

# Montgomery County Interagency Commission on Homelessness: Committee on Decriminalization of Homelessness Recommendations

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## **Introduction**

Homelessness is a national crisis caused by a severe deficiency of affordable housing units. The United States lacks 7.4 million affordable and available rental units necessary to meet its need.<sup>1</sup> Rising rents and stagnant wages exacerbate the issue and increase the prevalence of housing instability. In Montgomery County, a household must bring in \$66,600 annually or \$32.02 per hour to afford a two bedroom apartment.<sup>2</sup> In 2018, over 84,000 households in Montgomery County had incomes under \$60,000.<sup>3</sup> Many individuals and families in our communities live on the brink and are only a paycheck or health crisis away from homelessness.

People of color make up the majority of those who are cost-burdened, or those who pay more than 30 percent of their household income towards housing costs.<sup>4</sup> Consequently, people of color are overrepresented in the population of persons experiencing homelessness. Black residents make up 18 percent of the county’s general population,<sup>5</sup> but 58 percent of the population experiencing homelessness.<sup>6</sup> Black residents are also more likely to enter the criminal justice system, receiving more than 47 percent of the state’s criminal citations.<sup>7</sup> The Urban Institute’s 2017 report on racial inequities reveals deep gaps in Montgomery County in the areas of employment, income, and homeownership. Black and Hispanic residents are less likely to have high school diploma, had lower household incomes, and owned their homes at a significantly lower rate.<sup>8</sup> Communities of color are disproportionately impacted by the affordable housing crisis because of these inequities coupled with historic racist housing policies and disinvestment in their communities.

To combat homelessness, resources are often diverted to temporary solutions, like emergency shelter. Though shelter is a crucial response to address immediate needs, we must simultaneously seek systemic solutions to end and prevent homelessness for good. The most direct solution to

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<sup>1</sup> Nat’l Low Income Hous. Coal., “Study Shows Massive Shortage of Affordable Hous. For Lowest Income Households in Am.,” (Mar. 2, 2017), <https://nlihc.org/news/study-shows-massive-shortage-affordable-and-available-housing-lowest-income-households-america>.

<sup>2</sup> Nat’l Low Income Hous. Coal., “Out of Reach, Maryland,” (2019), <https://reports.nlihc.org/sites/default/files/oor/files/reports/state/MD.pdf>.

<sup>3</sup> *Montgomery County, MD*, DataUSA <https://datausa.io/profile/geo/montgomery-county-md> (last visited Jan. 9, 2020).

<sup>4</sup> Nat’l Law Center on Homelessness & Poverty, “Housing not Handcuffs, Ending the Criminalization of Homelessness in U.S. Cities,” (Dec. 2019), <http://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf> [hereinafter “Housing not Handcuffs”]

<sup>5</sup> Housing not Handcuffs, *supra* note 4.

<sup>6</sup> Montgomery Cnty. Gov’t, “Homelessness – The Numbers” <https://www.montgomerycountymd.gov/Homelessness/Numbers.html> (last visited Jan. 9, 2020).

<sup>7</sup> Governor’s Office of Crime Control and Prevention, “2017 Criminal Citations Data Analysis Final Report to the State of Maryland,” (Oct. 1, 2018), <https://goccp.maryland.gov/wp-content/uploads/criminal-citations-report-2018.pdf> [hereinafter “2017 Criminal Citations Data Analysis”]

<sup>8</sup> Urban Institute, “Racial Inequities in Montgomery County,” (Dec. 2017), [https://www.urban.org/sites/default/files/publication/95386/2017.12.28\\_montgomery\\_county\\_finalized\\_2.pdf](https://www.urban.org/sites/default/files/publication/95386/2017.12.28_montgomery_county_finalized_2.pdf)

end homelessness is to increase the stock of affordable housing units and to remove barriers to attain such housing.

