

ARE YOU WORRIED ABOUT GOING TO JAIL? THE PUBLIC DEFENDER'S OFFICE HOMELESS OUTREACH PROGRAM*

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The Public Defender's Office of the Sixth Judicial Circuit of Florida, Pinellas County, operates the Homeless Outreach Program to reduce the needless incarceration of individuals who are homeless or at risk of becoming homeless.¹ This Article is intended to serve as a guide for others who may wish to learn from or replicate the program. It will discuss the program's origins, its problems, and its measurable results as of December 31, 2005, as well as its future goals. The program's flyer, distributed at shelters and service sites around Pinellas County, asks in bold letters, "Are You Worried About Going to Jail?" and reflects the program's main objective—reducing the population of homeless individuals in jail. Individuals in the target population are repeatedly arrested in Pinellas County for reasons other than actual law violations. The most common reasons are failure to pay fines and failure to appear for court hearings.

I. BACKGROUND

Homeless individuals must do in public what the rest of us do in private: drink, sleep, urinate, bathe, and other similar daily activities. Municipalities have criminalized most of these activities through local ordinances.² Homeless individuals represent a

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1. Bob Dillinger, Public Defender, Sixth Judicial Cir., Fla., *Community Outreach*, <http://www.wearethehope.org/outreach.htm> (accessed May 31, 2006).

2. For example, Hillsborough County makes it a misdemeanor to knowingly or inten-

majority of those charged with local ordinance violations. The current lack of shelter space and affordable housing, combined with the “No Trespassing” signs that frequently mark areas where homeless individuals congregate, result in many homeless individuals facing multiple criminal charges over time.

The majority of criminal cases are resolved through plea bargains. This holds true for homeless defendants as well. Some plead guilty or no contest because they are guilty; however, others enter pleas simply to resolve the court process quickly. A homeless defendant who receives a plea offer of ten days in jail on an ordinance violation will usually take the offer, because he or she will most likely remain in jail for more than ten days while awaiting another court hearing or trial. Furthermore, homeless and transient individuals do not usually meet the criteria for release on their own recognizance because they do not have permanent addresses.

On July 1, 2004, the Florida Legislature passed Revision Seven to Article V of the Florida Constitution.³ Prior to this, Pinellas County judges typically waived, liened, or satisfied court costs and fines associated with ordinance violations and criminal offenses with time served in jail for defendants without the ability to pay. If a person pled guilty or no contest to several charges at once, judges typically would impose the fines and court costs for each case concurrently. Revision Seven changed the funding structure of county courts, making the State, rather than individual counties, responsible for funding county court systems.⁴ This change means that county court systems face more pressure from the State to impose and enforce court costs and fines, regardless of a defendant’s ability to pay. As a result, since July 1, 2004, the majority of county court judges in Pinellas County have imposed all applicable fines and court costs. Standard court costs and fines for felonies are \$450,⁵ and are imposed as judgment liens against

tionally appear nude in a public place or in any other place which is readily visible to the public. Hillsborough Co. Mun. Code (Fla.) § 26-17(4) (1992).

3. Fla. Const. art. V, § 14 (amended July 1, 2004).

4. *Id.*

5. Rpt. from Ann D. Olsen, Internal Auditor, to the Clerk of the Cir. Ct., *Audit of Collections and Enforcement of Fines and Costs 2* (Jan. 15, 2004) (available at <http://www.pinellasclerk.org/RPT2004-01.pdf>).

almost all defendants sentenced to serve jail or prison time without probation to follow.

While some members of the court system question the fairness of allowing homeless individuals or individuals at risk of becoming homeless the opportunity to forgo paying court costs, the reality is that this population is simply unable to pay these expenses. It is unrealistic and illogical to expect payment from a person who lives at or beneath the poverty level. Further, if a person's financial circumstances improve, he or she will most likely pay the fine because it takes less time and effort than performing community service.⁶

Typical fines and court costs for a misdemeanor, not including investigation costs of law enforcement officers, are between \$200 and \$300.⁷ Administrative Order No. 2005-056 PI-CTY sets the uniform fine schedule for local county and city ordinance violations.⁸ Each violation is classified as Class I through V.⁹ Fines for uncontested ordinance violations range from \$88 to \$213, while fines for contested ordinance violations range from \$133 to \$258.¹⁰ One of the most common violations for homeless individuals, an open-container violation, is a Class IV violation, which carries fines and court costs of \$113 if uncontested and \$158 if contested.¹¹

Judges offer defendants the option to satisfy fines and court costs by performing community service. Defendants receive \$7 of credit toward the fine for every hour completed. Some homeless defendants living in public spaces, however, may accumulate anywhere from five to twenty charges per year. For members of the homeless population, completing enough community service hours to satisfy their fines and costs can be overwhelming. It takes 12.5 hours of community service to satisfy an \$88 fine, and 43 hours of community service to satisfy a \$300 misdemeanor fine. If a person pled guilty to three trespass charges and two

6. Defendants may be given the option of performing community service in lieu of paying the fines.

7. See Clerk of the Cir. Ct., Pinellas Co., *Schedule of Charges*, http://www.pinellasclerk.org/fees2_new.htm (Apr. 1, 2006) (outlining additional fees and costs assessed).

