1: Provide sufficient dedicated resources to avoid straining program partners**

PSCs have been widely adopted because diversion provides a strong return on investment. With most homeless courts meeting only once or twice per month, many cost local governments little to nothing. As Buenaventura (2018) notes, “the vast majority of the homeless courts [...] operate entirely on volunteers from the bench, court staff, the public defender’s office, the district attorney’s office, and service providers” (p. 23). Programs should always strive to be cost effective and share resources across departments. However, contacts in peer jurisdictions noted that lack of dedicated funding and underestimating resources required for the programs can lead to service providers, Public Defenders, and State’s Attorneys shouldering unexpected burdens. Atlanta’s program was an exception to the rule in that it had dedicated case managers through the court system to work with participants, rather than relying on services providers [90].

Especially because the HPD does not actually fall within the court system, the funding that Council has allocated for start-up costs and for a dedicated Program Coordinator will be essential [91]. Funding a dedicated Program Coordinator for the HPD will ensure that their duties do not fall on a set of stakeholders without additional budgetary support and, in turn, ensure that elements of the program do not fall through the cracks. In the program’s first years, the costs of increasing funding for innovative practices, such as providing Uber rides for hard-to-reach participants, should be weighed against the strain that not funding extra capacity may place on program partners [92].

#### **Best Practice 2: Engage the local bar for legal assistance**

As mentioned above, many homeless courts rely on volunteers, including pro bono legal assistance, to complete cases while maintaining low costs and burdens on stakeholders. Legal assistance is especially important due to the high costs of legal services and the high demand for Public Defenders. In Nashville and several other cities, attorneys from national firm Baker Donelson have played a central role in the coordination of the court in addition to providing pro bono assistance to participants [93]. Atlanta’s homeless court has hired outside counsel to avoid drawing on Public Defender resources [94].

The HPD is a strong position relative to other programs in terms of staffing and legal resources. While the HPD may have opportunities to engage local attorneys for pro bono assistance, HPRP, OPD, and SAO will be working directly with participants beginning with the HPD’s first session. As has been the case in San Diego, Nashville, and Baltimore, legal professionals’ advocacy for the HPD can raise the

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profiles of the HPD, associated service providers, and the County as leaders in combatting homelessness [95].

### **Long-Term Recommendation: Evaluate opportunities for state and federal funding**

Many homeless court programs nationally have been able to access grant funding for court, diversion, and behavioral health programs. It is important not to overstate the need or potential for grant funding – Council has already demonstrated a willingness to fund the HPD, and the HPD is ineligible for grants for programs that are truly within the court system. For instance, the County’s District- and Circuit-level MHC programs received a combined \$411,000 in state funding in FY20 (96, p. 16), but similar funding would likely not be available to the HPD. Nonetheless, stakeholders and publications note the following potential funding sources [97]:

- The Bureau of Justice Assistance
- U.S. Interagency Council on Homelessness
- HUD Community Development Block Grants
- Substance Abuse Mental Health Services Administration (SAMHSA): Homelessness Programs and Resources
- Maryland Governor’s Office of Crime Prevention, Youth, and Victim Services

Strong monitoring and evaluation practices will enable the HPD to attract external funding in the future as well as assist associated service providers quantify their impact through the HPD. As the program evolves in the long-term, it may become eligible for additional sources of funding if it links to additional services. For example, one stakeholder pointed out that the HPD may provide opportunities for mediation and conflict resolution between participants and estranged relatives and families [98]. This may qualify the HPD for support from the Maryland Judiciary’s Mediation and Conflict Resolution Office (MACRO).

## **Conclusion**

A great deal of advocacy and analysis has gone into making the Homeless Persons Docket possible. Despite a delay due to the pandemic, members of the ICH, community advocates, the County Executive, and Council continued to make the HPD a priority. In considering the practices of peer programs, I find that the HPD has a strong design and adheres to many of the best practices of other programs. The following recommendations can help the HPD start strong and innovate over time:

### *Short-Term (within the first year)*

- Host an inaugural graduation ceremony
- Create education and outreach materials for providers and potential participants
- Develop an exit questionnaire for participant feedback

### *Long-Term (after the first year)*

- Pilot the ICH's recommended HEART referral program
- Assess the need for a rotating or second docket location

- 
- Integrate the HPD's monitoring and evaluation with the Mental Health Court, Drug Court, and Reimagining Public Safety efforts
  - Evaluate opportunities for state and federal funding

Although the HPD is a small program, it is difficult to overstate the impact that it can have for individuals and families who feel hopeless in the face of mounting charges and fines, an intimidating judicial system, and ever-present stigma. By the HPD's first graduation, it will have already supported a group of individuals who are among the hardest to reach and the most vulnerable members of our community.

In the long term, Council can take further action to decriminalize homelessness locally and at the state level, following up on the other recommendations included in the ICH's original report on decriminalization. In the coming years, Council can continue to support the HPD and ensure that the County's treatment of our neighbors experiencing homelessness reflects the County's core values.

# Appendix A

## *Criminalization of Homelessness in Maryland*

The table below is an excerpt from the National Law Center on Homelessness and Poverty’s 2019 *Housing Not Handcuffs* report, page 112. Although no municipalities within Montgomery County are included in their national sample, Baltimore, Elkton, and Frederick provide context on criminalization policies in Maryland.

2019 Prohibited Conduct Chart												
Location		Sleeping, Camping, Lying and Sitting, and Vehicle Restrictions						Loitering and Vagrancy		Begging		Food Sharing
State	City	Sleeping in public city-wide	Sleeping in particular public places	Camping in public city-wide	Camping in particular public places	Sitting/lying in particular public places	Lodging, living, or sleeping in vehicles (or parking a vehicle used as a lodging/living accommodation)	Loitering/Loafing/Vagrancy city-wide	Loitering/Loafing in particular public places	Begging in public places city-wide	Begging in particular public places	Food Sharing city-wide or in particular public places (i.e. bans)
LA	Baton Rouge								X		X	
LA	Lafayette					X	X		X	X		
LA	New Orleans		X		X	X			X		X	
LA	Shreveport		X		X	X			X		X	
MA	Boston		X			X			X	X	X	
MA	Fall River		X		X				X			
MA	Worcester										X	
MD	Baltimore					X		X	X	X	X	X
MD	Elkton					X		X	X			
MD	Frederick	X		X	X			X	X	X		
ME	Augusta				X		X	X				
ME	Bangor				X		X	X			X	
ME	Portland					X	X	X	X		X	X
MI	Detroit						X	X	X	X	X	

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## Appendix B

### *American Bar Association Principles for Homeless Court Programs*

The following seven principles from the ABA have guided homeless court program implementation in many jurisdictions nationally and will also guide the Homeless Persons Docket [99].

**108A**

**AMERICAN BAR ASSOCIATION  
COMMISSION ON HOMELESSNESS AND POVERTY  
CRIMINAL JUSTICE SECTION  
SENIOR LAWYERS DIVISION  
STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS**

**RESOLUTION**

RESOLVED, That the American Bar Association adopts the following principles for Homeless Court Programs to the extent appropriate for each jurisdiction:

- (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 services shall replace 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.

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