One of the most significant barriers to housing is a criminal record. Montgomery County issues 25.3% of all criminal citations in the state, more than any other county.<sup>9</sup> The criminal justice system is routinely used to address the social needs associated with homelessness. Life-sustaining activities, like sleeping in public, loitering, or public urination, when criminalized, do little to address the underlying needs of those experiencing homelessness and compound their difficulties. Arrests, criminal citations and tickets often impose fines and fees that those experiencing homelessness are unable to pay which may lead to open warrants or incarceration. Even when a criminal charge does not result in conviction, such as a dismissal, under Maryland Law, the charge remains on the criminal record causing further barriers to housing, employment and other life-sustaining resources. Currently, public resources are being used to implement and enforce so-called nuisance offenses, which divert law enforcement officers away from crises and cause unnecessary strain on the criminal justice system. Studies show that criminalization is the most expensive and least effective means of addressing homelessness.<sup>10</sup>

On April 26, 2019, the Montgomery County Bar Association, the Maryland State Bar Association, the American Bar Association Commission on Homelessness & Poverty, the Homeless Persons Representation Project and Coalition 180, comprised of Montgomery County shelter residents, held a community convening at the Rockville Executive Office Building on “Alternatives to Criminalization.” The convening was attended by over 80 people including the County Executive and resulted in a unified request to the County Executive to form a special committee of the Interagency Commission on Homelessness (ICH) to advance recommendations on alternatives to criminalization. The County Executive supported the appointment of the Committee and requested that the Committee submit recommendations by January 15, 2020.

In September 2019, the Committee on Decriminalization of Homelessness convened for its first meeting. It outlined goals and identified four distinct approaches to decriminalizing homelessness – pre-arrest diversion, post-arrest diversion, state and local legal/policy changes, and community education. The Committee subsequently created four working groups to research and develop recommendations in these areas. Committee members voluntarily chose to participate in working groups based on their interest and area of expertise. The Committee met again in October and November 2019 to collaborate and report on the efforts of each working group. Recommendations were submitted by each subcommittee and compiled into this existing document. All Committee Members reviewed the Recommendations before they were submitted to the County Executive. A full list of Committee Members appears alphabetically below.

Phil Andrews	State's Attorney's Office
Monique Boyd	Job Opportunities Task Force
Sheryl Brissett Chapman	National Center for Children and Families
Victor Brito	City of Rockville, Police

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<sup>9</sup> 2017 Criminal Citations Data Analysis, supra note 7.

<sup>10</sup> Housing not Handcuffs, supra note 4.

William Butler Jr.	Coalition 180
Luis Cardona	Dept. Health and Human Services
Lorig Charkoudian	State House of Representatives
Amanda Chesney	Catholic Charities
Jeffrey Coe	Park Police
Raymond Crowel	Dept. Health and Human Services
Theresa Durham	Montgomery County Police Department
Antonia Fasanelli (Chair)	Homeless Persons Representation Project
Mary Gies	Councilmember Katz's office
Amanda Harris	Dept. Health and Human Services
Terence Hill	Coalition 180
Karla Hoffman	Family Services
Christine Hong	Interfaith Works
Ebony Alyse Johnson	ICH
Marcus Jones	Montgomery County Police Department
Stephanie Joseph	Office of Public Defender
Kathy Knight	State's Attorney's Office
Charles Lincoln	Coalition 180
Paul Liquorie	Montgomery County Police Department
Sharan London	ICH
Matt Losak	Renters Alliance
Pamela Luckett	Office of Councilman Jwando
Audrey Lynn Martin	Homeless Persons Representation Project
Hon. Albert Matricciani (Ret.)	Court of Special Appeals; Special Counsel, Homeless Persons Rep. Proj.
Linda McMillan	Montgomery County Council
John Mendez	Bethesda Cares
Hon. Patricia Mitchell	Maryland Judiciary
Andrea Parodi	Office of Councilmember Glass
Julie Petersen	Montgomery County Bar Association
Roberto Pinero	ICH
Michael Prather	Montgomery County Police Dept.
Linda Price	Legislative Analyst
Jane Redicker	Greater Silver Spring Chamber of Commerce
Christy Respress	Pathways DC
Shane Rock	Interfaith Works
Abe Schuchman	Housing Unlimited
Susie Sinclair-Smith	Montgomery County Coalition for the Homeless
Stacy Spann	Housing Opportunities Commission
Caroline Sturgis	Office of County Executive
Fred Swan	Housing Opportunities Commission
Corey Talcott	Office of the County Attorney
Angela Talley	Department of Corrections and Rehabilitation
Caryn York	Job Opportunities Task Force

While Montgomery County has made great strides toward its vision of “Housing for All=A Stronger Montgomery,” the following recommendations outline policies Montgomery County can implement to continue its leadership by reducing criminalization of homelessness.