8. Pinellas Co. Code Ordin. (Fla.) § 46-34 (Sept. 19, 2005).

9. *Id.*

10. *Id.*

11. *Id.*

open container charges in one year, that person would owe \$1126 or 161 hours of community service.

Furthermore, time is an issue for a homeless person with a community service obligation. A homeless person's entire day can be filled trying to find a job, waiting to be hired as a day laborer, working, waiting in line to shower and eat at a drop-in center, finding a place to store one's belongings, walking from one place to another, trying to find transportation or a bus pass, meeting with a case manager, applying for public assistance, or trying to find a place to sleep for the night. Lines for shelters start around 4:00 p.m. and many shelters are full by 4:30 p.m. There is little time left in the day to perform community service.

It is important to note some other limitations on the community service option. Community nonprofit organizations can become overwhelmed by the number of people looking for community service opportunities. Volunteers must be supervised, and often there is not enough community service work to go around. Most nonprofit organizations do not have the staff necessary to supervise volunteers for an eight-hour day, and some nonprofit organizations require homeless individuals to purchase insurance from the Salvation Army before allowing them to perform community service. The current cost of insurance is \$7 per community service opportunity, plus a \$15 one-time administrative fee—a lot of money for a person with nothing.

Not all costs and fines can be satisfied using the community service option. The Clerk of Court does not uniformly accept proof of community service in lieu of fines unless the sentencing judge, on the record, gave a defendant the option to perform community service. In addition, defendants cannot satisfy investigation costs by performing community service. Finally, it is standard practice for judges to order defendants who do not get a probation sentence to pay fines or perform community service within ten days of their sentence.¹² This is nearly impossible for a homeless person, or even for an indigent person with a place to live. So, defendants who cannot satisfy the fines and costs within ten days must enter into a payment plan with the Clerk of Court.

12. Or. Payment Fines, *Sample* (Fla. 6th Cir. 2006) (copy on file with the *Stetson Law Review*).

Payment plans, called Financial Obligation Agreements, follow the prescriptions of the Florida Legislature.¹³ Each person who enters into a Financial Obligation Agreement agrees to pay a \$25 service charge if the fine is paid in less than five months, or a \$5 per month service charge for each month beyond five months that the fine is outstanding. The agreements require defendants who cannot pay on time to appear in court to request additional time to pay. Failure to pay on time, without a court-approved extension, may result in a warrant for the defendant's arrest, suspension of the defendant's driving privilege, and additional costs and fees to the defendant. A growing number of Clerks of Court in Florida, including the Pinellas County Clerk of Court, contract with collection agencies or attorneys to collect unpaid fines and costs; a practice authorized by the Florida Legislature.¹⁴

In practice, defendants who do not enter into a Financial Obligation Agreement within ten days, do not pay fines and court costs within ten days, or who miss a payment on their payment plans are issued notice of an order to show cause, or a contempt hearing. The defendant is in indirect criminal contempt of the court's order to pay the fine and must show cause why he or she should not be held in contempt of court. The upshot of these hearings is that defendants are given an extension of time to pay the fines or are ordered to enter into a Financial Obligation Agreement. Sometimes, a sympathetic defendant convinces the judge to lien the fine.

In Pinellas County Criminal Court, contempt hearings are held every Thursday afternoon. The Thursday afternoon calendar is commonly called the default calendar. Casual observations of the default calendar indicate that a small percentage of defendants scheduled for the calendar actually appear. Homeless and transient individuals scheduled for the default calendar typically do not appear because they never receive notice to appear. Either they have no mailing address, or they have moved to a different area of the county and no longer pick up their mail at the shelter or drop-in service center where they previously received mail. While the court will not issue a warrant for a homeless individual who provides no mailing address, if the individual has provided

13. Fla. Stat. § 28.29(4) (2004).

14. Fla. Stat. § 28.29(6).

an address to the court or arresting officer the court will issue a warrant for his or her arrest, despite the fact that notice of the hearing was never received. The job of the Homeless Outreach Program is to help clients withdraw these warrants and satisfy their debts to the courts.

II. ROLE OF THE HOMELESS OUTREACH PROGRAM AND IMPLEMENTATION OF ADVOCACY

The Homeless Outreach Program advocates for homeless individuals and those who are at risk of becoming homeless, by filing motions to withdraw warrants and addressing the financial obligations of clients. The goals of the program are both practical and moral.

Practically, it costs the taxpayers of Pinellas County and its cities more to transport and house a homeless individual in the jail for one night than to provide shelter.¹⁵ Homeless individuals are often more expensive to house in the Pinellas County Jail because they often need to be treated for physical and mental illnesses.¹⁶ Each local police department expends resources in both manpower and actual costs to arrest and transport people to jail. The folly of issuing warrants and arresting individuals who owe money and do not appear for default hearings is that these individuals are inevitably released after advisory hearings.

