



Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



Subject:	Homeless Diversion Response	Policy #	O-58
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	<i>Rescinds All Previous Policies Related to This Current Policy</i>		
Issuing Authority:	Chief of Police Lee Miller		

I. PURPOSE

This directive establishes the Lincoln Police Department's policy regarding interactions with homeless persons.

II. POLICY

It is the policy of the Lincoln Police Department to be sensitive to the homeless population by protecting their rights, dignity, and personal property while providing appropriate law enforcement services to the entire community. The agency recognizes that in law enforcement situations involving homeless persons, it is preferable to make referrals to organizations that provide services to the homeless and to refrain from initiating contacts that interrupt the innocent activity and may violate an individual's constitutional rights.

The intent of the Legislature in adopting *An Act to Require the Use of the Homelessness Crisis Protocol (Appendix #1)* by Law Enforcement Agencies is to provide a response other than traditional entry into the criminal justice system for homeless persons whose public behavior constitutes certain low-level violations of law. Citing or arresting homeless persons for these low-level or quality of life infractions or life-sustaining activities are emotionally and physically traumatizing, as well as disruptive to progress toward ending homelessness. Public order may be best served through the promotion of referrals to available services, even when services have been previously declined.

This procedure is the preferred approach, with citation or arrest being the last resort. However, recognizing that each situation is likely to present unique factors that will inform the level of response required, the protocol does not constitute the exclusive means by which relevant situations must be managed nor does it discourage the application of judicious discretion based on the totality of a given situation.

III. DEFINITIONS

1. **Homeless Person:** An individual who lacks a fixed, regular, and adequate nighttime residence, a stable residence, or any residence at all, or has a primary nighttime residency that is:
 - a. A supervised publicly or privately operated shelter designed to provide temporary living accommodations.
 - b. An institution that provides a temporary residence for individuals intended to be institutionalized.
 - c. A private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.
2. **Law Enforcement Agency:** Any state, county, municipality, or another political unit within the territory belonging to the State or any department, agency, or subdivision of any of the foregoing, or any corporation or other associate carrying out the functions of government that employs law enforcement officers. **Law Enforcement Officer:** Any person who is vested by law with the authority to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.
3. **Listed Offense:**
 - a. The provisions of the crime of **Criminal Trespass** that violates 17-A M.R.S. § 402(1)(C) – A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters any place from which that person may lawfully be excluded and that is posted in accordance with [the law] or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders; *or* criminal trespass in violation of 17-A M.R.S. § 402(1)(F) – A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting.
 - b. The provision of the crime of **Disorderly Conduct** that violates 17-A M.R.S. § 501-A(1)(A) - A person is guilty of disorderly conduct if, in a public place, the person intentionally or recklessly annoys others by intentionally (1) making loud and unreasonable noises; (2) activating a device, or exposing a substance, that releases noxious and offensive odors; or (3) engaging in fighting, without being licensed or privileged to do so.
 - c. The provision of the crime of **Indecent Conduct** that violates 17-A M.R.S. § 854 that is based on urinating in public.
 - d. The provisions of the crime of possession of a scheduled drug in violation of 17-A M.R.S. c. 45 that is based on using the scheduled drug; or
 - e. **Public drinking** in violation of 17 M.R.S. § 2003-A(2) - A person is guilty of public drinking if the person drinks liquor in any public place within 200 feet of a notice posted conspicuously in the public place by the owner or authorized person that forbids drinking in the public place or after being forbidden to do so personally by a law enforcement officer unless the person has been permitted to do so by the owner or authorized person.

IV. PROCEDURE

1. The primary decision-maker for diverting individuals from the criminal justice system is the officer in the field under the clear criteria outlined in this policy. The Lincoln Police Department expects that diversion from the criminal justice system will be practiced for appropriate individuals experiencing homelessness who are accused of having committed crimes such as the listed offense above.

2. Diversion Factors

- a. Adults who have a known history of alcohol, drug, or mental health-related needs and are a factor in being homeless may be eligible for diversion. Homeless individuals may be referred to community resources when an individual has committed any of the following offense(s) listed above under the following conditions:
 - 1) Any offense under 17-A M.R.S. Chapter 45 where there is no clear evidence beyond quantity/weight of drugs alone that the individual is engaged in trafficking or furnishing of drugs.
 - 2) Non-Violent Crime(s) when the following criteria are present:
 - i. The complainant/victim is willing to decline prosecution, if applicable, to allow the offender to proceed with diversion processes; and
 - ii. The individual committed an offense(s) where there is a nexus to alcohol, drug, homelessness, or mental health-related need, which can be based on, but not limited to, the following:
 - a) Police reports, arrest records, criminal histories, etc., indicating that the individual was engaged in such activity; or
 - b) Direct observation by law enforcement of the individual engaged in such activity; or
 - c) Law enforcement has a reliable basis of information to believe that the individual is engaged in such activity, such as information provided by another first responder, a professional, or a witness.

