



PROTOCOL FOR
THE ASSISTANCE,
GUIDANCE
AND REFERRAL OF
HOMELESS PERSONS
WHO APPEAR IN
THE COURT OF FIRST
INSTANCE

Commonwealth of Puerto Rico
GENERAL COURT OF JUSTICE
Office of Court Administration

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THE COURT OF FIRST INSTANCE***

February 2010

Memorandum No. 191 of March 9, 2010 (FY 2009–2010)

*This is an official translation prepared by the Bureau of Translations of the Supreme Court of Puerto Rico.

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I. PREAMBLE

Article II, Section 1 of the Constitution of the Commonwealth of Puerto Rico provides that the dignity of the human being is inviolable and that all men are equal before the law. Moreover, the Constitution grants to the Puerto Rico Judiciary the power to adjudicate cases and controversies, and specific disputes between private and public parties. The courts are the forum to which citizens resort seeking a fair resolution of their affairs. In keeping with this mandate, the Judicial Branch expressly states that its mission is: *To dispense justice and decide the cases, controversies, and disputes submitted for its consideration with independent criteria, diligence, sensitivity, and impartiality, guaranteeing the people’s constitutional rights and freedoms.* This is achieved under a judicial system whose vision is to be accessible to all, *diligent in the adjudication of matters, sensitive to social issues, innovative in the provision of services, committed to administrative excellence and to its human capital, and deserving of the people’s trust.*

To honor this commitment and meet the expectations of society regarding its operations, the Judicial Branch prepared, and has been implementing its *Strategic Plan: Work of Justice 2007-2011*, through which it promotes programs and projects that provide services to all citizens and guarantee access to justice. Goal III.1 of the Strategic Plan is to “[f]acilitate the most extensive citizen access to the justice system.” Goal III.3 is to “[i]mprove the courts’ capability to address matters concerning family relations, minors, victims of domestic violence, the elderly, and the homeless promptly and with sensitivity.”¹

In line with these strategic goals aimed at the citizenry (particularly at its vulnerable sectors), it has become utterly important to have a protocol whose exclusive purpose and goal is to address the needs of the homeless. This Protocol establishes guidelines for the provision of adequate assistance and attention to homeless persons who appear in the Court of First Instance and sets down the factors to be considered by employees, officials, and judges of the Court of First Instance—according to their abilities and in the discharge of their functions—when dealing with homeless persons. It also articulates ethical, legal, and procedural guidelines that must be followed in those cases in order to optimize assistance, guidance, and the coordination of services within a framework governed by the principles of law and justice.

The Protocol also acknowledges that addressing the needs of the homeless mainly entails the intervention, coordination, and participation of the social protection systems. Thus, it is incumbent upon social institutions and other

¹ Although [the original Spanish version of] the Strategic Plan refers to these persons as *deambulantes* [“vagrants”], this term was modified to adapt it to the applicable law in force.

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government entities to address these situations. It is therefore imperative to strengthen the bonds between the court and the community and to promote relations and interaction with government and non-governmental institutions responsible for providing social, emotional, and legal support services in an attempt to create new spaces for identifying homeless persons and provide them with coordinated response, thus enhancing their well-being, facilitating their integration to society, and mitigating the damage caused by situations of exclusion.

II. TITLE

This document is entitled “Protocol for the Assistance, Guidance and Referral of Homeless Persons Who Appear in the Court of First Instance.”

