

Homeless Justice Initiative

Changing How the Justice System Responds to Homelessness

A Proposal Submitted by the Criminal Justice Advisory Group - Street Campaign, Homelessness

Issue Subcommittee

Mecklenburg County, North Carolina

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Introduction

In March of 2014, an affordable housing advocacy group, Helping Homeless to Housing (HHH), met with County Commissioner George Dunlap and presented information about homeless court initiatives across the country. These courts seek to decriminalize “quality of life” crimes (trespassing, loitering, public intoxication, open container violations) for individuals experiencing homelessness, connecting them to needed services and housing instead of pursuing punitive measures. At a Mecklenburg Board of County Commissioners (BOCC) meeting later that year, Commissioner Dunlap submitted an inquiry for Community Support Services (CSS) to explore the need for a homeless court within Mecklenburg County. CSS requested data from Criminal Justice Services (CJS) and the Mecklenburg County Sheriff’s Office (MCSO) regarding the number of individuals dealing with homelessness in Mecklenburg County who were booked in the jail during FY2014 to better understand the situation.

According to the data gathered by CJS and MCSO, 294 individuals were booked. Approximately 20 percent of the individuals in the sample were booked five or more times throughout the year, which meets “frequent booking” criteria. These individuals accounted for 46 percent of the total jail days from this sample, with the majority identified as homeless. Based on this information, it was clear that there was a group of individuals experiencing homelessness that were cycling in and out of the justice system and not receiving the support needed to remain independent and stable in the community.

Mecklenburg County’s Criminal Justice Advisory Group (CJAG) – a forum of key criminal-justice system decision makers – then decided to include homelessness as a focus of its Street Campaign. The Street Campaign is focused on eliminating the cycle of frequent front-end users in the criminal justice system. A subcommittee was created within the Street Campaign to explore the issue and consider whether a homeless court is needed in Mecklenburg County.

The group has been meeting regularly since June 2015 and includes representatives from Charlotte-Mecklenburg Police Department, CJS, CSS, HHH, the Public Defender’s Office, the Trial Court Administrator’s Office, and Urban Ministry Center’s Outreach and Engagement (UMC Outreach) team. These community partners often serve individuals experiencing homelessness who interact with the legal system. All parties are committed to improving outcomes for individuals experiencing homelessness in Mecklenburg County.

Homeless Front-End Users of the Justice System

The homelessness issue subcommittee recognized that more information was needed to better understand how individuals experiencing homelessness were interacting with the justice system. The group requested two sets of information from CJS: a) the 40 homeless individuals with the most number of unique bookings and b) the 40 homeless individuals with the highest number of jail days. The group learned that within these two categories there are 58 unique “Front-End Users” (FEUs) -- individuals arrested for low-level offenses who cycle in and out of the “front-end” of the legal system -- in Mecklenburg County. These individuals represent a low-risk to public safety yet a high-cost in time and money to the local justice system - both with housing these individuals in custody and with the time and money associated with attorneys and judges involved in their court cases. The pattern of recidivism for this group creates a financial burden for our community while failing to meet the needs of the individuals experiencing homelessness.

Examination of the Charges

When examining the charges of the 58 FEUs, it was clear the vast majority of offenses were misdemeanors and nonviolent in nature. The majority of these offenses were quality of life crimes, a direct result of someone living outside.

- 90 percent of all FY15 offenses for these individuals were nonviolent, with nearly 70 percent of all FY15 offenses for these individuals being nonviolent misdemeanors.
- 76 percent of all FY15 offenses committed by the FEUs were misdemeanors.
- 49 percent of all FY15 offenses were "public order" offenses. In other words, victimless "quality of life" offenses associated with homelessness and poverty.

This data confirmed what was thought to be true - the majority of offenses committed by the homeless *are not a threat to public safety, may be eligible for diversion, and do not require extensive punitive measures to be helped.*

Further, taking punitive action against individuals for low-level, non-violent offenses can cause significant collateral damage in their lives. An arrest record is stigmatizing and creates barriers to housing, employment, and other life opportunities. This criminalization of their homelessness perpetuates poverty and makes it more challenging for these individuals to recover; thus, alienating them from society.