3. Circumstances and Assistance

A member of the Lincoln Police Department who responds to a call or otherwise encounters a person who is committing or has committed a listed offense shall inquire whether the person has a home or lacks a home. If the person lacks a home, the employee shall respond to the person.

- a. Assistance - Officers may approach a homeless person to advise of the assistance of shelters and services which are currently available. The officer may call for the assistance community support systems when they are available, to help with appropriate placement. The homeless person may or may not accept the assistance or referral or may even walk away from the area before help arrives. Officers may transport homeless persons to a shelter when they accept such a referral. The homeless individual will be searched for weapons and/or contraband before being transported.

- b. Homeless Encampments - The removal of illegal encampments of homeless persons is the responsibility of the owner of the property, whether it is public or private. Law enforcement action may be taken in instances of trespassing, illegal dumping, criminal investigations, etc. When requested, officers may stand by to keep the peace but will not participate in the removal and/or destruction of personal items from such encampments or prevent the homeless from retrieving belongings from the area without a legitimate reason. Whenever possible, officers should encourage property owners to give posted notice of the pending activity prior to the clean-up. Officers may request the assistance of city or county clean-up crews on public property (i.e., rapid response).
- c. Arrest Situations - Diversion from the criminal justice system is desired and preferred when encountering a homeless person engaged in the "listed offenses" or other public disorder crimes. If an arrest must be made, the arrest of all persons, including those defined as homeless, will comply with appropriate statutes, ordinances, codes, and department policies and procedures. Officer discretion will determine whether a physical arrest is to be made in the same manner as any other person who is not homeless. If the decision is made not to arrest, officers are encouraged to utilize referrals to local community support services, appropriate homeless shelters, or social service providers. It must be recognized that such a referral is contingent on the voluntary agreement of the homeless person to accept the referral.
- d. Personal Property - The personal property of homeless persons will be respected. Officers may allow homeless persons to take a limited number of personal items with them when arrested on a criminal matter. If necessary for an officer to collect such items when a criminal arrest is made, consideration must be given to officer safety in handling the items as well as the health and safety of those who may meet the property in the property room. Items that may be considered personal property and brought with homeless persons include radios, audio, and video equipment, medication, personal papers, photographs, books, and other reading materials, luggage, backpacks or other storage containers, clothing, shoes, toiletries, and cosmetics, clocks and watches, eyeglasses, bedrolls, and blankets and pillows (if not damp or soiled with urine or fecal matter). If necessary to dispose of such items for health and safety reasons, a notation will be made in an Offense Report (or Arrest Report, as appropriate) describing why such property was not allowed.

Refuse or items that represent a health and safety hazard may be disposed of immediately. Wet or damp property (rain, dew, or sprinkler), soiled items (food, urine, or fecal matter), and perishables will not be impounded. Such items include, but are not limited to, paper refuse, food remains, empty glasses, bottles or cans, towels, bedrolls, and blankets and pillows (only if soiled with urine or fecal matter).

V. EXCLUSION CRITERIA FOR DIVERSION:

1. Individuals who are homeless shall be considered ***ineligible for diversion*** if, at the time of initial contact, the officer has knowledge the individual meets any of the following criteria:
 - a. Active arrest warrant.
 - b. The individual exploits minors or others.
 - c. There is probable cause to believe the individual committed a violent offense.
 - d. There is probable cause to believe the individual violated an order of protection.
 - e. There is probable cause to believe the individual committed a domestic violence offense.
 - f. There is probable cause to believe the individual committed a sex offense.
 - g. The individual is currently under the supervision of probation or parole.
 - h. The individual needs acute emergency care and is taken to a hospital for treatment.
 - i. The victim of the crime, if applicable, is opposed to the diversion.
 - j. There is probable cause to believe that the individual committed or the individual has been convicted of any felony offense(s), that would fall under the definition of "Violent Offenses" within this policy within the past five years.

VIII. COMMUNITY SUPPORT RESOURCES:

Officers should be familiar with local and state resources to assist individuals experiencing homelessness and other factors associated with homelessness.

[Community Resource Handout](#)

Below are only some of the local, state, and national resources officers should also be familiar with.