III. LEGAL BASIS

1. Article V, Section 7 of the Constitution of the Commonwealth of Puerto Rico.
2. Article II, Section 1 of the Constitution of the Commonwealth of Puerto Rico.
3. Canons of Judicial Ethics of Puerto Rico of 2005.
4. Code of Ethics for Officials, Employees, Former Officials and Former Employees of the Judicial Branch of 1998.
5. Rules for the Administration of the Court of First Instance of the Commonwealth of Puerto Rico of June 30, 1999, as amended, Rule 44.
6. Rules of Criminal Procedure of 1963, as amended.
7. Judiciary Act of the Commonwealth of Puerto Rico, Law No. 201 of August 22, 2003, as amended.
8. Act for the Rendering of Services to Homeless Persons, Law No. 199 of December 14, 2007.
9. Act to Create the Multi-Sector Homeless Population Support Council, Law No. 130 of September 27, 2007, as amended.
10. Domestic Abuse Prevention and Intervention Act, Law No. 54 of August 15, 1989, as amended.
11. Act Against Stalking in Puerto Rico, Law No. 284 of August 21, 1999, as amended.
12. Comprehensive Child Well-Being and Protection Act, Law No. 177 of August 1, 2003, as amended.
13. Bill of Rights for Elderly Persons, Law No. 121 of July 1, 1986, as amended.
14. Act to Create the Mental Health and Addiction Services Administration, Law No. 67 of August 7, 1993, as amended.

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15. Mental Health Code, Law No. 408 of October 2, 2000, as amended.
16. Special Legal Proceedings Act (formerly part of the Code of Civil Procedure), sec. 620 *et seq.* (eviction proceedings).
17. Controversies and Provisional Legal Status Act, Law No. 140 of July 23, 1974, as amended.
18. Penal Code of the Commonwealth of Puerto Rico, Law No. 149 of June 18, 2004, as amended.
19. Uniform Guidelines for the Operation of the Drug Court Program, December 9, 2008, Office of Court Administration, in collaboration with the Department of Justice, the Mental Health and Addiction Services Administration, the Department of Correction and Rehabilitation, the Puerto Rico Police Department, and the Legal Aid Society, effective January 9, 2009.
20. Act to Establish the Crime Victims Compensation Office, Law No. 183 of July 29, 1998, as amended.

IV. PURPOSE

*“All components of a . . . government bear the responsibility to see that justice prevails; but . . . the duty to resolve controversies that may arise over the rights and obligations of opposing parties lies primarily with the Judiciary.”*² Far beyond the resolution of controversies and disputes, the public policy of the Judicial Branch promotes the use of the law as an instrument of social change that leads to the well-being of the citizenry, in accordance with the avant-garde judicial trends of Therapeutic Jurisprudence. Likewise, the Judicial System requires the support of government and non-governmental organizations in an effort of Collaborative Justice to fully address the situation faced by diverse populations that have shown signs of social vulnerability and, therefore, confront greater obstacles in order to gain access to justice.

The success of this effort will depend, to a great extent, on the support received by the courts for the coordination of services with entities that have been directly or indirectly charged with the implementation of public policy. These entities have the necessary programs and resources to efficiently meet the specific needs of the homeless. Law No. 130 of September 27, 2007, as amended, better known as the Act to Create the Multi-Sector Homeless Population Support Council, promotes the development of strategies that effectively address the needs of the homeless. It is important for the Judicial Branch to establish its own action protocol so that it may participate in the intervention initiatives of the different entities

² [Work of Justice] Strategic Plan of the Judicial Branch of Puerto Rico for 2007-2011.

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involved in the Council and address the different problems of the homeless in a comprehensive and effective manner.

This document serves the following purposes:

1. To establish uniform guidelines to address legal issues in which a case or controversy is identified.
2. To specify the different proceedings in which the courts have not identified the existence of a case or controversy, but have before them a homeless person whose situation requires services that must be provided by entities and institutions established for such purposes.
3. To establish guidelines to consolidate comprehensive care networks using court referrals and decisions—where applicable—as instruments, as well as the action and intervention protocols of the different entities concerned.

The document essentially integrates three areas. The first one involves the handling of legal issues and affairs of the homeless population. It encompasses proceedings derived from the applicable civil and criminal legislation that may affect the homeless so that it may be possible to find, with a single instrument and through an orderly series of steps based on positive rules of law, a coherent, safe and easily accessible source for handling and addressing their legal issues with special attention to their particular situation.