### **Summary of Recommendations**

**1. Create an Open Case Resolution Program for Homeless Persons**

Creation of program to resolve open misdemeanor criminal, traffic and transit matters, including open warrants for persons who are homeless or have been homeless.

**2. HEART – Homeless Engagement, Alternatives, Resources & Treatment Program**

Creation of a program that law enforcement officers or community members may divert individuals from the criminal justice system to a community-based, harm-reduction intervention program for law violations driven by unmet behavioral and social needs.

**3. Decriminalization of Nuisance Offenses**

Review the volume and type of citations/convictions issued in Montgomery County to homeless persons and/or individuals who successfully interact with the docket for homeless persons and work to decriminalize nuisance offenses better addressed by health and social services.

**4. Sequential Intercept Model (SIM)**

Application of an evidence-based intervention that will redirect homeless persons from engagement with the justice system to engagement with community-based strategies.

**5. Community Education and Training**

Conduct of a series of trainings and public education campaigns for interested parties and community members on the experiences, needs, and impact of negative stereotyping those experiencing homelessness.

**6. Improve Maryland’s Expungement Law**

Advocate with the General Assembly to permit “Partial Expungement” and reduce the timeframe required to seek expungement for eligible convictions and citations.

**7. Enhance Access to Expungement/Shielding**

Enhance access to expungement/shielding resources for eligible criminal justice-involved persons within Montgomery County.

## **Recommendation #1: Docket for Homeless Persons**

Creation of program to resolve open misdemeanor criminal, traffic and transit matters, including open warrants for persons who are homeless or have been homeless.

### **Introduction**

In recognition that open criminal, traffic or transit matters – however minor – create significant barriers to housing and employment for persons experiencing homelessness, many local jurisdictions have created local programs to resolve open criminal matters involving persons who are experiencing homelessness. These programs typically take the form of so-called “Homeless Courts” and help to decriminalize homelessness by connecting persons experiencing homelessness to services and working with the justice system to remove legal barriers to housing, employment and stability.

In 2006, the American Bar Association adopted a set of principles to guide jurisdictions across the country in establishing Homeless Court Programs. (A copy of the ABA Recommendation is attached to this report as Attachment A). 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.

### **Docket for Homeless Persons in Baltimore City**

Since 2013 there has been a specialized docket for homeless persons conducted bi-weekly in the District Court in Baltimore City. Between June 2013 and June 2018, 287 participants have taken advantage of the program and 230 (77%) have successfully completed it, having their criminal charges dismissed by the court. Of the remaining participants, 6 were transferred to other courts, 56 were unsuccessful in navigating the program, and 5 cases remained in progress when the latest report was issued in June 2018. The most utilized treatment and services were health care, mental health treatment, substance use treatment, housing assistance, and job training. (A copy of the DHP Five-Year Report, 2013-2018, is available at <https://bit.ly/2FDUmz2>).

### **Proposal: The Montgomery County Program**

The creation of a community-based program to connect persons who are homeless or have been homeless to services while resolving open misdemeanor criminal, traffic and transit matters as follows:

1. A monthly afternoon 3 hour docket at Progress Place in Silver Spring of representatives from the State's Attorney's Office, Office of the Public Defender, homeless services providers and defendants who are homeless or have been homeless with open misdemeanor criminal, traffic or transit matters (the subcommittee is open to the idea of moving the docket to other locations down the road, if the logistics can be readily achieved);
2. The governing principles for the monthly docket convening will be those contained in the ABA Recommendation for Homeless Court Programs;
3. A referral form will be created and circulated to homeless service providers to assist in identifying appropriate defendants for participation. The State's Attorney's Office will also utilize its technology system to identify defendants for participation by comparing addresses of homeless services organizations to addresses used in its computerized database.
4. Homelessness is defined using the broadest definition possible (i.e. any person 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);
5. Defendant participation will be voluntary, without the waiver of any due process protections;
6. The following misdemeanor charges and citations will be considered eligible matters for inclusion in this program, although each matter will be reviewed on a case-by-case basis:
  - Alcohol offenses (not DUI),
  - drug possession/paraphernalia,
  - distribution of drugs,
  - panhandling,
  - solicitation/prostitution,
  - traffic offenses (not DUI),
  - public urination,
  - destruction of property,
  - rogue & vagabond,
  - theft,
  - trespass, and
  - Metro citations.
7. Assistant public defenders will be engaged to interview defendants on-site during the first hour of the program to help determine suitability for the program and to explain it to potential participants;
8. Assistant public defenders will work with the program coordinator to connect defendants to services. The subcommittee has obtained commitments from a range of treatment and service providers to participate in the program, including:
  - Access to Behavioral Health (*still need to confirm*)

