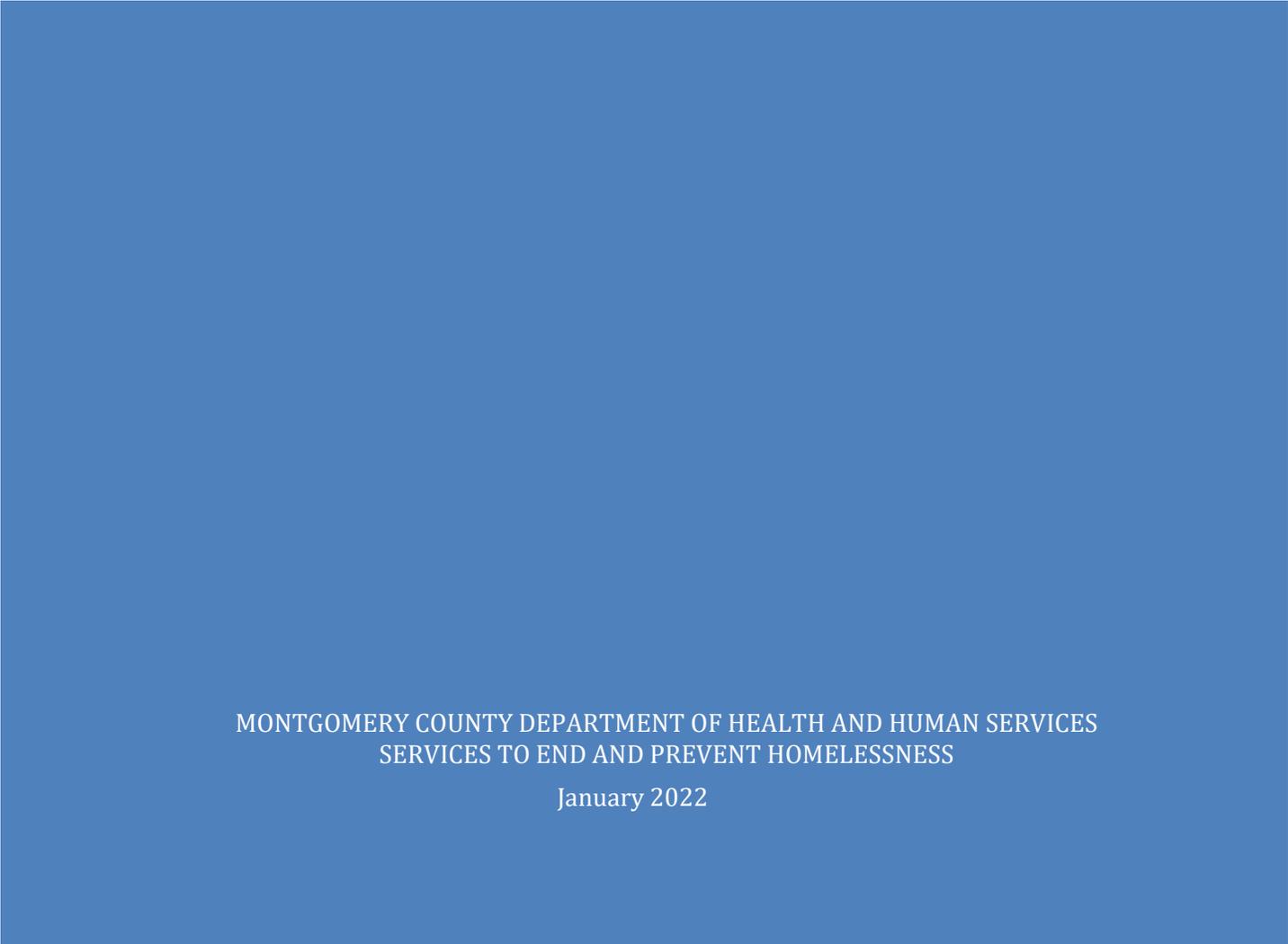




# HOMELESS PERSONS CRIMINAL DIVERSION PROGRAM OPERATING MANUAL

MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SERVICES TO END AND PREVENT HOMELESSNESS

January 2022



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## **Program Description**

The Homeless Persons Criminal Diversion Program (HPCDP), developed in collaboration with the Montgomery County's State's Attorney's Office, is a specialized post-arrest diversion program for individuals experiencing homelessness who have been accused of specific nonviolent misdemeanors or who currently have outstanding warrants for misdemeanors and transit or traffic offenses. Any homeless person on the street, in a shelter or doubled-up in another person's household is eligible for HPCDP. In addition, HPCDP embraces a model of voluntary engagement. Each participant has the option to participate in HPCDP or have his or her matter resolved through traditional programs or by requesting a trial.