Morally, it is important to bridge the gap between the severity of the "crime" of committing an ordinance violation or trespass, and the severity of the punishment, which is most often both incarcerative and financial. Spending the night in jail is punishment enough for holding a beer; yet homeless individuals or others without stable addresses are repeatedly arrested on the same charge for failing to appear at default hearings of which they never received notice.

The Homeless Outreach Program also strives to lessen the financial and community service burden on individuals who are homeless or at risk of becoming homeless. The program implements this goal through a variety of motions, including: motions

15. Natl. Alliance to End Homelessness, *The Cost of Homelessness*, <http://www.endhomelessness.org/section/tools/tenyearplan/cost> (accessed Sept. 19, 2006).

16. Candace Samolinski, *Prisoners of Illness*, http://www.wearethehope.org/pdf/tribune_03_16_2003.pdf (Mar. 16, 2003).

to withdraw warrants for failure to appear for default or contempt hearings; motions to withdraw warrants and reschedule arraignments for failure to appear for arraignment in Local Ordinance Violation (LOV) court; motions to convert fines to community service at the rate of \$10 per hour and extend due dates; motions to run fines and costs concurrently with higher or equal fines and costs assessed in other cases; motions to impose investigation costs as liens; and motions to remove the defendant from the default or contempt calendar.

The goal of the program's advocacy is to keep homeless individuals and those at risk of becoming homeless out of jail. Motions to withdraw warrants for failing to appear for the LOV calendar arraignments help to prevent needless incarceration because individuals who resolve LOV cases at arraignments do not receive jail sentences. Many homeless individuals receive a Notice to Appear in court in lieu of an arrest. They often lose the notices because they have no place to live or store important papers, or the court dates written on the notices become faded and unreadable after being carried in their pockets for weeks. Transportation is also a problem for homeless individuals. They usually have no cars and no money to pay for bus fare. To make their court appearances, many homeless defendants walk to the Criminal Justice Center in Clearwater from Pinellas Park and St. Petersburg.¹⁷ The Homeless Outreach Program staff prepares motions in the form of proposed orders to withdraw warrants and to reset arraignments while talking with the client. The proposed order includes the new arraignment date, and the client keeps a copy of the proposed order so that he or she knows the court date in advance. When program staff have bus passes, they give them to the clients to use for transportation to court.

Program staff also file motions to withdraw warrants for failure to appear for the default calendar. There is no logical reason to incarcerate defendants in this situation, because they cannot legally be kept in jail for the inability to pay a fine.¹⁸ Defendants who are arrested on warrants for failing to appear for default hearings are released after advisory hearings. In addition, the

17. It is approximately twelve miles driving distance to the Criminal Justice Center from downtown St. Petersburg and approximately six miles from Pinellas Park.

18. *Akridge v. Crow*, 903 So. 2d 346, 351–352 (Fla. 2d Dist. App. 2005).

substantive criminal case has already been closed because the defendant has already pled guilty or no contest to the charge, and the only remaining issue is failure to pay fines. In response to these situations, program staff will file a motion to withdraw the warrant and then file a follow-up motion to address the financial issues. Defendants who receive probation sentences and are required to complete other conditions, however, do not fall into this category. Failure to pay fines while on probation is classified as a violation of probation,¹⁹ and a defendant charged with violating probation may request appointment of a public defender.²⁰

Defendants can be overwhelmed at the prospect of paying several fines with several due dates and completing hundreds of community service hours. The Homeless Outreach Program seeks to put defendants on track to satisfying fines by streamlining their financial obligations to the court. Program staff reviews a defendant's entire Pinellas County criminal history and notes every fine and investigation cost that the defendant owes. Staff will then file a motion to impose all outstanding fines and court costs concurrently with fines and costs for one case number. Program staff also file motions to lien investigation costs because defendants cannot satisfy those costs with community service. Finally, staff file a separate motion on the one consolidated case number. This final motion requests that the defendant be permitted to satisfy the fine by performing community service at the higher rate of \$10 per hour and that the deadline to pay the fine or complete community service be extended. Deadlines are usually increased by three months, but in cases with high fines or individuals who need extra time, they can be extended up to six months. Again, each client receives a copy of the proposed order with the amount of community service due and the deadline, or this information is relayed over the phone if the client calls in to program staff.

Once the court grants the motions, a program staff person sends each client a copy of the signed order to the address where the client receives mail—usually a shelter, drop-in center, or non-profit organization. Clients who do not receive mail anywhere are

19. Fla. Stat. § 775.0844(8)(b) (2004).

20. Bob Dillinger, Public Defender, Sixth Jud. Cir., Fla., *Frequently Asked Questions*, <http://www.wearethehope.org/faq.htm> (accessed May 31, 2006).

given the orders personally when staff sees them, or they are asked to call program staff to confirm that their motions have been granted. Combining all fines into one helps the client see his or her financial obligation as manageable. It seems more reasonable to perform thirty hours of community service in three months. Program staff members also encourage clients to send in proof of completion of community service, or to have the organization for which they performed community service send proof. Program staff members then file a notice of filing, attach the order converting the fine to community service, and turn this packet in to the Clerk of Court to ensure the client gets the proper credit. Clients may give proof of community service to program staff during site visits to negate the need for the client to find transportation to the courthouse.