- *Collaboration Council (still need to confirm)*
  - *Cornerstone (still need to confirm)*
  - EveryMind
  - *Family Crisis Center (still need to confirm)*
  - HHS, Housing Stabilization Services (assistance with 1<sup>st</sup> month's rent, security deposit, housing location)
  - Homeless Persons Representation Project (civil legal representation, including expungement)
  - Housing Opportunities Commission (housing locator specialist)
  - Interfaith Works (case management and vocational services)
  - Montgomery County Coalition for the Homeless (shelter caseworkers)
  - Office of Eligibility and Support Services, Montgomery County (eligibility review caseworkers)
  - Pathways to Housing (ACT team)
  - Rainbow Place Shelter
9. The subcommittee has discussed a possible mentorship program with Tree of Hope to supplement the program services.
  10. ASA Kathy Knight will exercise her prosecutorial discretion to place matters initially on the STET docket and after sufficient engagement in services, not to exceed 90 days, dispose of charges *nolle prosequi*.

**Cost:** The anticipated cost of this model is less than \$50,000, covering the cost of a part-time program coordinator and tokens or Taxi/Uber/Lyft rides.

The subcommittee recommends, and can begin, implementation of this program in the first quarter of 2020.

## **Recommendation #2: HEART – Homeless Engagement Alternatives Resources & Treatment Program**

Creation of a program that law enforcement officers or community members may divert individuals from the criminal justice system to a community-based, harm-reduction intervention program for law violations driven by unmet behavioral and social needs.

### **Introduction**

Entry into the traditional criminal justice system, regardless of disposition, often results in barriers to housing and employment. A background check that reveals a criminal record, even one with no convictions, can be the deciding factor for a potential employer or landlord. To those experiencing homelessness or housing instability, the impact can be life-altering.

Currently, law enforcement is over-utilized to address community health, behavioral, and social needs which perpetuates an unsustainable cycle within the criminal justice system and unnecessary strain on law enforcement. To combat this, in 2011, Seattle established its Law

Enforcement Assisted Diversion Program (LEAD) which diverts those suspected of low-level drug or prostitution violations to case management and wrap-around services without arrest or charge. Seattle saw LEAD program participants were 58% less likely to be arrested in the first six months than their peers. After eighteen months, participants were 89% more likely to have obtained permanent housing compared to their baseline status. LEAD quickly became a national model, inspiring similar programs across the country, including Washington County, MD, Baltimore City, and Washington, DC.

### **Proposal: The Montgomery County Program**

The committee recommends Montgomery County expand on other jurisdictions' LEAD programs by allowing community referrals and addressing a wider range of social needs, not limited to suspected drug and prostitution violations. The creation of this program to divert individuals from the criminal justice system to a community-based, harm-reduction intervention program for law violations driven by unmet behavioral and social needs as follows:

1. Participants may enter the Homeless Engagement Alternatives Resources & Treatment (HEART) program via police diversion or social referrals;
2. Police diversion referrals will be made at the discretion of the officer when there is proper cause for arrest for a qualifying charge and the officer determines that social intervention and connection to services would best serve the underlying cause of the behavior;
3. Law enforcement officers may also offer participation in the program to individuals known to the officer based on previous interactions, but with no cause to arrest at the moment of contact;
4. Social referrals may be made by service providers, family members, friends, or community members who witness behaviors that could lead to an arrest for an eligible charge;
5. All referrals will be made to the Program Coordinator, on-site at Progress Place initially, who will assess the needs of the participant and connect them to existing support services in the areas of housing, shelter, substance abuse treatment, mental health treatment, legal services, education, and any other service identified by the Program Coordinator. Other Program Coordinator locations will be determined following initial pilot implementation;
6. All subsequent arrests of a HEART participant must be reported to the Program Coordinator;
7. HEART training for a pilot group of law enforcement officers, a significant number of whom are bilingual, that emphasizes harm reduction and de-escalation techniques, as well as available services and resources to assist persons experiencing homelessness;
8. Montgomery County Police will designate a point person within the department to oversee implementation of HEART;
9. Individual participation in the program will be voluntary.

**Cost:** The anticipated cost of this model is \$30,000, covering the cost of a part-time program coordinator. MCPD may have training costs associated with this program.



The subcommittee recommends, and can begin, implementation of this program in the first quarter of 2020.

### **Recommendation #3: Decriminalization of Nuisance Offenses**

Review the volume and type of citations/convictions issued in Montgomery County to homeless persons and/or individuals who successfully interact with the docket for homeless persons and work to decriminalize nuisance offenses better addressed by health and social services.

#### **Introduction**

Several Maryland jurisdictions have pursued the growing practice of analyzing the citations/convictions issued to homeless persons. Within Montgomery County, comprehensive information regarding the volume and type of citations/convictions issued to homeless persons is not readily available at this time. The completion of this recommendation will further the County's understanding of how the legal system may disproportionately penalize homelessness [as well as possible remedies to cure this practice].

#### **Cost of implementation including any staffing (FTE) needs**

The Policy Workgroup contacted the Baltimore City Office of Human Services (The Office) in relation to its recent analysis of convictions/citations involving homeless persons. The Office suggested that the cost to replicate this work may be nominal if the external vendor that completed its analysis were able to re-use existing datasets and programming to complete Montgomery County's request. However, the Office clearly noted that a significant investment of time (in excess of one year) was required to gain approval from relevant boards/commissions, the development/execution of data-sharing agreements, as well as the development/execution of contracts were required prior to commencing any data review/analysis.

### **Recommendation #4: Sequential Intercept Model (SIM)**

Application of an evidence-based intervention that will redirect homeless persons from engagement with the justice system to engagement with community-based strategies.

#### **Proposal**

Originally developed to reduce justice system involvement of people with mental health and substance use disorders, the *Sequential Intercept Model* (SIM) presents an opportunity to apply proven justice system diversion strategies within the County's ongoing homelessness decriminalization efforts. SIM promotes community-based tactics that reduce justice system involvement via cross-system collaborations that considers existing gaps, resources and community priorities. Locally, the Montgomery County Department of Health and Human Services uses SIM to divert and deflect those with mental health and substance use disorders from the criminal justice system. Adoption of this model is recommended within the network of programs/services supporting the County's homeless persons/families.

**Cost of implementation including any staffing (FTE) needs:** Reactive Outreach Team comprised of 1 or 2 FTEs who are cross-trained on homelessness and behavioral health

interventions (e.g. Crisis Intervention Team training, Mental Health First Aid, homeless engagement strategies, etc.).

Cost Estimate: Personnel \$75k - \$150k / Operating Expenses \$15k - \$25k

## **Recommendation #5: Community Education and Training**

Conduct of a series of trainings and public education campaigns for interested parties and community members on the experiences, needs, and impact of negative stereotyping those experiencing homelessness.

### **Introduction**

Critical components in the decriminalization of homelessness are education and training. Education and training are needed to ensure that all individuals who come in contact with, directly interact with and become aware of persons experiencing homelessness understand their behaviors, needs and learn productive ways of interacting with them. Some in the business community, law enforcement and the general population have perceptions of persons experiencing homelessness based on negative stereotypes, a lack of understanding of the challenges persons experiencing homelessness face, and how these challenges contribute to their behaviors.

