

Bernalillo County Metropolitan Court

Outreach Court

Policy Manual

INTRODUCTION

The Bernalillo County Metropolitan Court's Outreach Court Program is a collaborative effort among Bernalillo County Metropolitan Court, Office of the District Attorney, Law Offices of the Public Defender, the Private Defense Bar, the Bernalillo County Attorney's Office, Albuquerque Police Department and Community Provides. This court will follow the American Bar Association's (ABA) seven guiding principles for Homeless Court and will model itself after the San Diego Homeless Court. Outreach Court is a specialty court aimed at a segment of the population that has limited means of complying with conditions of the court. As a result, misdemeanor crimes are often ignored until the defendant is incarcerated. Outreach Court is unique from all other specialty courts as it is designed to work with individuals already engaged with Community Providers and gives them an opportunity to resolve open misdemeanor cases and outstanding warrants. This is accomplished by collaborating with Community Providers that are already providing services, to these individuals.

HISTORY

The Bernalillo County Metropolitan Court has led New Mexico in establishing problem solving courts that address criminal issues presenting in Bernalillo County. In the early 2000's Bernalillo County Metropolitan Court established a Homeless Court Program after recognizing the need to assist the homeless population navigate their minor offenses/cases while also working towards becoming self-sufficient and avoiding the revolving door of court appearances, bench warrants and incarceration.

GOALS AND OBJECTIVES

- Eliminate legal barriers to promote the achievement of long term self-sufficiency for our homeless population*
- Positively impact Participants by helping them take responsibility for their actions and take the necessary steps to become flourishing members of society, to include, but not limited to, housing and/or employment/education/financial stability/treatment*
- Improve quality of life for Participants and prevent further involvement in the justice system*
- Establish a network of Community Providers with expertise in providing services to the homeless to partner with the court to create a holistic approach to Participant care*
- Efficient closure of cases*
- Abide by the Seven Guiding Principles for Homeless Court as outlined by the American Bar Association (SEE APPENDIX F)*

OUTREACH COURT STEERING COMMITTEE

Presiding Judge

Office of the District Attorney -Prosecutor

Law office of the Public Defender-Defense Counsel

Private Counsel

Community Providers

Law Enforcement

Program Manager

Community Provider Liaison

Program

Outreach Court Meaningful Review Team

Presiding Judge

Office of the District Attorney -Prosecutor

Law office of the Public Defender-Defense Counsel

Private Counsel

Community Provide Liaison

Program Manager

Program Project Specialist

ROLES AND RESPONSIBILITIES OF THE COURT TEAM

Judge:

The Judge leads the collaborative team and conducts a Meaningful Review (along with the Meaningful Review Team) of each Participant's progress with the Community Provider and Participant's goals. The Judge provides encouragement and motivation to the Participants at the time of commencement. The Judge also serves as chair of the Steering Committee

Prosecutor:

As a member of the collaborative team, the prosecutor will monitor the Participant's progress. The Prosecutor will complete and submit the Nolle Prosequi for cases at the time of commencement or agrees to closure of cases and conversion of outstanding requirements to credit for program participation hours.

Defense Counsel:

Provides information regarding the nature and purpose of the program and the consequences of abiding by or failing to abide by the rules; explains all the rights to the defendant. Defense Counsel shall submit the Order of Appointment and Motion to Transfer to Outreach Court. Attends all Meaningful Reviews and provides ongoing legal representation in the judicial supervision process. In the event of a Participant's termination, Defense Counsel will have the option to withdraw from the case.

Community Providers:

Develop eligibility and goals for the Participants within their agency; this should include a service needs assessment. Areas to be addressed include but are not limited to: primary and dental care, behavioral health, housing and case management, stable housing, employment and/or education. The Community Providers shall submit progress reports at the 30 and 60 day marks to ensure participation in the Program. In addition, the Community Providers shall tender an Advocacy Letter detailing the areas of progress the Participant made leading up to commencement.

**We ask that anyone making referrals not have a non-professional, familial, or domestic relationship with the individual being referred.*

Law Enforcement:

When given the opportunity, Law Enforcement Officers shall provide the homeless population with information pertaining to the Outreach Court Program. The program will provide them with options to assist them through a diversionary process with the courts in reference to criminal cases on a case by case basis.

Program Manager:

The Program Manager will be the first point of contact for providers and will receive referrals from them via the Community Referral Form. They will do additional screening of potential Participants, to include running NCIC to ensure eligibility. They will attend staffing/judicial status review proceedings and is responsible for the day to day operation of the program. The Program Manager will monitor whether or not the program is meeting its short and long term objectives relative to the Participants, community and local criminal justice system.