At this point, a defendant has a simple goal to reach and has bypassed the need for a Financial Obligation Agreement or monthly payment plan through the Clerk of Court. This is important because the Financial Obligation Agreements impose a \$25 service charge and result in the suspension of the defendant's driving privilege and the possible referral of the fine to a collection agency if the defendant misses a payment.²¹ The extensions give defendants a fair due date and allow them to complete the community service hours at a reasonable pace, while avoiding further court action or arrest. Staff members encourage clients who cannot meet the extended deadlines to contact them and ask them to file a motion for a further extension. Clients who do not complete community service by the new due date and do not request a further extension will be placed on the court's default calendar. Staff members also file motions to remove defendants from default/collections calendars once the financial issues on their cases have been addressed. This eliminates the need for the defendant to appear in court simply to receive another extension or be ordered to enter into a payment plan with the Clerk of Court.

The motions discussed above are all reviewed in chambers, *ex parte*, by the Administrative Judge for County Criminal Court. There is no oral argument, no motion hearing, and no need for the defendant or assistant public defender to appear in court. Because

21. Fla. Stat. § 28.29(6).

the motions are not substantive and deal only with warrants for local ordinance violations or defaults, or with fines and court costs, the state attorney usually has no objection to them. As long as the motions stay within the parameters discussed above, they are routinely granted. If the motions were heard on the record in courtrooms, county court dockets would become unbearably clogged, and the Homeless Outreach Program would not be able to efficiently divert clients from incarceration.

The Homeless Outreach Program also assists individuals who fail to appear for court hearings on open misdemeanors, felonies, or violations of probation by scheduling a pro se motion to withdraw the warrants in the appropriate divisions. Defendants on their own initiative ask judges to withdraw their warrants and reschedule their court dates; and they are often successful. The program warns each defendant that the judge may grant the motion or may execute the warrant and take the defendant into custody. The client then decides whether or not he or she wants to attempt to withdraw the warrant by appearing in court. Some clients choose to turn themselves in to the jail.

Because it can be difficult to get in touch with some clients once the judicial assistant calls back with a court date, program staff often encourage clients to call the judicial assistants directly. Homeless clients who are in residential treatment programs or transitional housing programs are instructed to bring written proof of their participation in the program to court. These clients often convince judges to withdraw the warrants and release them on their own recognizance with supervision, even for felony cases and felony violations of probation.

Although assistance with local warrants and fines make up the bulk of the program's advocacy efforts, the staff also works to help resolve out-of-county and out-of-state warrants. The Homeless Outreach Program informally partners with Gulf Coast Legal Services²² to assist clients who fall into the "fleeing felon" category and have lost their social security benefits because of an outstanding warrant from another county or another state. Gulf

22. Gulf Coast Legal Services, <http://www.gulfcoastlegal.org> (last updated Jan. 24, 2006). This nonprofit organization provides "free legal assistance to income-eligible residents of Pinellas, Manatee, and Sarasota counties." *Id.* Their mission is to protect the rights of low-income individuals to basic shelter, health, income, and quality of life. *Id.*

Coast Legal Services has observed a significant increase in the number of these cases, most of which are resolved successfully when an assistant public defender in the home jurisdiction advocates for the client. Individual clients also bring up their own wishes to resolve out-of-state warrants. In many circumstances, however, the best that program staff can do is to provide the client with contact information for the issuing jurisdiction. Attorneys and court officials in other jurisdictions often require that to withdraw the warrant the individual must turn him or herself in to the court.

Referring clients to other service programs comprises a significant portion of the Homeless Outreach Program's work. Most referrals are made to civil legal services, such as Gulf Coast Legal Services,²³ the Community Law Program in St. Petersburg,²⁴ and the Legal Assistance Program in Clearwater.²⁵ Staff members also provide contact information on shelters, mental health services, medical services, sealing and expungement of records, restoration of civil rights, and employment services. Because people need help in so many areas, it is impossible for the Homeless Outreach Program to streamline the clients who can truly be diverted from jail. Many people, including treatment and shelter program staff members, do not understand the difference between criminal and civil law. When the Homeless Outreach Program began operating on a full-time basis in June 2005, many shelter and treatment program providers publicized the Homeless Outreach staff as free lawyers, which unfortunately raised expectations that could not be fulfilled. These expectations have subsided, but they highlight the significant need for free or low-cost civil legal services for indigent people in Pinellas County. Inevitably, program staff also answer general questions debunking myths about the criminal justice system.

23. *Id.*

24. The Community Law Program provides free legal services to financially eligible individuals living in south Pinellas County. Community Law Program, *About CLP*, <http://www.lawprogram.org> (accessed Apr. 23, 2006). To receive legal representation, clients must also be referred from an outreach project or a community law clinic. *Id.*

25. Legal Assistance Program, <http://www.pinellasclerk.org/aspinclude2/aspinclude.asp?pageName=prose.htm> (accessed Sept. 19, 2006). The Clearwater Legal Assistance Program attorney services to low-income people who are unable to afford an attorney but wish to bring a pro se civil legal action. *Id.* To qualify, clients must meet the Federal Income Guidelines for the Working Poor. *Id.*

III. STAFF, HISTORY, AND OPERATIONS

Public Defender Bob Dillinger came up with the idea of taking attorneys to the clients on the street. He recognized the number of misdemeanor defendants arrested for failure to pay fines, or sentenced illegally to “pay or stay” sentences, in which the nonpaying defendant must serve a number of hours in jail equal to the amount of dollars owed.²⁶ While originally skeptical about the success of meeting homeless clients at shelters or on the street and keeping them out of jail, the mental health staff quickly embraced the idea and found their work with homeless clients uplifting and satisfying.