The second area provides simple procedures for locating and identifying existing services available for this population group in the absence of a legal issue.

The third area reiterates the ethical principles and conduct that must prevail in all proceedings. The court can and must act as a facilitator so that no homeless person is deprived of the assistance and attention he or she needs, in the spirit of our motto: *We are all Justice*.

V. APPLICABILITY

These guidelines apply to matters brought before the Court of First Instance and to all the judges, officials, and employees of this judicial level, including, among others, any person hired to provide security or professional services, whose responsibilities are set forth in these guidelines, without affecting such fundamental principles as judicial discretion and independence.

VI. DEFINITIONS

- A. **Attention**: Observation, courtesy, respect, empathy, and sensitivity when identifying the needs of homeless persons and channeling such needs through government and non-governmental organizations in order to provide alternatives that lead to a better quality of life.

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- B. **Conflict Mediation Center (CMC)**: The Conflict Mediation Centers of the Judicial Branch of Puerto Rico, which provide guidance and mediation services in different types of controversies. Guidance is a brief service provided for the purpose of suggesting possible management alternatives, among which is mediation. Guidance services are provided by means of individual, private, and confidential interviews. Mediation, which involves working directly with the two parties to a controversy, begins with individual interviews and continues with joint, private, and confidential sessions. The purpose of this service is to facilitate negotiations leading to a compromise agreement.
- C. **Judicial Center**: Main administrative subunit and administrative seat of each judicial region.
- D. **Substance Dependence**: Includes addiction to, and abuse of controlled or over-the-counter, legal or illegal substances, including alcohol, that adversely affect and endanger an individual's physical, psychological and social well-being.
- E. **Service Directory**: Easy-reference document containing the names and contact information of government and private entities that provide services to citizens and, particularly, to the homeless.
- F. **Protection Order**: A written order issued under the seal of a court to instruct the respondent to carry out or refrain from performing or engaging in certain acts or in conduct that constitutes domestic abuse or violence.
- G. **Guidance**: Verbal and/or written information provided about available services to meet the needs of homeless persons, guaranteeing the confidentiality of the matters discussed during the process. It involves the sharing of information with the homeless person to identify and channel his or her needs.
- H. **Respondent**: Any individual against whom a protection order is requested.
- I. **Petitioner**: Any individual who asks a court to issue a protection order.
- J. **Homeless Person or Homeless Population**: Includes every person who: (1) lacks a fixed, regular, and adequate nighttime residence; (2) has a primary nighttime residence that is: (a) a supervised, publicly or privately operated shelter designed to provide emergency temporary living accommodations, including transitional housing for the mentally ill or for other special-needs groups who are living on the streets; (b) an institution that provides a temporary residence for individuals in the process of being institutionalized; (c) a public or private space not

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designed for, or ordinarily used as a regular sleeping accommodation for human beings; (d) any room, including the living room of a private residence, used temporarily as shelter as an act of charity, on condition that said use is for a short term and may end at any time, with or without prior notice; or (3) any person included in the definition of the terms homeless, homeless individual, or homeless person in Public Law 100-77 of July 22, 1987, as amended, better known as the Stewart B. McKinney Homeless Assistance Act. This list is not exhaustive.