Program Project Specialist:

The Outreach Court Project Specialist will recall warrants, set hearings, assure the case is reassigned to Outreach Court judge, hold all fees and sentencing requirements in abeyance and send emails to the team regarding the status of the case as it is in the referral process. They will assure the documentation and docketing of the case is done from referral to completion in the program. They will assist provider with necessary documentation and navigation throughout the process. They will provide client participation information to the team on behalf of providers via the Advocacy Letter and insure all parties are apprised of any documentation on the cases as it comes in.

Community Provider Liaison:

The Community Provider Liaison will do outreach to organizations/agencies that might want to refer their clients for participation in Outreach Court. He/she will participate as a consultant in Meaningful Reviews on individual clients and will also be available to follow up if a team member has any difficulty communicating with a Community Provider.

Steering Committee:

A multi-disciplinary partnership with members of the community to include local activists that assists in the procedure and policy development for the program.

Meaningful Review Team:

This team will review each Participant's progress in their individual program to determine if such participation qualifies their case for closure or dismissal.

STRUCTURE/MODEL

This program follows the American Bar Association (ABA) Commission on Homelessness and Poverty, following the seven (7) guiding principles for Homeless Court Program (see Appendix F)

*In addition to the ABA guiding principles the program is largely modeled after the San Diego Homeless Court Model and also incorporates aspects of the medical-legal partnership model (MLP) when collaborating with Community Providers. *The primary goal of MLP is to encourage members of the legal profession to work with the healthcare community and social service organization to identify and resolve legal issues that have detrimental effect on health and well-being.*

PROGRAM OVERVIEW

Outreach Court is fundamentally different from the process that occurs in traditional specialty courts in that the Participant takes the first steps in resolving his/her case by engaging with a Community Provider. The Community Provider will notify the court of a potential Participant by submitting a Referral Form and a Release of Information. This information is then given to defense counsel, who will discuss the program with the individual and notify the Program Manager of the Participants' interest in the program. The Provider will have the client sign a Client Commitment Form and go over the provider's requirements in their program for participation in Outreach Court

The maximum length of time in the program is 90 days in order to insure a timely disposition of cases, but some cases may resolve early depending on the nature of the charge and the Participant's progress as outlined in the Community Provider's Advocacy Letter. The commencement session is mandatory unless prior authorization to have the client's appearance waived is approved in advance. Commencement will take place at one of the volunteer Community Provider's facilities. Should a Participant fail to attend, he/she will be granted one continuance.

Meaningful Review Team meetings are held twice monthly. Meaningful Review meetings will be held at the Bernalillo County Metropolitan Courthouse in Albuquerque, NM where the Meaningful Review Team will review the Provider's Advocacy Letter with the Participant's status and accomplishments in their program. Commencements will be held at the Community Provider's location as determined in advance. The Steering Committee meets on the second Meaningful Review Day of each month after the Outreach Court hearings session.

TARGET POPULATION

The primary target population for this program will be persons, who are experiencing homelessness or who are at immediate risk of homelessness as defined by the ABA as "individuals who lack a fixed, regular, and adequate nighttime residence, including those who, due to loss of housing, economic hardship, or similar reasons are sharing the housing of others or living in motels, hotels or camping grounds." Individuals who do not meet the aforementioned criteria will be considered on a case by case basis. For the purposes of Outreach Court we are adding to this definition also precariously housed to include individuals in residential treatment plans and also those individuals who are at immediate risk of becoming homeless.

ELIGIBILITY CRITERIA

- Participant fits the ABA definition of homelessness and precariously housed persons or is at immediate risk of being homeless or precariously housed.(SEE APPENDIX G)
- All misdemeanor* pre-adjudicated Criminal, Traffic, Parking and Domestic Violence cases and post- adjudicated** referrals are eligible with the following conditions:
 - 1.) Cannot currently have an outstanding warrant in another jurisdiction.
 - 2.) Cannot have had a charge including a serious violent offence in the last 7 years (see Appendix A).
 - 3.) Cannot be entered in a Pre-Adjudication Diversion Agreement.

NOTE-(Domestic Violence or cases including an officer victim will require District Attorney Supervisor approval and will be taken Into consideration on a case by case basis.)

-The Meaningful Review Team will take into consideration new charges on a case by case basis for inclusion in the program if a client receives new charges while participating in Outreach Court

*Cases originated as Felony cases but plead/ amended to misdemeanors are not eligible

** To include post-adjudicated (CR and TR cases only) with outstanding fine, fees and community service obligations

PARTICIPANT SCREENING

All referrals will go to the Program Manager. The Program Manager should first ascertain upon completion of NCIC check a determination of eligibility. Then the Public Defender will be notified that he/she qualifies and an order of appointment will be signed. The Public Defender will file a motion to transfer and the file will be then taken to the assigned judge for review.