## **Background**

On April 26, 2019, the Montgomery County Bar Association, the Maryland State Bar Association, the American Bar Association Commission on Homelessness and 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 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, compiled, reviewed and then were submitted to the County Executive [ICH Decriminalization Committee Recommendations FINAL 2020.pdf](#)

The first recommendation of the Montgomery County Interagency Commission on Homelessness: Committee on Decriminalization of Homelessness was the creation of program to resolve open misdemeanor criminal, traffic, and transit matters, including open warrants for persons who are homeless or have been homeless. While the County Executive supported the recommendation, the funding was disrupted by the pandemic. The program was funded for the following fiscal year.

## **Eligibility Requirements**

To be eligible to have outstanding cases transferred to the Homeless Persons Criminal Diversion Program the participant must:

- Be experiencing homelessness in Montgomery County, using the broadest definition possible. For example, any person on the street, in a shelter, doubled up with friends or family, in a motel, or in a place unfit for human habitation (e.g., living in a car).
- Have been charged with a nonviolent misdemeanor or an open warrant has been issued for a transit or traffic offense, including but not limited to:
  - alcohol offenses (not DUI),
  - drug possession/paraphernalia,
  - disorderly conduct,
  - panhandling,
  - solicitation/prostitution,
  - traffic offenses (not DUI),
  - public urination,
  - destruction of property,
  - rogue and vagabond,
  - theft,
  - trespass, and
  - Metro citations.

Other misdemeanors not listed will be subject to consideration.

- Have a pending case(s) or warrant(s) issued in Montgomery County District Court; and
- Not have pending criminal cases in Montgomery County Circuit Court

## **Homeless Persons Criminal Diversion**

### **Program Process**

#### **1. Referrals:**

Referrals to the Homeless Persons Criminal Diversion Program can come from multiple sources including, but not limited to:

- Service/shelter providers
- HPRP
- Office of the Public Defender
- State's Attorney's Office
- Montgomery County Police Department
- Sheriff's Office
- Person experiencing homelessness (self- referral)

Referrals should be sent to [HPCDP@montgomerycountymd.gov](mailto:HPCDP@montgomerycountymd.gov) using form referral form attached.

When making a referral, service providers can check online to see if their clients have any outstanding warrants, cases, or summons using Maryland Judiciary Case Search: <http://casesearch.courts.state.md.us>. Once in Case Search, the provider will need to know the client's first name, last name, and date of birth. If you cannot find his or her case, it may be that his or her name is misspelled in the system—try similar spellings. Once you locate the case and case number from the search, it will provide more details on the client's charges and case status.

The referral form includes signature of the participant and of the referring source.

## 2. Review

Providers who wish to discuss a referral before submitting may call the Program Coordinator at 240.749.1844. All referrals sent to this email address will be forwarded to the State's Attorney's Office after screening to verify homeless status through the Homeless Management Information System (HMIS). Once a matter is referred to the State's Attorney's Office, the Assistant State's Attorney will determine if the case is eligible for Homeless Persons Criminal Diversion Program and will ensure there are no outstanding exceptions that would preclude eligibility on the next HPCDP meeting. This include, but are not limited to, nature of the offense and recent past criminal history.

Any individual experiencing homelessness that is charged with a misdemeanor who is deemed eligible by State's Attorney's Office will have the option to have his or her case heard at the HPCDP. A legal representative will explain the program and purpose to the defendant. The defendant can then decide if he/she would like to participate in HPCDP. Participation is voluntary.

Review by the SAO includes National Crime Information Center search, a criminal justice database available to criminal justice organizations. That report will be shared with attorney as discovery and may be shared with participant. The SAO approves the case for the program based on nature of offenses, past and recent history. The SAO may allow other misdemeanors to be referred to the program subject to circumstances and consideration.