- K. Elderly Person:** Any person 60 years of age or older.
- L. Drug Court Program:** Court divisions that handle persons charged with substance-related offenses based on a therapeutic jurisprudence approach and through intensive judicial supervision to contribute to their rehabilitation and reduce substance-related criminal recidivism.
- M. Treatment Program:** Structured services plan aimed at providing the assistance needed for the referred participant's well-being. Any duly certified in-house or outpatient institution that provides evaluation, diagnostic, and treatment services to citizens.
- N. Rehabilitation:** Effort to mitigate the level of biological, social or psychological impairment of an individual who suffers from a mental disorder or substance dependence.
- O. Referral:** Directing and guiding a homeless person to gain access to urgent services. This may involve the performance of several tasks, including: (1) telephone calls, (2) written documents, and (3) court orders, among others.
- P. Judicial Region:** Main administrative unit of the Court of First Instance that covers a specific geographic area and comprises a judicial center and other divisions of the Court of First Instance. There are 13 judicial regions with seats in Aguadilla, Aibonito, Arecibo, Bayamón, Caguas, Carolina, Fajardo, Guayama, Humacao, Mayagüez, Ponce, San Juan, and Utuado.
- Q. Mental Health:** A state of complete physical, mental and social well-being in which individuals, by using their intellectual, emotional, ethical, and spiritual faculties, as well as social resources, are able to make rational and creative decisions, foresee the consequences of their actions, acknowledge their mistakes, feel comfortable with themselves, adequately relate to other individuals and contribute to their well-being, make efforts to achieve their personal potential and goals, constructively adapt to change, cope with the ordinary demands and stress of everyday

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life, work productively, and contribute to their community and to society in general.

- R. **Advocacy Services:** Services provided during the judicial process to victims of domestic violence by an advocate who has received training or taken accredited courses in the field of counseling, guidance, psychology, social work, or legal advocacy.
- S. **Peripheral Court:** Court divisions or physical facilities other than judicial centers that are located outside judicial centers and at which legal proceedings may take place. Peripheral courts are located in some of the municipalities that make up each judicial region.
- T. **Follow-Up Hearing:** Hearing held by the court to ensure continuing compliance with court orders.

VII. BASIC PRINCIPLES

The actions of the judges, officials, and employees of the Judicial Branch will be guided by the ethical principles that govern their respective duties, as well as by the rules, orders, and procedures required by the Judicial Branch. These standards of conduct will include compliance with the following principles to optimize the assistance provided to the homeless population, for which reason this Protocol is issued:

A. **Principle of Access:**

It is of vital importance to facilitate assistance and provide attention to the homeless, taking into consideration their emotional and physical condition and their safety. Depending on the situation, these individuals could exhibit confusion, fear, aggressiveness, and desperation, as well as other conditions that may be reflected in their conduct and appearance. It is essential to promptly articulate appropriate procedures and protection measures, as required by each case.

B. **Principle of Respect:**

Respect and protection of the privacy and dignity of the human being are our goals. A cordial treatment and the capacity to show awareness and understanding of their situation generate trust and prevent an increase in victimization.

C. **Principle of Sensitivity:**

It is utterly important to remember that homeless persons find themselves in a complex situation. The precariousness of their condition attaches a social stigma that impairs their access to justice. It is our duty to protect the dignity, liberty, and equality guaranteed by the Constitution and the laws to all individuals, regardless of their condition.

D. Principle of Information:

1. Judges, officials, and employees must provide advice and information in simple and easy terms that may allow the person to understand the judicial proceeding in which he or she is involved. This includes clearly stating his or her rights, the rules that protect him or her, and the procedures or measures these may entail.
2. The exchange of information will take place for the sole purpose of facilitating and enabling the person's referral to other entities for their intervention.
3. During the identification process and the channeling of services, the information furnished by homeless persons who appear in court will be treated as confidential and will be used to provide alternatives in order to meet their particular needs.

E. Interdisciplinary Principle:

Based on the acknowledgment of the multidimensional, relative, and dynamic nature of the social disadvantage of the homeless, judicial intervention must be comprehensive and receive the support of other disciplines that promote the efficacy of said intervention. This requires the collaboration of other entities that address the elements that contribute to the state of helplessness and neglect into which this population has been plunged.