Appendix 1 summarizes charges for the FEUs and highlights the low-level nature of most of these charges.

The Need for Increased Support for FEUs

Despite interacting at many intercept points and with many groups, no specific entity in Mecklenburg County provides support services to address the needs of FEUs. The lack of support for FEUs results in high-recidivism at a significant expense to the community.

To address this problem, the subcommittee recommends the creation of a Homeless Justice Team (HJT) consisting of a Licensed Mental Health Clinician, a Senior Social Worker, and a Peer Support Specialist within the CSS Homeless Services Division. The committee believes this approach will be a more effective solution to address the challenges of homeless FEUs than an official homeless court.

The HJT will prioritize FEUs experiencing homelessness in Mecklenburg County. A list will be generated on a monthly basis by Criminal Justice Services to determine the top 40 FEUs with the highest number of arrests and jail days. This list will guide the outreach and engagement efforts of the HJT and ensure that the work of the HJT is focused on individuals who are generating the highest expense for our community and have the greatest need for connection.

The HJT will focus on connecting FEUs to community resources such as to housing, physical and mental health care, Supplemental Security Income (SSI), Medicaid benefits, and employment. Connection to services will ultimately save our community resources and money while addressing systemic problems to which individuals experiencing homelessness are vulnerable. On a monthly basis, the HJT will report progress, or lack thereof, to the Public Defender's office and the presiding judge regarding individuals who are participating in the program.

The HJT will serve other individuals experiencing homelessness and interacting with the justice system on a case-by-case basis. Following is the criteria for participation among non-FEUs:

- Individual is identified as dealing with homelessness
- Individual has been arrested three or more times in the last year
- Individual has a documented mental health, physical health, substance use, or intellectual/developmental disability.

Expected Outcomes

With the support provided by the HJT, the following outcomes are expected for FEUs:

- Reduction in bookings for FEUs
- Reduction in arrests for FEUs
- Increased intervals of time between incidents of justice involvement for FEUs
- Reduction in transient/homeless related service calls for CMPD in high frequency response areas for FEUs
- Increased intervals of time between service calls to CMPD regarding a single FEU
- Increased connection to housing and other services (e.g., healthcare, mental health/substance abuse treatment, income benefits, and employment)

These outcomes have the potential to result in significant savings with respect to cost, time and resources for our community. The HJT will monitor and report these outcomes on a monthly basis. An issue of concern is the need for additional housing resources to assist in achieving these goals and the overall goal of housing these individuals.

The Need for Increased Permanent Supportive Housing

The majority of offenses for FEUs are the result of an experience of homelessness. Stable housing alone prevents justice involvement and should be prioritized. It is vitally important that Permanent Supportive Housing (PSH) options, particularly Housing First PSH, be increased for this population.

Housing First recognizes housing as a basic human right. It is a “low-barrier” approach to housing that provides chronically homeless individuals with housing and wrap-around support services to help them maintain it. The Housing First philosophy of meeting people “where they are” aligns with the philosophy of intercept improvements proposed by this group.

Since many of the crimes for which FEUs are receiving jail time are an effect of homelessness, housing is key to preventing these offenses from occurring. With the support of housing the likelihood of recidivism is dramatically reduced. This concept has been demonstrated notably in our community through the MeckFUSE program. MeckFUSE is a 45 unit Housing First PSH program for individuals experiencing homelessness with at least four arrests in the last five years. Community Support Services administers the program using County funding, and Urban Ministry Center operates MeckFUSE as a contract provider. The program provides an ideal housing option for FEUs of our justice system. However, MeckFUSE is currently at capacity and is unable to accept additional participants.

Considering the clear fit between MeckFUSE and FEUs, the subcommittee recommends an addition of 45 units to the MeckFUSE program during FY17, and 20 units during FY18.