In November 2003, the office sent out two teams: attorney Patrice Moore and social worker Ray Williams, and attorney and Director of the Mental Health Division Violet Assaid and mental health specialist Priscilla McGuire. The teams distributed flyers for the Mobile Public Defender Unit with the theme, “We bring the courthouse to you.” Original team members expressed how good they felt about providing an immediate service to clients who were grateful for advocacy. It simply felt good to help people who were homeless or at risk of becoming homeless in a way that mattered to the clients. From November 2003 to May 2005, the two Mobile Public Defender Units advocated for 267 clients through client call-ins and twice-monthly site visits to Solid Rock Christian Recovery Center, Sophie Sampson Center of Hope, Beacon House, Everybody’s Tabernacle, A Turning Point, Clearwater Homeless Intervention Center, the Mustard Seed, the Salvation Army Adult Rehabilitation Center, Windmoor, the Salvation Army Emergency Shelter and Transitional Housing Program, Mid-Pinellas Homeless Outreach, and the Ex-Offender Exposition.

The original Mobile Public Defender Unit teams produced overwhelming results, notably a one-hundred percent compliance rate from clients in terms of appearing for court hearings and completing community service on time. The teams were so successful in keeping clients out of jail that the Public Defender was able to secure a grant from the Pinellas County Sheriff’s Office for

26. William R. Levesque, *Judges Say Man Was Jailed Unfairly*, St. Pete. Times 1B (Dec. 27, 1999).

a two-person staff dedicated solely to homeless outreach. A full-time staff became necessary because of the Pinellas County Jail's large homeless population, and because the original teams were providing homeless outreach advocacy in addition to their full-time representation of existing clients. The current full-time Homeless Outreach Program staff consists of an assistant public defender and a forensic liaison.²⁷ The legal assistant for the Mental Health Division, Anne Vance, also provides invaluable administrative support.

The Pinellas County Sheriff funds the Homeless Outreach Program because the goal of the program is to divert people from jail. Through a local agreement between the Sheriff and the Public Defender, the Sheriff provided an initial grant of \$50,000 in May 2005 to the Public Defender to pay the salary and benefits of an attorney and forensic liaison through September 30, 2005. After receiving funding for the Homeless Outreach Program from the Pinellas County Board of County Commissioners, the Sheriff renewed the grant for fiscal year 2005–2006 for \$124,898.28. The funds are used to pay the salary and benefits of the attorney and forensic liaison, as well as for bus passes for clients. Subject to the availability of funds, the grant may be renewed for three additional years.

The attorney and forensic liaison each have a laptop computer with wireless network connection cards and a portable printer. The computer equipment is invaluable because it allows the staff to set up anywhere without relying on a shelter's equipment. With the help of the Mental Health Division, the program assembled a range of written resources and contact information for local service agencies to provide to clients who need assistance in other matters. Finally, the Public Defender provides a vehicle for staff to use to travel to sites.

IV. CONFIDENTIALITY

The Homeless Outreach Program staff treats individuals encountered as clients for purposes of confidentiality and the attorney-client privilege. Program staff make it very clear that the staff will not report outstanding warrants to law enforcement or

27. The program's full-time staff are also the authors of this article.

reveal any client communication. This ethical standard is printed on program flyers.

V. PARTNERS IN THE COURT SYSTEM

The continued cooperation of the Administrative Judge for County Criminal Court, his judicial assistant, the State Attorney's Office, and the Clerk of Court's court assistance department has been crucial to the Homeless Outreach Program's success. The North and South County Traffic Court judges have also agreed to review written motions in chambers, and their judicial assistants have been extremely cooperative. The Administrative Judge for County Criminal Court reviews the majority of motions filed by the Homeless Outreach Program. To ensure that the orders are entered correctly and that the clients are not continually scheduled for default calendars once the fine owed has been addressed, a designated group of employees at the Clerk's office reviews the motions and proposed orders before they are sent to the judge. Once the orders are granted, the Clerk's office checks the accuracy of the orders, and sees that the financial services department of the Clerk's office receives the orders. This oversight is important because originally the written orders had no effect until the financial services department reviewed the orders and removed the clients from the system. Before working out a new system with the Clerk's office, some clients were still set for default calendars, failed to appear, and were then arrested, even though the judge had given them additional time to pay the fine in a signed, filed, and entered order. Once the Clerk's office enters the orders with its financial services department, clients are only set for default hearings on those case numbers for which all fines are running concurrently and for which community service has not been timely completed. The program would not be able to divert people from jail without this cooperation between the Clerk's Office, the Administrative Judge for County Criminal Court, the State Attorney, and the Public Defender.