VIII. GENERAL GUIDELINES

- A. In compliance with the public policy established in the Judicial Branch, judges, officials, and employees shall treat all homeless persons visiting court facilities with sensitivity, courtesy, and compassion.
- B. No person seeking services, including the homeless, will be denied entrance to court facilities because of his or her clothes or hygiene.
- C. Judges, officials, employees, and subcontracted personnel will assist all citizens who may require their services, regardless of their clothes or hygiene.
- D. After assessing the situation, the personnel from the Marshal's Office and the Court Clerk's Office, who are the first to interact with court visitors, will refer the homeless person to the CMC, the Drug Court Program, or the pertinent unit available to receive information on available services. Before doing so, the personnel must consult the coordinating judge of the Investigations Unit, the judge presiding over preliminary hearings, the judge presiding over trials on the merits, or the judge on duty. The support provided by the CMC and the Assistant

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Drug Court Program Coordinator shall not be interpreted as a formal referral to those offices. These judicial components will use their collaborative services network with government agencies and non-governmental organizations for the prompt and effective identification of available services.

- E. When a homeless person appears before the judge on duty in a civil or criminal case, the judge, should he or she deem it necessary, and without affecting the proceedings, may request the assistance of the Assistant Drug Court Program Coordinator, of the CMC, or of the corresponding available unit in order to receive information about the location of existing service centers.
- F. When a homeless person appears in court or visits a judicial facility outside court business hours, or during the weekend or on a holiday, the judge may use the Service Directory that accompanies this document, or the current Directory, to guide or refer the person.
- G. The judge may request free, pro-bono legal representation services for the homeless from available organizations when the circumstances so require in order to guarantee due process of law and for the sole purpose of protecting the well-being of these persons.
- H. In all possible scenarios listed in this document, the judge shall retain discretion to schedule follow-up hearings, whenever he or she may deem it necessary, to corroborate the results of the steps taken by government and non-governmental organizations to identify available services.
- I. When the judge determines that he or she cannot grant a civil remedy, finds no probable cause under the provisions of Criminal Procedure Rule 6, or does not identify the elements established by law to commit a person to a penal institution, and realizes in the course of the proceedings that the person is homeless, the judge may request support from the CMC, the Assistant Drug Court Program Coordinator, and personnel from the Marshal's Office and the Court Clerk's Office to identify those organizations that provide the necessary services, as these may be available.
- J. When the judge identifies any party, witness or aggrieved party as a homeless person, whenever he or she deems it appropriate and without affecting the proceedings, the judge may advise and inform that person about the services available in the community to address his or her physical or mental condition.

IX. GUIDELINES FOR SPECIFIC SITUATIONS IN CRIMINAL PROCEEDINGS

A. Criminal Procedure Rule 6

1. When a homeless person appears before a judge and the judge finds probable cause for arrest for an offense that does not require the posting of bail, the imposition of conditions, or a deferred bail order to remain free, the judge must inform that person about the services available in light of the person's physical or mental condition or about any other assistance or service that the judge may deem appropriate. To such ends, the judge may use the Service Directory that accompanies this document or the current directory.
2. When a homeless person appears before a judge and the judge finds probable cause for arrest for an offense for which the judge considers the posting of bail, the judge may evaluate—within his or her judicial discretion—whether to impose as a condition that the person charged submit to medical or psychiatric treatment or treatment to prevent drug or alcohol dependence, should these conditions be present.
3. If probable cause is not found, the judge may refer to the General Guidelines of this Protocol or of the current Protocol.

B. Preliminary Hearing

1. When a homeless person appears before a judge and the judge finds probable cause to charge said person with an offense that does not require the posting of bail, the imposition of conditions, or a deferred bail order to remain free, the judge must inform that person about the available services that said person may need to treat the physical or mental condition he or she may have, or about any other assistance or service that the judge may deem appropriate. To such ends, the judge may use the Service Directory that accompanies this document or the current directory. The judge may rely on personnel from the Marshal's Office and the Court Clerk's Office, the Assistant Drug Court Program Coordinator, or the CMC for support to take the necessary steps to search for services.
2. When a homeless person appears before a judge and the judge finds probable cause to charge said person for an offense for which the judge considers the posting of bail, the judge may evaluate—within his or her judicial discretion—whether to impose as a condition that the person charged submit to medical or psychiatric treatment or treatment to prevent drug or alcohol dependence, should these conditions be present. The judge's discretion to impose the condition that the accused undergo

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treatment may be exercised as long as the bail or conditions imposed by a judge of a higher category are not altered, unless probable cause is found at the preliminary hearing to charge the homeless person for a lesser offense than that originally charged against him or her.