The recommendations included herein are put forth with the broad goals of reducing the criminalization of homelessness and creating a better community with our neighbors experiencing homelessness. These goals will be achieved through education/training of the business community, law enforcement, service providers within the Homeless Continuum of Care (CoC) and County agencies, the general public and our neighbors experiencing homelessness. Additionally, expanded outreach through collaboration with law enforcement and the business community is being proposed to ensure the goals are achieved and sustained. The following recommendations outline the specific target populations for education and training, the proposed education and training methods, and a proposed expanded outreach initiative. Additionally, any/all anticipated costs/resources associated with these recommendations are included.

### **Target Populations for Education/Training**

1. Law enforcement
2. Service providers within the Homeless Continuum of Care (CoC) and County agencies
3. The business community
4. The general public
5. Our neighbors experiencing homelessness.

### **Proposal: The Montgomery County Program**

1. Officers within Montgomery County Police Department and the Maryland-National Capital Park Police who are assigned to patrol duties within the parks, cities and towns, should participate in training conducted by staff within the CoC, County agencies, and at

least one Homeless Neighbor, which will focus on providing an understanding of the challenges neighbors experiencing homelessness face, how these challenges impact their behavior, how to best interact with them to facilitate outcomes better than arrest/citations, engaging gang involved homeless youth and how to collaborate with outreach providers within the CoC as well as the business community and the general public. In addition, it is recommended that law enforcement officers in each jurisdiction receive advanced Crisis Intervention Training as it equips them to have a better understanding of how to work more effectively with people who have behavioral health conditions so that criminalization is avoided;

2. All business owners, employees, property managers, and real estate community who regularly interact with neighbors experiencing homelessness will also be provided training on understanding the challenges of experiencing homelessness, how these challenges impact individuals behavior, how to best interact with them, how to utilize outreach and other services as a first step instead of calling the police and how to collaborate with outreach and other providers, which will be conducted by the same team who provides training to law enforcement;
3. Educate and train existing MC311 workers about the existence of the hotline to receive contacts/referrals to outreach and service resources;
4. A training team with expertise in trauma informed care, mental illness, harm reduction, and intervention with gangs involved youth/young adults will be created to implement training for service providers so that they are knowledgeable about the impact that trauma and mental illness has on our neighbors experiencing homelessness;
5. A public education campaign to provide the general public with information on resources to help our neighbors experiencing homelessness, which will consist of:
  - a. Education campaign about the existence of a hotline for county residents to call;
  - b. Public advertisements that will provide information on the hotline, emergency and general services for our neighbors experiencing homelessness and information on trainings/workshops; These advertisements can be displayed on buses, metro trains, libraries and other public buildings and locations, and made via radios, television and social media;
  - c. Training/workshops that will focus on understanding the challenges our neighbors experiencing homelessness face, how they impact their behaviors, how to best interact with them to facilitate better outcomes, and how to utilize outreach and other services instead of calling the police, which will be conducted by staff within the CoC, law enforcement and our neighbors experiencing homelessness.
6. Training for our neighbors experiencing homelessness that focuses on understanding the law, effectively engaging, communicating and interacting with law enforcement, business communities and the general public, as well as accessing resources and services needed;
7. Engaging outreach services as a first step (before engaging law enforcement) to address complaints/issues related to our neighbors experiencing homelessness to de-escalate situations that can lead to arrest or citations; When law enforcement is engaged, outreach team should accompany them on calls to help mediate and de-escalate situations;
8. Expanding employment opportunities and services, such as employing our neighbors experiencing homelessness to do street cleaning and expanding drop-in centers for homeless adults and youth.

**Cost:** The anticipated cost of this model was not estimated by the working group and is highly dependent on the scale and scope of the County’s efforts

## **Recommendation #6: Improve Maryland’s Expungement Law**

Advocate with the General Assembly to permit “Partial Expungement” and reduce the timeframe required to seek expungement for eligible convictions and citations.

### **Introduction**

**“Partial Expungement”** – Under current Maryland Law, charges that arise from the same incident, transaction or set of facts are considered a unit, and in order to expunge any charges in a unit, all charges in the unit must be eligible for expungement. An individual who has been convicted of a lesser misdemeanor charge cannot expunge a more serious charge even if the serious charge resulted in an acquittal, dismissal, or *nolle prosequi* when the charges are in the same unit. This rule creates a false narrative about an individual that is unmerited and has serious consequences in a person’s ability to obtain housing and employment.