COMMENCEMENT AFTER COMPLETION OF THE PROGRAM

In order to graduate from the Program, a Participant must have shown commitment and progress in the areas of need as determined by the provider. The Community Provider must provide an Advocacy Letter by the Meaningful Review date, outlining the progress made by the Participant. Once the Meaningful Review Team has agreed to case closure a commencement date, if available, will be scheduled and a notice provided with date and location of the commencement ceremony to the Participant and their Provider and Defense Counsel. Commencements will be held on the first Friday of every month at First Nation's Community Healthsource at 2 PM.

REMAND BACK TO THE TRIAL DOCKET

The Outreach Court Program and its team will strive to assist the Participant in successfully completing the program. However, if the Participant is unable to complete Outreach Court, the case will be remanded back to the trial docket. The court will set a new trial date and a notice will be provided, and the provider will be notified of remand. This should occur no later than 90 days from the referral in order to insure the Participant's right to a speedy trial. This remand shall provide no prejudice to the Participant for returning to the trial docket. If a participant loses engagement with the provider, their review period will be reset to try and give the Participant a chance to reengage. If that is still unsuccessful the case will be set for formal hearing and notice will be mailed out. If the Participant is still not in compliance it will go back on the original court docket and the warrant may be reinstated.

APPENDIX A

“Serious violent offense” means:

- (a) Second degree murder, as provided in [Section 30-2-1 NMSA 1978](#);
- (b) Voluntary manslaughter, as provided in [Section 30-2-3 NMSA 1978](#);
- (c) Third degree aggravated battery, as provided in [Section 30-3-5 NMSA 1978](#);
- (d) Third degree aggravated battery against a household member, as provided in [Section 30-3-16 NMSA 1978](#);
- (e) First degree kidnapping, as provided in [Section 30-4-1 NMSA 1978](#);
- (f) First and second degree criminal sexual penetration, as provided in [Section 30-9-11 NMSA 1978](#);
- (g) Second and third degree criminal sexual contact of a minor, as provided in [Section 30-9-13 NMSA 1978](#);
- (h) First and second degree robbery, as provided in [Section 30-16-2 NMSA 1978](#);
- (i) Second degree aggravated arson, as provided in [Section 30-17-6 NMSA 1978](#);
- (j) Shooting at a dwelling or occupied building, as provided in [Section 30-3-8 NMSA 1978](#);
- (k) Shooting at or from a motor vehicle, as provided in [Section 30-3-8 NMSA 1978](#);
- (l) Aggravated battery upon a peace officer, as provided in [Section 30-22-25 NMSA 1978](#);
- (m) Assault with intent to commit a violent felony upon a peace officer, as provided in [Section 30-22-23 NMSA 1978](#);
- (n) Aggravated assault upon a peace officer, as provided in [Section 30-22-22 NMSA 1978](#); or

APPENDIX B

STATE OF NEW MEXICO
BERNALILLO COUNTY
METROPOLITAN COURT

Case No. T-4-

STATE OF NEW MEXICO

vs.

_____ Defendant

ORDER OF APPOINTMENT
FOR THE PURPOSE OF OUTREACH COURT

This matter having come before the court,

THE COURT FINDS THAT:

The defendant is being referred to the Metropolitan Court Outreach Program

IT IS FURTHER ORDERD THAT:

The Law Office of The Public Defender is hereby appointed to represent the defendant in the above-entitled case (representation will cease upon completion or termination of the program.)

IT IS FURTHER ORDERED THAT:

The application fee is waived.

MARIA I DOMINGUEZ
METROPOLITAN COURT JUDGE

CASE STATUS:

APPENDIX C

METROPOLITAN COURT
COUNTY OF BERNALILO
STATE OF NEW MEXICO

Case No. T-4-

STATE OF NEW MEXICO,

Plaintiff,

vs.

_____,
Defendant

MOTION TO TRANSFER CASE TO OUTREACH COURT

COMES NOW, Defendant, through counsel and respectfully moves for the case before Your Honor be transferred to Outreach Court. As grounds for this Motion the Defendant states:

1. Defendant has been advised of the program, its requirements, and other options.
2. Defendant wishes to participate in Outreach Court.
3. Defendant has a qualifying case.
4. Defendant meets the requirements necessary for participation in Outreach Court.
5. Assistant District Attorney Tyler Tuminski has been contacted regarding this motion and stipulates.

WHEREFORE DEFENDANT RESPECTFULLY REQUESTS that the court grant the motion to continue.