3. The personnel from the Marshal's Office and the Court Clerk's Office, the Assistant Drug Court Program Coordinator, or the CMC shall provide support in order to identify available treatment options. The support provided by the CMC and the Assistant Drug Court Program Coordinator shall not be construed to be a formal referral to those offices. These judicial components will use their collaborative services network with government agencies and non-governmental organizations for the prompt and effective identification of available services.
4. Should probable cause not be found, the judge may refer to the General Guidelines of this Protocol or of the current Protocol.
5. When a judge finds probable cause to charge a homeless person, and the homeless person or his or her counsel informs the judge about that person's dependence on drugs and about the person's willingness to enter a treatment program, the court will refer the case to the Drug Court Program for evaluation, provided that the person meets the Program's eligibility criteria. The Program shall comply with the pertinent investigations and procedures and shall timely determine if the case is accepted in accordance with the Uniform Guidelines for the Operation of the Drug Court Program of December 9, 2008.
6. The judge will ask the aggrieved party if he or she was informed about the services available from the Victims and Witnesses Assistance Division and the Crime Victims Compensation Office of the Department of Justice. If the person has not received such information, the judge shall make sure that he or she receives it from the prosecutor or from officers from said programs.

C. Trial/Post Sentencing/Resolution

1. When a judge sentences a homeless person to serve time in a correctional institution, the judge may expressly include in said sentence a provision to have the Corrections Administration coordinate the necessary services before said person serves out the sentence.

X. GUIDELINES FOR SPECIFIC SITUATIONS IN SPECIAL CIVIL PROCEEDINGS

A. Special Legal Proceedings Act sec. 620 *et seq.* (eviction proceedings)

1. In cases in which the judge determines that a family about to be evicted is financially insolvent and/or there are minors, the judge will order the Clerk of the Court to serve a copy of the judgment to the Department of the Family and to the Housing Department so that they may provide their services to the affected family. In addition to ordering that the central offices be notified, the judge may order that the local and regional offices also be notified, in particular the Administration for the Socioeconomic Development of the Family (ADSEF). It is recommended that personnel from the Marshal's Office or the Court Clerk's Office call the different agencies to ensure the prompt handling of the citizen's problem.
2. The judge may request reports from the Department of the Family and the Housing Department to learn about the steps they have taken with regard to the family and the eviction notice.

B. Mental Health Code, Law No. 408 of October 2, 2000, as amended

1. The judge may appoint counsel for the homeless patient in order to guarantee his or her constitutional rights as prescribed by Section 4.19 of the Mental Health Code.
2. In some cases, the homeless person appearing in court could be a mental health patient under the above-cited Act. In these circumstances, if the inter- or multi-disciplinary team that provides services to the homeless person under Law No. 408 needs the court's assistance, the judge, in the interest of the patient's physical safety and mental health, may consider issuing orders to the appropriate agencies to have them provide access to necessary services.
3. The judge may schedule follow-up hearings on motion of a party, or on motion of the court, prior to the lapse of any of the 15-day terms provided by law to ensure compliance with any court order issued to guarantee the patients' rights, physical and mental well-being. Any judge may preside over this follow-up hearing. Likewise, the judge may ask the hospital to provide reports of any type. Under no circumstances may the judge keep the patient hospitalized if the certification issued by the psychiatrist, in consultation with the inter- or multi-disciplinary team, does not contain clear clinical reasons to justify such action under Section 4.13 of the Mental Health Code.