The Sequential Intercept Model

The research of the subcommittee was guided by Substance Abuse and Mental Health Services Administration’s (SAMHSA) Sequential Intercept Model. The Sequential Intercept Model is a framework for understanding how individuals dealing with mental health and/or substance abuse interact with different areas of the justice system. This model identifies five intercept points at which individuals interact with:

- 1) law enforcement and emergency services
- 2) initial detention and hearing
- 3) jails, courts, forensic evaluation and forensic hospitalization
- 4) reentry from jails, prisons, and hospitalizations
- 5) community supervision and community support services

Appendix 2 is a SAMHSA handout that provides a detailed overview of the model.

Improved Intercept Response within Mecklenburg County

The following is a basic description of how the HJT will work within the justice system in accordance with the Sequential Intercept Model. It is important to note that while the HJT will focus its efforts on FEUs,

other individuals interacting with the justice system for crimes of homelessness will benefit from these system improvements, particularly at Intercept 1.

Creating system change at this level involves significant collaboration with various community partners at different intercept points (CMPD, Criminal Justice Services Jail Liaison, the Public Defender's Office, Mecklenburg County Jail, and UMC Outreach Team). Each of these groups was involved in developing this plan and supporting this recommendation.

Homeless Arrest Diversion (Intercept 1)

Arrest diversion at Intercept 1 seeks to help people before they are arrested and charged with an offense. If an officer interacts with an identified FEU, the HJT will be notified and will connect with the individual immediately if possible, but at least within 24 hours. At this level the HJT will begin the process of connecting the individual to services.

Along with the diversion efforts of HJT, the work of this decriminalization initiative has generated a broader Homeless Arrest Diversion Initiative (HADI) between CMPD and Urban Ministry Center's Outreach and Engagement (UMC Outreach) Team. The diversion approach employed in this collaboration will not be focused solely on FEUs, but rather any individual experiencing homelessness who commits a divertible offense will qualify for participation. *Appendix 3* details the HADI diversion process.

The opportunity to refer individuals experiencing homelessness through HADI began on November 7, 2015 after training approximately 40 officers on referring individuals to services as an option to divert arrest. Fourteen referrals have come in through the process in the first two weeks of inception. The fact that this resource has been so utilized by CMPD demonstrates the need for a way to connect individuals to services rather than criminalizing homelessness. The outcomes of the process further indicate the need for more ways to connect with individuals across various intercept points. In its first two weeks, HADI accomplished the following:

- Coordinated a bus ticket for one individual to go back to his home state where he has a housing opportunity
- Engaged one very vulnerable individual not previously known to the Outreach Team to work on his housing application
- Engaged and built rapport with four individuals who potentially qualify for Outreach Team services
- The police have more information on the housing prospects of eight individuals who are known to the Urban Ministry Center but do not qualify for Outreach Team services. The purpose of this communication has been to give police information that might be useful when responding to calls regarding an individual they referred, such as that the person is on the permanent supportive housing registry.

We see the need for specific positions designated for working with this population most illuminated by the last point. The Outreach Team can work with someone who is chronically homeless and/or has a

severe mental health condition, but they cannot work to connect someone to services who does not meet these specific criteria. Two of the fourteen people referred through HADI are routinely arrested and do not qualify for services from the Outreach Team. These two individuals have a combined 86 jail days in the last two years but are not recorded.

Pre-Adjudication Process at Initial Detention and First Court Appearance (Intercept 2)

If arrest diversion is not possible, FEUs may still be assisted in the pre-adjudication process of the court system. A “homeless flag” will be written on the officer’s citation when an individual experiencing homelessness commits an offense that cannot be diverted from arrest. The flag will notify the HJT, the Public Defender’s Office and judges in specific courtrooms if someone with whom they will interact is experiencing homelessness.

A representative of the HJT will go to the jail to meet with the identified individual and share about the program as an alternative to punitive measures. If the person is not one of the identified FEUs, the HJT will consider whether this person has a pattern of recidivism that may make her or him eligible for participation. “Fast track” courtroom 1150B will provide the setting for the courtroom component of this process. The courtroom process is as follows:

- The Public Defender (PD) arrives at court around 1:30 p.m., and first appearance video arraignment begins at 2 p.m.
- PD informs Judge that the individual may be eligible to receive services from the HJT and explains that this will help divert future interactions with the justice system.
- If judge agrees to the individual receiving services from the HJT, the PD takes this information and informs the appointed attorney.
- PD then approaches the district attorney pre-trial court date to notify them that the individual will be working with the HJT.