Local Area Resources:

1. Town of Lincoln General Assistance: [General Assistance | Town Of Lincoln \(lincolnmaine.org\)](http://lincolnmaine.org) .
Phone number during business hours: 207-794-3372. After Hours: 207-794-2221
Address: 29 Main Street Lincoln, Maine 04457
2. Bangor Area Homeless Shelter: <https://www.bangorareashelter.org>.
Phone Number: 207-947-0092 Address: 263 Main Street Bangor, Maine
3. Hope House Health and Living Center: Phone Number: 207-217-6713
Address: 179-181 Corporate Drive Bangor, Maine 04401
4. Union Street Brick Church: <https://downtownbangor.com/business/union-street-brick-church>
Phone Number: 207-945-9798 Address: 126 Union Street Bangor, Maine 04401
5. Partners for Peace: **(DV VICTIMS)** <https://www.partnersforpeaceme.org>
Phone Number: 1-800-863-9909
6. Shaw House: **(JUVENILES)** <https://comcareme.org/shawhouse> Phone Number: 1-866-561-7429
Address: 136 Union Street Bangor, Maine 04401
7. Penquis CAP: <https://www.penquis.org> Phone Number: 1-800-215-4952
Address: 262 Harlow Street Bangor, Maine 04401

State Resources:

1. Maine Housing Authority Emergency Shelters <https://www.mainehousing.org/programs-services/homeless/emergency-shelters>
2. 211 Maine <https://211maine.org/>
3. HUD Exchange <https://www.hudexchange.info/housing-and-homeless-assistance/>
4. Department of Health and Human Services <https://www.maine.gov/dhhs/obh/support-services/housing-services>

National Resources:

1. National Alliance to End Homeless <https://endhomelessness.org>
2. National Homeless Organization <https://nationalhomeless.org/>

Other Resources:

Childhood Mental Illness- Pathways

Tessa Grindle, LCSW – District Director Eastern & Northern ME

Katrina Lemos, LCSW – Clinical Supervisor

Pathways provides home-based behavioral health treatment services and care coordination for children and families.

pathwaysofmaine.com – 207-631-2201

Mental Health Overview

Alexis Petterson- apetterson@chcs-me.org – Crisis Services - CHCS

Community Health and Counseling Services provides a wide range of community-based mental health services for children, adolescents and adults.

Dementia & Law Enforcement

Dr. Niamh Holohan, MD – niamh777@icloud.ocm – Psychiatrist - Penobscot Community Health Care

PCHC's services include addictions medicine, geriatric psychiatry, child psychology, medication management, counseling, therapy and social services.

Severe and Persistent Mental Illness

Rhonda Clukey - Contact@chcs-me.org - Community Health and Counseling Services (CHCS) - ACT Team

The ACT program is an intensive community-based (outpatient) treatment program with a multi-disciplinary team of providers that supports eligible adults and children.

chcs-me.org – 1-800-924-0366

Autism/Developmental Disabilities

Cathy E. Dionne – Executive Director of Autism Society of Maine – asm@asmonline.org

The Autism Society of Maine provides education and resources to support the valued lives of individuals on the Autism spectrum and their families.

asmonline.org - 1-800-273-5200

Substance Use Disorder

Wally Fraser, LCPC, CCS- Counselor – 207-690-6474

Wally Fraser works with clients on addressing underlying trauma and other causes of anxiety. He specializes in trauma, PTSD, and also specializes in working with law enforcement

Protective Custody/Title 34B & LEO Liability

Molly Moynihan – Assistant Attorney General–molly.moynihan@maine.gov–207-626-8800-maine.gov/ag

Vet Issues

Joleen Lilley, LCSW - joleen.lilley@va.com – 207-623-8411 x3078

Mike Pooler - mgpooler@gmail.com

The VA offers confidential help for Veterans, service members, and their families, free of charge and without limitation. The services include counseling and connection to community resources.

Bangor Vet Center- va.gov/bangor-vet-center - 207-947-3391

Domestic Violence Resource Center:

Partners for Peace- partnersforpeaceme.org

Helpline: 1-800-863-9909

Sexual Assault Support Center:

Rape Response Services- rrsonline.org

Helpline: 1-800-871-7741

OPTIONS:

The OPTIONS program has liaisons that work alongside first responders to proactive outreach, de-escalate behavioral crises when possible, and engage in post-overdose follow-up and help with referrals.

Penobscot County - Ashley Roberts, CADC – aroberts@chcs-me.org – (207) 991-1162

PATH:

The PATH program is designed to support the outreach, engagement and delivery of services to eligible persons who are homeless and have serious mental illness and/or co-occurring substance use disorder.