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4. The judge or the personnel from the Marshal's or Court Clerk's Office, acting on instructions from the judge, may call the 9-1-1 emergency number to coordinate the necessary transportation for the homeless patient. Likewise, the judge may request the cooperation of the Puerto Rico Police or the Municipal Police to provide security during the transportation of the homeless patient to the hospital when the homeless patient appears to be aggressive.

C. Act for the Creation of the Mental Health and Addiction Services Administration (ASSMCA), Law No. 67 of August 7, 1993, as amended.

1. The coordinating judge of the Investigations Unit, or any judge who is aware of the need for a remedy under Law No. 67 for a homeless person, may contact the ASSMCA offices in the absence of a family member. The judge may receive assistance from the personnel from the Marshal's Office or the Court Clerk's Office, from the nearest Assistant Drug Court Program Coordinator, and from municipal programs created for such purposes. The support provided by the CMC and by the Assistant Drug Court Program Coordinator shall not be construed to be a formal referral to such offices. These judicial components will use their collaborative services network with government agencies and non-governmental organizations for the prompt and effective identification of services.
2. If the judge determines that Law No. 67 applies to a homeless person, the judge may order the ASSMCA-certified service provider to take steps to seek housing alternatives as part of the service plan, according to the availability of resources.
3. The judge may request support from the personnel from the Marshal's Office, the Drug Court Program, the Puerto Rico Police, and the Municipal Police to provide the necessary transportation to the homeless persons admitted for treatment, depending on the availability of resources.
4. When a judge orders the involuntary admission of a homeless person to an ASSMCA-certified center, as provided by Law No. 67, the judge, in light of the totality of the circumstances, may require the staff of the Marshal's Office or of the Court Clerk's Office to take steps to contact the homeless person's relatives.
5. If there are relatives of the homeless person in court, the judge may refer them to the CMC for guidance in order to identify available housing alternatives among the family members.

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6. The judge may issue orders requiring the treatment entities or centers to submit monthly progress reports to the court regarding the homeless person's condition, with clear recommendations from specialists in the field. Based on these reports, the judge will determine whether the person should continue to receive treatment.
7. The judge may request the support of the nearest Assistant Drug Court Program Coordinator to obtain the progress reports and take any step in connection with such procedures.
8. If a relative of the homeless person appears in court, he or she must go to the nearest ASSMCA office to receive information about available treatment centers and will take the following steps, as stipulated in the ASSMCA Case Management Protocol under Law No. 67:
 - a. The relative will confirm the availability of the service with the treatment provider.
 - b. The center will provide to the family member a written certification regarding the availability of space.
 - c. The relative of the homeless person will deliver the certification to the ASSMCA personnel, which will give the relative a referral for services.
 - d. The relative of the homeless person will submit the referral documents and the certification of availability of space to the Prosecutor's Office.
 - e. The Prosecutor on duty will provide a motion to begin proceedings under Law No. 67, should he or she deem it pertinent.
9. The relative will appear in court with all the documents to request the order for involuntary admission.
10. The court will summon the affected person and will hold a hearing to determine if there is probable cause to intervene with the person.
11. Should probable cause be found, the court may order that the person be evaluated in an appropriate institution for a period of not more than five (5) days. ASSMCA-designated personnel will submit a report of the results of the evaluation and determine if the person is addicted to drugs or alcohol. This report is not public and will not be used against that person, nor will it be admissible in any judicial proceeding filed against said person pursuant to Section 11 of Law No. 67 of August 7, 1993, as amended. The personnel in charge of receiving the report will have the obligation to keep it confidential.
12. The judge, after holding a hearing, will determine whether to order that the individual be committed to a treatment center.

D. Domestic Abuse Prevention and Intervention Act, Law No. 54 of August 15, 1989, as amended; Comprehensive Child Well-Being and Protection Act, Law No. 177 of August 1, 2003, as amended; Act Against Stalking in Puerto Rico, Law No. 284 of August 21, 1999, as amended; Bill of Rights for Elderly Persons, Law No. 121 of July 1, 1986, as amended; and Controversies and Provisional Legal Status Act, Law No. 140 of July 23, 1974, as amended.