This will certify that a copy of the foregoing was placed in the District Attorney's incoming basket and served upon filing.

Law Offices of the
NEW MEXICO PUBLIC DEFENDER
By:

Attorney for Defendant

Carlene Miller or Max Kauffman
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Phone: (505) 219-2861

METROPOLITAN COURT
COUNTY OF BERNALILO
STATE OF NEW MEXICO

Case No. T-4-

STATE OF NEW MEXICO,

Plaintiff,

vs.

_____,
Defendant

ORDER ON MOTION TO TRANSFER CASE TO OUTREACH COURT

THIS MATTER having come before the Court on the motion, and the Court being fully advised of the circumstances;

IT IS ORDERED, ADJUDGED, AND DECREED that the motion is:

- GRANTED; the case is to be transferred to Outreach Court.
- MOTION IS DENIED.

MARIA I DOMINGUEZ
METROPOLITAN COURT JUDGE

Submitted by:

Carlene Miller or Max Kauffman
Assistant Public Defender

APPENDIX D

METROPOLITAN COURT
COUNTY OF BERNALILO
STATE OF NEW MEXICO

Case No. T-4-

STATE OF NEW MEXICO,

Plaintiff,

vs.

_____,
Defendant

NOLLE PROSEQUI

COMES NOW the State of New Mexico by and through Assistant District Attorney, Tyler Tuminski, and, in recognition of Defendant's compliance with the conditions of Outreach Court Program, enters a *nolle prosequi* in the above captioned cause.

Tyler Tuminski
Assistant District Attorney
520 Lomas Blvd. NW,
Albuquerque, NM 87102
(505) 382-9223

I certify that a true and correct copy of this motion was provided to Defendant or Counsel of Record on this, the ____ day of _____, _____.

Tyler Tuminski
Assistant District Attorney

APPENDIX E

METROPOLITAN COURT
COUNTY OF BERNALILO
STATE OF NEW MEXICO

Case No. T-4-

STATE OF NEW MEXICO,

Plaintiff,

vs.

_____,
Defendant

ORDER OF CASE CLOSURE
UPON COMPLETION OF OUTREACH COURT

THIS MATTER having come before the Court, it is therefore ordered that this be closed upon completion of the requirements of the Outreach Court. All fees and outstanding requirements are satisfied.

MARIA I DOMINGUEZ
METROPOLITAN COURT JUDGE

APPENDIX F

METROPOLITAN COURT
COUNTY OF BERNALILO
STATE OF NEW MEXICO

Case No. T-4-

STATE OF NEW MEXICO,

Plaintiff,

vs.

_____,
Defendant

ORDER ON BENCH WARRANT FOR OUTREACH COURT

THIS MATTER having come before the Court:

The Defendant having **surrendered** himself/herself to the Court; Upon successful completion of Outreach Court

IT IS THEREFORE ORDERED:

The Bench Warrant is **cancelled**; the \$100.00 **Bench Warrant Fee** previously assessed is imposed and ALL is **SATISFIED**;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the MVD Reinstatement Fee is to be waived on this case.

MARIA I DOMINGUEZ
METROPOLITAN COURT JUDGE

APPENDIX G

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

- (1) Prosecutors, defense counsel, and the court should agree on which offenses may be resolved in the Homeless Court Program, and approve the criteria for individual participation, recognizing that defendant participation in Homeless Court Programs shall be voluntary.
- (2) Community-based service providers should establish criteria for individual participation in the Homeless Court Program and screen individuals pursuant to these criteria.
- (3) The Homeless Court Program shall not require defendants to waive any protections afforded by due process of law.
- (4) All Homeless Court Program participants shall have time for meaningful review of the cases and issues prior to disposition.
- (5) The Homeless Court Program process and any disposition therein should recognize homeless participant; voluntary efforts to improve their lives and move from the streets toward self-sufficiency, including participation in community-based treatment or services.
- (6) Participation in community-based treatment or services shall replace traditional sanctions such as fines, public work service and custody.
- (7) Defendants who have completed appropriate treatment or services prior to appearing before the Homeless Court shall have minor charges dismissed, and, where appropriate, may have more serious misdemeanor charges before the court reduced or dismissed. Where charges are dismissed, public access to the record should be limited.

APPENDIX H

American Bar Association's Definition of "Homeless Person"

Individuals who lack a fixed, regular, and adequate nighttime residence, including those who, due to loss of housing, economic hardship, or similar reasons, are sharing the housing of others or living in motels, hotels, or camping grounds.

For the purposes of Outreach Court we are adding to this definition also

Precariously housed to include individuals in residential treatment plans and also those individuals who are at immediate risk of becoming homeless.