Jail and Court Processes (Intercept 3)

For FEUs who are not in custody, “fast-track courtroom” 1130A will provide a setting for engagement. The PD working at this session will listen to bonds of individuals being processed. If the PD comes across a flagged individual they will notify the HJT court and coordinate connection to the appointed counsel. The HJT will support attendance of scheduled court appearances for FEUs and provide status updates to court officials and facilitate communication between the court and service providers.

If an FEU is in jail, the HJT will make jail visits to provide information and encourage participation in the program. Coordination with jail officials and CJS Jail Liaison will begin at this point to ensure connection to services upon discharge. For individuals who are not identified FEUs, the HJT will provide screenings to determine program eligibility.

Assess and Re-Entry (Intercept 4)

At this stage, HJT will complete relevant assessments and begin re-entry planning. Such assessments include, but are not limited to, Coordinated Assessment, mental health and substance abuse screenings,

as well as other needs assessments. This information will be communicated to relevant community service providers that can support the individual following release from jail.

Community Corrections (Intercept 5)

The HJT will actively work to connect FEUs to relevant services based on assessed needs. Services will include housing, mental and physical healthcare, substance use services, and supported employment. The HJT will collaborate with probation officers and support attendance of probation appointments.

Potential Savings

The program being proposed by the committee is unique in its focus on homeless FEUs - diversion initiatives in other communities tend to have a broader focus. By targeting individuals interacting most frequently with our justice system, we hope to achieve meaningful cost-savings while helping individuals with the greatest needs.

While the exact cost-savings of diversion programs are difficult to calculate due to the multiple interacting systems, other communities have documented fiscal benefits. National data indicates that jail diversion creates savings in the long-term by directing individuals to services and reducing their interactions with the justice system. Based on a report by the Vera Institute of Justice, the following are examples of such cost-savings:

- Project Link in Rochester, NY, and Thresholds Jail Program in Chicago, IL, documented cost savings between \$18,873 and \$39,518 per participant.
- New York City's approach of increasing supportive housing for people with multiple stays in jail and homeless shelters (the same approach that guides the MeckFUSE program) showed cost offsets of \$2,953 per person annually.
- Based on treatment data from programs across the country, it is two to three times more expensive for a person with serious mental illness to become involved in the justice system than to receive mental health services in the community.

By targeting services around the targeted 58 individuals, who have an average of three arrests per year, the proposed program could potentially divert 148 jail admissions over the course of a year for misdemeanor charges (excluding arrests involving felony charges). According to Mecklenburg County Criminal Justice Services, complete diversion of all 58 individuals from their history of misdemeanor arrests and average length of stay in jail for misdemeanor arrests could result in an annual reduction of approximately 7,252 jail bed days. This means there would be 20 fewer people in the jail on any given day throughout the year. All of this results in a cost avoidance of \$145,040 per year (using the marginal daily jail cost of \$20, as agreed upon with the Sheriff's Office).

Projected Costs

The cost for the three HJT positions totals \$239,687.05. This includes all expenses related to the positions.

The total cost for MeckFUSE expansion is \$1,260,000. Of that amount, the cost to allow 45 additional participants during FY17 is \$860,000. Adding 20 more participants during FY18 will cost \$400,000. This amount covers all expenses (subsidies, utilities, staff costs, etc.) to administer the program through a contract provider.

Conclusion

Based on available data, our current criminal justice system is ineffective at meeting the needs of homeless FEUs. This ineffectiveness has resulted in an overuse of jail bed days, court docket space, and system resources for individuals charged with nonviolent, quality of life crimes, at a significant cost to the community.

By not pursuing a new paradigm to address the needs of the homeless, our community runs the risk of criminalizing vulnerable individuals who are in need of comprehensive, supportive services not incarceration. The approach of the HJT, in conjunction with an expansion of the MeckFUSE program, will provide a humane answer to the challenges of homeless FEUs with cost-savings for Mecklenburg County.