## 3. Roles

**The State's Attorney's Office** approves the case for the program based on review of current and past charges and has the discretion to include misdemeanors not included in the list based on their review. In the monthly meeting, a representative from the State's Attorney's Office will review the agreement and the case will likely be placed on STET docket for up to 90 days. At the conclusion of the 90 days, the SAO has authority to enter a nolle prosequi for the charges of any participants who satisfactorily engage and participate with service providers.

**The Office of the Public Defender, panel attorneys for the OPD, pro bono attorneys or other defense attorneys** provide free representation to HPCDP participants. The client first meets with the Public Defender at the monthly meeting. They will discuss the service need based on the referral information, the charges, and the participant. If the participant is not already connected with a service provider, the legal representative refers the participant to the most appropriate provider present.

**Homeless Persons Representation Program** will file for expungement of records at the conclusion of successful participation in the program.

**Program Coordinator** is the point of contact for referrals to the HPCDP and maintains the schedule and actions for the program. Once approved for the program, the States Attorney's office will notify the Program Coordinator. The Program Coordinator will schedule the case for the program and notify the participant and referring agency, SAO, defense attorney and participating service providers of the date, time, and location. The Program Coordinator serves as a liaison between SAO, defense attorneys, HPRP and providers.

**The Homeless Service Providers** are a critical component to the success of the HPCDP program. While traditional court programs might send a defendant to a service provider after conviction, HPCDP engages service providers before the first court date (though in rare cases a participant may have appeared before a judge). Providers serve as the link between their clients and the Homeless Persons Criminal Diversion Program by identifying and referring their clients who may be eligible to participate because they have outstanding warrants or upcoming cases in District Court. In addition, some providers also attend the monthly diversion meeting and meet with potential HPCDP participants who are not already connected to providers to offer relevant services to the participants' needs. The range of Montgomery County service providers including housing, shelter, behavioral health, benefits administration, health care, workforce development and other ancillary services are involved in the provision of services that lead to resolution of charges and participate in the monthly meeting to provide commitment of services.

#### **4. Diversion Process**

- The diversion meeting will be held monthly on the second Wednesday of the month. The meeting will be held from 2-4 p.m. at Progress Place
- The Program Coordinator will send out notice of the HPCDP meeting including participant list to the State's Attorney's Office, appointed legal representative and service homeless service providers and will send notice to participants at contact information provided.
- Service providers will be available to meet with participants.
- First time participants will meet with legal representative and service providers to develop plan of action.
- Returning participants will be present to report on progress to date.

- The State's Attorney's Office will determine whether participant's charges can be placed on STET docket or if they are ready to be nolle prossed.
- During the postponement period, HPCDP participants are expected to report to their respective Service Provider and engage in services until their return court date. Participants may be required to return to the HPCDP monthly to assess interim compliance prior to resolution at 90 days.

## 5. Dispositions

- A successful completion is defined by the assigned Service Provider in alignment with the Assistant State's Attorney's requirements and based on a participant's unique needs. The Service Provider will present a progress report and/or letter to the HPCDP Program Coordinator who will share these documents with the appointed legal representative and Assistant State's Attorney. At the HPCDP meeting, the SAO will recommend the case be nolle prossed.
- If a referral is made for a case and the participant has already participated in services, this information will be given to SAO who may consider past completion of services in disposition of case.
- If an individual does not show up for HPCDP after they have been added to the meeting, the case will be rescheduled for the next HPCDP date, and an attempt will be made to locate the individual.
- If an individual does not show up to HPCDP meeting on the return date after the postponement period, the legal representative will ask the Service Provider if the HPCDP participant engaged with the Service Provider. Based on the Service Provider's response, there are three possible results:
  1. If the participant satisfactorily engaged in services, the State's Attorney will request that the case be disposed of nolle prosequi even though the participant is not present.
  2. If the participant did engage with the Service Provider but did not meet the level of engagement set by the State's Attorney, the Service Provider will be asked if it wishes to continue working with the participant. If the Provider Agency does wish to continue working with the participant, the matter will be postponed again for continued engagement. If the Service Provider does not wish to continue with the participant or does not believe further engagement is possible, the case will be removed from the STET docket and set for trial.
  3. If the participant did not engage in services at all, the case will return to traditional prosecution of the case.
- At the conclusion of each participant's case, following satisfactory engagement with a service provider, and on the recommendation of the State's Attorney's Office, the HPRP will file for expungement of the participant's HPCDP charges.