VI. SITE VISITS

Program staff visit homeless shelters, soup kitchens, drop-in centers, and inebriate receiving facilities on a regular basis to meet with potential clients. In June 2006, the full-time staff used

the contacts established by the original Mobile Public Defender's Units to begin site visits. The mental health staff also provided suggestions for additional sites, and the new staff researched service provider directories in an attempt to ensure that valuable opportunities to assist clients were not overlooked. Over time, program staff have adjusted the site-visit schedule to ensure efficiency. Staff now visit four sites on a weekly basis. These are programs at which homeless, transient, and indigent individuals dealing with warrants, court fines, and court dates regularly receive services such as shelter, meals, showers, mail and phone service, clothing, counseling, and religious outreach. These sites include the Suncoast Haven of Rest Rescue Mission in Pinellas Park, ASAP Homeless Services, Inc. in St. Petersburg, Clearwater Homeless Intervention Project (CHIP) in Clearwater, and the St. Vincent de Paul Soup Kitchen at the Sophie Sampson Center of Hope in St. Petersburg. Sites visited twice per month include the Salvation Army Emergency Shelter in St. Petersburg, the Suncoast Center for Community Mental Health drop-in center at St. Petersburg, and A Turning Point in St. Petersburg. Once per month the Homeless Outreach Program visits the Beacon House men's shelter operated by the St. Petersburg Free Clinic and the Shepherd Center and Shepherd Center Soup Kitchen in Tarpon Springs.

As the Public Defender's Office Homeless Outreach Program becomes more well known, many individuals simply call program staff directly for assistance. The program accepts collect calls and advertises this on the program flyers. The volume of calls has increased dramatically from June 2005 to January 2006, and call-in clients often comprise the largest group of client contacts each month. Clients usually call in after seeing the Homeless Outreach Program flyer in another program, or hearing about the program from friends. Cutting back on visits to sites where clients had little need for warrant and fine assistance has given staff more time in the office to be available for the growing number of call-in clients. When time permits, staff also go to Williams Park in downtown St. Petersburg to assist clients. The Homeless Outreach Program plans to work toward increasing this actual street outreach to clients who do not regularly go to shelters, drop-in centers, and soup kitchens.

VII. ADVISORY HEARINGS

In an effort to divert individuals from unnecessary incarceration at an earlier point in the court process, program staff began attending the daily misdemeanor advisory or first appearance calendar at least three times per week in January 2006. Misdemeanor advisory hearings are held via video, with the judge, deputy clerk, assistant state attorney, and assistant public defender located in a court room, and the defendant located in a room in the Pinellas County Jail. Participants in each location view the other on a television screen. The goal of the Homeless Outreach Program with regard to advisory court is to connect defendants to community service opportunities immediately after they plead guilty or no contest to a charge, or are released after failing to appear for a default hearing for nonpayment. Staff also provide a written community service instruction sheet with staff contact information, instructions on documenting and turning in community service, and a list of nonprofits that offer community service opportunities. Homeless Outreach Program staff station themselves in the jail during advisory hearings. Although time is limited, and staff cannot disrupt court proceedings, every attempt is made to get contact information from each defendant served, to explain the defendant's financial or community service obligations, and to stress the importance of contacting the Public Defender's Office Homeless Outreach Program upon release for follow-up questions. In January 2006, the program filed jail diversion motions on behalf of approximately eighty defendants contacted at advisory hearings.

VIII. DATA COMPILATION

Once the program became a full-time endeavor, the necessity to compile data for future analysis became crucial. In order to keep an accurate record, the staff developed a spreadsheet for recording each client's information. This spreadsheet is very simple and allows the staff to sort information according to different criteria, including the client's name, date of birth, system identification number, facility where contact was made, type of action taken on the client's behalf, and case numbers. The data can then be compared, and data reports generated.

Each client provides his or her name and date of birth for identification, tracking, and records-search purposes, and the information is entered into the Pinellas County Consolidated Justice Information System (CJIS) database.²⁸ CJIS is the Pinellas County Clerk of Court's public records database. A search of CJIS provides the information required to accurately address the clients' needs. CJIS allows staff to access items such as case numbers, docket entries, court dates, attorney information, personal information, outstanding warrants, fines, and the presiding judge. The ability to retrieve this information while out in the field is invaluable to the program.

Many clients who contact the staff are confused about the issues affecting them. Some get one case confused with another, or simply misunderstand the court's orders. Others do not even know for which charges they have entered pleas. A simple search of CJIS can clear up these issues, as well as bring to light any new or unresolved issues that should be addressed. For example, if CJIS indicates that a client has an outstanding warrant for failure to appear for the default calendar, the staff drafts a motion to withdraw the warrant and extend the client's time to pay or complete community service. Some issues can be as simple as verifying a court date and giving the client a bus pass to get to court.

Data collection began on June 6, 2005 and continues to be gathered for accountability purposes. However, this Article will only discuss the data collected from June 6, 2005 to December 31, 2005, and this data will be used as the year-end total for 2005. During this period the program visited twenty-four different sites and programs and fielded phone calls from clients, which were grouped into their own category under "Call-Ins."