1. Protection Orders

- a. If any of the parties to a case under the mentioned acts is a homeless person, the judge will request the address to which court notifications are to be sent and the name of a contact person. Otherwise, applicable procedures for notifications will be followed.
- b. Should it be determined that the petitioner or respondent in a protection order under Law No. 54, under the Act Against Stalking in Puerto Rico, or under Law No. 177 or Law No. 121, is a homeless person, the judge will inform him or her about the existence of shelters, advocacy services and legal representation, as the case may be and depending on the circumstances. In Law No. 121 cases, the judge may also refer him or her to the Office of the Advocate for the Elderly.
- c. Should it be determined that the petitioner or respondent is a homeless person and said person does not appear in court to attend the hearing, a show-cause order will be issued to determine the reason for his or her nonappearance and efforts will be made to contact him or her. This will be done prior to resorting to the contempt mechanism for the purpose of holding a hearing to determine the reasons for nonappearance. If necessary, the Puerto Rico Police or the Municipal Police will be asked to help locate the homeless person.

XI. RESPONSIBILITIES

- A. The personnel from the Marshal's Office will inquire about the reasons for the homeless person's visit to the court to make it easier to address his or her needs.
- B. The personnel from the Marshal's Office or the Court Clerk's Office will keep confidential all the information obtained as a result of their intervention with the homeless person.
- C. Judges, personnel from the Marshal's Office and from the Court Clerk's Office, the Assistant Drug Court Program Coordinator, and CMC

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- personnel may provide guidance and information to homeless persons with regard to the services available to address their needs.
- D. The officers from the companies subcontracted to provide security to some court facilities will be trained to handle situations involving homeless persons.
 - E. The CMC personnel and the Assistant Drug Court Program Coordinator will attend to the homeless person and collect his or her information in the accompanying form. Each area supervisor will designate the person(s) who will collect this information and will provide the name(s) to the Directorate of Judicial Programs.
 - F. The judges, the officers of peripheral or municipal courts, and the judge on duty may coordinate with the different offices of the judicial centers to provide assistance to this population.
 - G. The Administrative Director of the Courts will be available to take part in the meetings of the Multi-Sector Homeless Population Support Council in order to comprehensively and effectively address the situations characteristic of this population.
 - H. The Administrative Director of the Courts will call periodic meetings with representatives of government and non-governmental organizations to improve this Protocol and will make every effort to ensure that its purpose is achieved efficiently and effectively.
 - I. The Puerto Rico Judicial Academy and the Training and Development Office will promote, plan and offer training to judges, officers, employees, and subcontracted security personnel regarding the different aspects of the homeless persons' situation in order to create awareness and sensitivity regarding the resolution of their problems.
 - J. The Directorate of Judicial Programs will collect information about homeless persons who appear in court to corroborate the effectiveness of this Protocol and evaluate the possibility of developing future projects for this population; for that reason, the courts, the CMCs, and the Drug Court Program will forward all collected data to said office.
 - K. The CMCs and the Drug Court Program will collect separate statistics about this population group in the form to be provided for such ends.
 - L. Each year, the Directorate of Judicial Programs will revise and update the Telephone Service Directory for the Homeless, as well as the guidelines set forth in this Protocol.

Protocol for the Assistance, Guidance and Referral of
Homeless Persons Who Appear in the Court of First Instance

XII. SAVING CLAUSE

Any issue not covered by these guidelines will be resolved under the applicable laws and regulations and by the standards of sound public administration.

XIII. SEVERABILITY CLAUSE

If any provision of these guidelines is declared void or unconstitutional by a competent court or authority, said determination will not affect the validity of the remaining provisions.

XIV. EFFECTIVE DATE

This Protocol will take effect immediately after its approval.

In San Juan, Puerto Rico, this 10th day of February 2010.

(*Sgd.*) Federico Hernández Denton
Chief Justice of the Supreme Court