Aroostook County - Michael Kashey – 207-922-4600 x6550 – mkashey@chcs-me.org

NAMI Maine:

Support Groups - namimaine.org/support-groups

Penobscot County Affiliate – daved@namimaine.org

800-464-5767 (press 1 for helpline) – namimaine.org

Maine Crisis Line

1-888-568-1112 – ask to be connected to Community Health & Counseling Services

Community Health & Counseling Services Crisis Services

Chcs.me.org



OFFICE OF THE ATTORNEY GENERAL

HOMELESSNESS CRISIS PROTOCOL

I. Purpose

This protocol is issued to all law enforcement agencies by the Attorney General to comply with the requirement of 17-A M.R.S. §18 [PL 2021, c. 393, §1] that the Attorney General adopt a model homelessness crisis protocol.

II. Declaration of Public Policy

The intent of the Legislature in adopting *An Act to Require the Use of Homelessness Crisis Protocols by Law Enforcement Agencies* is to provide a response other than traditional entry into the criminal justice system for homeless persons whose public behavior constitutes certain low-level violations of law. Citing or arresting homeless persons for these low-level or quality of life infractions or life-sustaining activities are emotionally and physically traumatizing, as well as disruptive to progress toward ending homelessness. Public order may be best served through the promotion of referrals to available services, even when services have been previously declined. This procedure is the preferred approach, with citation or arrest being a last resort. However, recognizing that each situation is likely to present unique factors that will inform the level of response required, the protocol does not constitute the exclusive means by which relevant situations must be managed nor does it discourage the application of judicious discretion based on the totality of a given situation.

III. Definitions

As used in this protocol, unless the context otherwise indicates, the following terms have the following meanings:

- B. "Homeless person" means a person who lacks a fixed, regular, and adequate nighttime residence.
- C. "Law enforcement agency" means any state, county, municipality, or another political unit within the territory belonging to the State or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government that employs officers.
- D. "Law enforcement officer/ officer" means any person who is vested by law with the authority to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

E. “Listed offense” means:

- a. The provisions of the crime of Criminal Trespass that violates 17-A M.R.S. § 402(1)(C) – A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters any place from which that person may lawfully be excluded and that is posted in accordance with [the law] or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders; or criminal trespass in violation of 17-A M.R.S. § 402(1)(F) – A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting.
- b. The provision of the crime of Disorderly Conduct that violates 17-A M.R.S. § 501-A(1)(A) - A person is guilty of disorderly conduct if, in a public place, the person intentionally or recklessly annoys others by intentionally (1) making loud and unreasonable noises; (2) activating a device, or exposing a substance, that releases noxious and offensive odors; or (3) engaging in fighting, without being licensed or privileged to do so.
- c. The provision of the crime of Indecent Conduct that violates 17-A M.R.S. § 854 that is based on urinating in public.
- d. The provisions of the crime of possession of a scheduled drug in violation of 17-A M.R.S. c. 45 that is based on using the scheduled drug; or
- e. Public drinking in violation of 17 M.R.S. § 2003-A(2) - A person is guilty of public drinking if the person drinks liquor in any public place within 200 feet of a notice posted conspicuously in the public place by the owner or authorized person that forbids drinking in the public place or after being forbidden to do so personally by an officer unless the person has been permitted to do so by the owner or authorized person.

IV. Minimum Standards

- A. By March 1, 2022, all law enforcement agencies must adopt a homelessness crisis protocol. The protocol may, but is not required to, conform with the standards of this model protocol of the Attorney General.
- B. The chief administrative officer of each law enforcement agency shall certify to the Attorney General in a manner prescribed by the Attorney General that such a protocol has been adopted and that officers of the agency have been provided orientation and training concerning the requirements of the protocol.
- C. The protocol must include a statement that diversion from the criminal justice system is desired and preferred when encountering a homeless person engaged in a listed offense or other criminal behavior designated by the agency.

- D. The protocol must, at a minimum, include referral to available crisis services, mental health and substance use disorder professionals, emergency and transitional housing, and case management services, and the method or means of accessing such services.
- E. The protocol must describe the procedure by which a officer is required to comply when encountering a homeless person who is committing or has committed a listed offense or other criminal behavior enumerated in the agency's homelessness crisis protocol.
- F. The protocol must provide for a periodic review of the agency's protocol at least once every two (2) years to which the agency invites relevant stakeholders to discuss the effectiveness and sufficiency of the agency's protocol.
- G. The protocol constitutes a public record that is available for inspection or copying under 1 M.R.S. § 408-A.

V. Procedure

- A. A officer who responds to a call or otherwise encounters a person who is committing or has committed a listed offense shall inquire whether the person has a home or lacks a home. If the person lacks a home, the officer shall respond to the person using the homelessness crisis protocol adopted by the officer's law enforcement agency.

Dated: 1 March 2022

AARON M. FREY
Attorney General