



ORONO POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES

Protect with Vigilance & Serve with Compassion and Excellence

Subject:	Homeless Diversion Response	Policy #	O-58
Effective Date:	May 22, 2025	Review Cycle:	2 Year
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	<i>Rescinds All Previous Policies Related to This Current Policy</i>		MCJA Required Policy
Issuing Authority:	Chief of Police Daniel Merrill		

I. POLICY

It is the policy of the Orono 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.

II. PURPOSE

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

III. DEFINITIONS

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.

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.

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 provisions 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. chapter 45 that is based on using the scheduled drug.
- e. The provision of the crime of **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 Orono 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 Orono 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 it is 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. Below are only some of the national and state resources officers should also be familiar with.

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>
5. National Alliance to End Homeless <https://endhomelessness.org/>
6. National Homeless Organization <https://nationalhomeless.org/>
7. Bangor Area Homeless Shelter <https://www.bangorareashelter.org/>

(Appendix #1)



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 law enforcement officers.

D. “Law enforcement 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 a law enforcement 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 law enforcement 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 law enforcement 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 law enforcement 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 law enforcement officer shall respond to the person using the homelessness crisis protocol adopted by the officer's law enforcement agency.

Dated: _____

AARON M. FREY
Attorney General