## **Evaluation and Reporting**

The group of individuals and organizations that oversee the direction and implementation of the Homeless Persons Criminal Diversion Program consists of representatives from the Homeless Persons Representation Project, Montgomery County State's Attorney's Office, the Office of the Public Defender or legal representative, and the Montgomery County Department of Health and Human Services, Services to End and Prevent Homelessness

The stakeholders meet regularly to discuss the program's progress, challenges, and successes. They also brainstorm about how to improve the program to make it a smoother process for the participants, service providers and attorneys.

The Program Coordinator will prepare an annual report on the cases that came before the program including volume of cases, charges, resolutions, and other information as requested.

# HOMELESS PERSONS CRIMINAL DIVERSION PROGRAM

## REFERRAL

### Participant Contact Information:

Name: \_\_\_\_\_

Other names/aliases: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Where slept last night?

### Referral Contact Information:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Agency: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

### Maryland Case Search Info (ATTACH ADDITIONAL PAGES IF NEEDED)

Case Number:  Filing Date:  Case Type:

Case Number:  Filing Date:  Case Type:

Case Number:  Filing Date:  Case Type:

### For HPCDP Office use only

Date received  HMIS Verification

Date to SAO  Date from SAO

Assigned Meeting Date  Assigned provider

Sent to HPRP for expungement  Date Expunged

# HOMELESS PERSONS CRIMINAL DIVERSION PROGRAM

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## PARTICIPANT AUTHORIZATION

I authorize my case manager to share this information with the Program Coordinator, Homeless Persons Criminal Diversion Program, SEPH; Homeless Persons Representation Project, State's Attorney's Office, appointed pro bono attorney or the Office of the Public Defender so that my case(s) may go before the Homeless Persons Criminal Diversion Program in lieu of District Court.

I understand that those agencies may run searches on judicial information systems.

I understand that participation in the Homeless Persons Criminal Diversion Program is voluntary and that should I withdraw or fail to complete my service agreement, I would return to the court's regular docket. I understand that participating in this program requires I agree to an action plan in lieu of in lieu of traditional prosecution of my case.

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Signature

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Date

# HOMELESS PERSONS CRIMINAL DIVERSION PROGRAM

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## ACTION PLAN

Date: \_\_\_\_\_

Name: \_\_\_\_\_

### Return to Homeless Persons Criminal Diversion Program:

Date: \_\_\_\_\_ Location: \_\_\_\_\_

### Service Provided Assigned:

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

### Contact Information:

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

### Areas of Action (Check all that apply):

- Housing
- Healthcare
- Behavioral Health
- Benefits
- Employment
- Other

Specify:

# HOMELESS PERSONS CRIMINAL DIVERSION PROGRAM

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## PROGRESS REPORT

**Participant's Name:** \_\_\_\_\_ **Meeting Date:**

- The client engaged in services as required.
- The client failed to engage in services.
- Service provider believes further engagement is productive.
- Service provider believes further engagement is not projective

**Service Provider Agency:**

**Type of Services Provided:** \_\_\_\_\_ **Date:**

- Housing
- Healthcare
- Behavioral Health
- Benefits
- Employment

**Level of Engagement**       Satisfactory       Unsatisfactory

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**Provider Name:** \_\_\_\_\_

**Provider Signature:** \_\_\_\_\_

**Provider Email:** \_\_\_\_\_

**Provider Phone:** \_\_\_\_\_

## PARTICIPANT EXIT QUESTIONNAIRE

**1. Who referred you to the program?**

- Self-referral
- Case Manager
- Court/Attorney
- Other

**2. Did you know participation was voluntary?**

- Yes       No

**3. Were you satisfied with the program services you received?**

- Yes       No

**4. Were you satisfied with your attorney?**

- Yes       No

**5. Did you complete the program?**

- Yes       No

**6. Was your record expunged?**

- Yes       No

**7. Would you recommend this program to others?**

- Yes       No

**8. What else would you like to share?**