The program recorded a total of 884 meetings with clients in the first seven months of its full-time existence. Each service rendered was sorted into one of three categories: Jail Diversions, Warrants Withdrawn, and Other. Jail Diversions include any actions taken to ensure that the client will not be arrested. The majority of these actions include the motions to address a client's financial obligations addressed earlier in this Article. Warrants

28. Pinellas Co., Fla., *Consolidated Justice Information System*, <http://pubtitled.co.pinellas.fl.us/justice/GEInput.jsp> (accessed July 5, 2006).

Withdrawn includes motions filed to withdraw an outstanding warrant and reset a new court date, or action to assist in withdrawing the warrant. The Other category includes anything that does not involve filing a motion or taking further action with the court. The majority of the time, actions classified as Other consist of referrals to other programs or case information inquiries.

IX. DATA ANALYSIS

Of the original 884 client contacts, 413 fit in either the Jail Diversions or the Warrants Withdrawn categories. Of those 413 Jail Diversions and Warrants Withdrawn, 306 were flagged for follow-up research. The 306 follow-up clients included 236 Jail Diversions and 70 Warrants Withdrawn. To verify the compliance rate of clients in the follow-up category, the staff used CJIS records to determine whether the clients had appeared for their court dates or had successfully satisfied their financial obligations to the court by paying or completing community service.

The program did not conduct follow-up research on every client who fell into the Jail Diversion or Warrants Withdrawn category because resolution of some of the Jail Diversion cases could not be verified. For example, imagine that a client approaches the staff and informs them that he was released from the jail on probation and had twenty-four hours to report to his or her probation officer. However, several days or even weeks have elapsed and that client has yet to report to probation. The staff would get the defendant in contact with his probation officer. Since the client was assisted in reporting to probation, it is reasonable to view this as a Jail Diversion, since failure to report would likely have resulted in a violation of probation. Unfortunately, there is no simple way to accurately account for this in a follow-up. If the client was not charged with violating probation, that could be attributed to the client reporting, which would be classified as a Jail Diversion. However, if the person reported to probation after meeting with the Homeless Outreach staff and was later charged with a probation violation, it is possible that factors other than the late reporting led to the alleged violation.

Once the numbers were produced and the follow-ups were identified, the next step was to calculate the percentage of client compliance with court orders and fines. When the program was only a part-time venture, the compliance rate was an astounding

one hundred percent. However, it would have been unreasonable to expect the same rate of compliance once the number of cases increased dramatically. Though the program has not yet reached the original one-hundred percent compliance rate of its part-time predecessor, the data analysis revealed that as of February 16, 2006 only twenty-one percent of Homeless Outreach Program clients were verified as noncompliant. This is the same rate of success shown in the Drug Court program in Pinellas County. Many of the successful cases had been unresolved for a considerable amount of time—in some cases over three years. Many of these cases would have continued to cycle back into the court system repeatedly, costing more money for the Pinellas County taxpayers, the Pinellas County Sheriff's Office and Jail, and Pinellas Police Departments. Many of the clients would not have had the means, direction, or ability to manage their financial obligations to the court through community service without working with the Homeless Outreach Program. The real success of the program is that numerous clients no longer owe outstanding fines to the court and no longer have to worry about being arrested for an outstanding warrant. If they should acquire new charges and fines, clients now know that they can turn to the Public Defender's Office Homeless Outreach Program for help.

X. FUTURE INITIATIVES

The Homeless Outreach Program's advocacy currently focuses on keeping people out of jail after they have been charged with a law violation. However, the Public Defender's Office also recognizes the need to prevent the charge or arrest of homeless individuals in the first place. To that end, the Public Defender, the State Attorney, and the City of St. Petersburg are embarking on an initiative that provides people charged with ordinance violations the opportunity to earn dismissals of those charges. The State Attorney has agreed to file a *nolle prosequi*, or dismissal, for ordinance violation cases in which defendants comply with certain criteria before their court dates. The City of St. Petersburg has also instituted its own street outreach program, called the St. Petersburg Homeless Outreach Team, to work with homeless and transient individuals. The team consists of a law enforcement officer and an outreach worker from Operation Par, a private substance abuse agency, and engages homeless citizens who need

help transitioning from the street to treatment services, shelter, and housing.

Currently, when a law enforcement officer observes an individual violating a local ordinance, the officer can either arrest the individual or provide him or her with a written Notice to Appear in court. Through the Outreach Team, St. Petersburg Police Department officers who provide Notices to Appear can also provide individuals with the opportunity to earn a dismissal of the charge. Officers use their discretion in deciding which defendants will have the opportunity to earn dismissals. The goal is to fairly and objectively provide this opportunity to each person initially, and to use the opportunity as an incentive for people to refrain from future violations. Defendants have four weeks from the date of receiving the Notice to Appear to earn a dismissal. Individuals can earn dismissals in one of two ways. A person may either complete eight hours of community service for a nonprofit organization in St. Petersburg; or a person may undergo an evaluation for substance abuse or mental health treatment and begin the treatment process by attending one treatment session. Each person hoping to earn a dismissal must turn in written proof of compliance with either community service or treatment before the specified court date. The dismissal form itself has instructions, a list of community service options, a list of treatment providers, contact information, and a compliance form that can be filled out and faxed or mailed to the Homeless Outreach Program. Once program staff members receive proof of compliance, they are responsible for providing it to the State Attorney's Office prior to the defendant's court date.