**Reduce the Timeframe for Expungement:** This recommendation aims to lessen the adverse impact of charges/citations on the lives of individuals eligible for expungement. Maryland Law currently requires a three-year waiting period before seeking expungement for certain offenses.

### **Proposal**

Seek passage of state legislation permitting expungement of otherwise eligible charges that arise from the same incident or transaction as non-expungable offenses.

Seek an amendment to Maryland's criminal "expungement" statute, Maryland Code, Criminal Procedure Article §§10-105(c)(1) and 10-105(c)(7) (mandating a three-year wait period to seek expungement for certain offenses) to provide exceptions/waivers to the waiting period for individuals who are identified as experiencing homelessness and engaged in approved services.

**Cost of implementation including any staffing (FTE) needs:** At present, it is difficult to estimate the additional resources (operating and personnel) that will be required to implement the above. The development of a cost estimate will require the analysis of Montgomery County’s justice-involved homeless persons with potentially expungement-eligible cases.

## **Recommendation #7: Enhance Access to Expungement/Shielding**

Enhance access to expungement/shielding resources for eligible criminal justice-involved persons within Montgomery County.

### **Introduction**

The above is recommended as enhanced access to expungement/shielding resources has been identified as an existing need within the County. Prolonged documentation of convictions and citations eligible for expungement/shielding is a barrier to housing, employment and other efforts which prevents criminal justice-involved persons from moving toward self-sufficiency. Montgomery County's enhancement and support of expungement/shielding resources for eligible citations and convictions will end the cycle of repeated penalization of justice-involved persons.

### **Proposal**

Embed into Montgomery County's existing *Continuum of Care* a front-end mechanism to identify clients who are involved in the criminal justice system with charges eligible for expungement or shielding and develop a process for connecting those individuals to legal services.

**Cost of implementation including any staffing (FTE) needs\*:** There may be minimal costs to implementing the above recommendation if the focus is expungement without added conditions.

Additional funding will be needed if existing civil legal aid providers require additional staffing to assist persons eligible for expungement.

Cost Estimate: Personnel \$75k - \$125k / Operating Expense \$15k - \$20k

\*This is another area that would be greatly assisted by the results of the recommended data analysis regarding convictions/citations and the County's population of persons experiencing homelessness.

**Attachment A**

**COMMISSION ON HOMELESSNESS AND POVERTY  
SENIOR LAWYERS DIVISION  
STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS  
COMMISSION ON EFFECTIVE CRIMINAL SANCTIONS  
STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN  
COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW  
COMMISSION ON DOMESTIC VIOLENCE  
JUDICIAL DIVISION  
STANDING COMMITTEE ON DELIVERY OF LEGAL SERVICES  
RECOMMENDATION**

1 **RESOLVED**, that the American Bar Association adopts the following principles for Homeless  
2 Court Programs to the extent appropriate for each jurisdiction:

3

4 (1) Prosecutors, defense counsel, and the court should agree on which offenses may be  
5 resolved in the Homeless Court Program, and approve the criteria for individual  
6 participation, recognizing that defendant participation in Homeless Court Programs shall  
7 be voluntary.

8

9 (2) Community-based service providers should establish criteria for individual  
10 participation in the Homeless Court Program and screen individuals pursuant to these  
11 criteria.

12

13 (3) The Homeless Court Program shall not require defendants to waive any protections  
14 afforded by due process of law.

15

16 (4) All Homeless Court Program participants shall have time for meaningful review of  
17 the cases and issues prior to disposition.

18

19 (5) The Homeless Court Program process and any disposition therein should recognize  
20 homeless participants' voluntary efforts to improve their lives and move from the streets  
21 toward self-sufficiency, including participation in community-based treatment or  
22 services.

23

24 (6) Participation in community-based treatment or services shall replace traditional  
25 sanctions such as fines, public work service and custody.

26

27 (7) Defendants who have completed appropriate treatment or services prior to appearing  
28 before the Homeless Court shall have minor charges dismissed, and, where appropriate,  
29 may have more serious misdemeanor charges before the court reduced or dismissed.

30 Where charges are dismissed, public access to the record should be limited.