The goals of this Notice to Appear Initiative are to keep people out of jail or minimize their criminal records, and to encourage individuals to take positive steps toward helping themselves. For those who choose the community service option, they benefit from contact with a local nonprofit organization that usually provides other helpful services, and they save themselves the time and expense of attending court and paying fines or doing more community service than is necessary. The State Attorney's Office, Clerk's Office, and judiciary will all benefit from minimizing ordinance violation cases that clog up the Local Ordinance Violation court dockets and default court dockets. For those defendants who choose the treatment option, they will have taken the first step

toward addressing mental health or substance abuse issues that will likely plague them for life. Additionally, individuals participate in treatment on a completely voluntary basis, and there is no additional penalty for failure to comply. If a defendant does not complete an evaluation and assessment by his court date, he simply has to attend court and address the ordinance violation charge. Individuals who continue with treatment do so of their own accord. Their motivation must come from within, as opposed to a court-imposed directive. In addition, clients who choose the treatment option and meet other eligibility criteria receive a thirty-day voucher for transitional housing. This housing voucher, combined with continued treatment, may serve as a catalyst for clients to find permanent housing and reach self-sufficiency. If St. Petersburg's Notice to Appear Initiative is successful, the Homeless Outreach Program would like to replicate the initiative in all of Pinellas County. However, the initiative will only be successful if law enforcement officers afford individuals the opportunity to earn dismissals and if those individuals follow through with treatment or community service.

Planning the St. Petersburg Notice to Appear Initiative exposed some of the subtle bias against homeless individuals in Pinellas County, and the barriers that the homeless face when they seek treatment and take steps to help themselves. Program staff met with a treatment provider network that has a grant to provide vouchers for mental health counseling, substance abuse counseling, and transitional housing to individuals who are either homeless or living in certain geographic areas of St. Petersburg, and who also meet other eligibility criteria. Some of the provider's mid-level staff were upset that treatment could be used to get a case dismissed. They predicted that everyone who chose the treatment option would drop out after their cases were dismissed. However, individuals opt out or drop out of treatment regularly, even when they are court-ordered to complete treatment as a condition of probation. Successful long-term recovery from addiction usually takes more than one attempt. Treatment provider staff also expressed concern about how the treatment would be funded, even though their grant provides vouchers for people to receive treatment free of cost. Some were afraid that the network would be overwhelmed with clients, although at a previous meeting they had discussed strategies to provide outreach to eligible clients.

These issues were easily resolved, but they illustrate that even within the social-service field, skeptical attitudes about homeless individuals tend to prevail over creative thinking.

The amount of community service that an individual would have to do to earn a dismissal also raised interesting issues. The Public Defender's Office felt strongly that with a four-week deadline looming, the individual needed to be able to complete community service in one day. Nonprofit organization members of the St. Petersburg Homeless Task Force agreed to meet with program staff and City of St. Petersburg staff to discuss their willingness to provide community service opportunities. Many organizations graciously offered to provide any assistance they could. Others were concerned about having "criminals" at their organizations, educating volunteers about the rules of the organization, and the time and effort it would take to train volunteers. These organizations wanted the Public Defender's Office Homeless Outreach staff to provide training and require defendants to attend a training session before they could begin community service. Such training is not normally required; each organization usually trains volunteers and educates them on the rules as a matter of course. The additional training requirements would have created another burden on defendants who have no money for, or access to, transportation in the first place, and who have only four weeks to complete the community service. Finally, several representatives of these and other organizations were quite concerned that defendants would not be doing enough community service to justify dismissing a charge, even one as insignificant as an ordinance violation. Despite these concerns, the Public Defender insisted on a reasonable community service requirement, and prevailed in setting the community service requirement at eight hours. The Notice to Appear Initiative should provide a workable incentive for the people most likely to be charged with ordinance violations to earn dismissals of these charges while benefiting themselves and the community.

XI. CONCLUSION

Homeless and indigent individuals face obstacles in all aspects of their lives. Homelessness both contributes to, and complicates involvement with, the criminal justice system. The Public Defender's Office Homeless Outreach Program continues to help

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this ever-growing group of people stay out of jail and address their financial obligations to the courts in a manageable way, so that they can obtain homes, jobs, and a quality of life that every person deserves. The Homeless Outreach Program is inexpensive, easily implemented, and functions effectively with a small staff. If public defenders, legal aid offices, and private attorneys across the state implemented similar programs, with the cooperation of the judiciary, Florida could serve as a model for more humane treatment of homeless criminal defendants and effective use of jail space and taxpayer money. Most importantly, the money spent incarcerating and enforcing payment from homeless individuals could be more wisely and efficiently spent in other endeavors that truly help to end homelessness.