



Somerville Police Department 	TYPE: GENERAL ORDER		POLICY NUMBER: 215		VERSION: 1.00	
	Subject: De-prioritization of Drug Arrests					
	Issuing Authority: Charles Femino Chief of Police		Signature: 		Effective Date: December 7, 2021	
		Number of Pages: Page 1 of 6				
Accreditation Standards (6th Edition) 41.4.4			<input checked="" type="checkbox"/> New <input type="checkbox"/> Revised <input type="checkbox"/> Amended			
Revision & Reissued Dates:						

Purpose

The purpose of this policy is to establish guidelines that will assist officers and supervisors in understanding the benefits of diversion verses prosecution for minor drug possession offenses. Many studies have proven that the utilization of diversion for minor drug possession only offenses will reduce the recidivism rate of drug addiction. Based on this premise, it is the goal of the Somerville Police Department to improve public health and public safety by incorporating strategies which de-prioritize arrest for drug possession and incorporating the use of diversion as a means to address drug addiction as a public health concern.

Philosophy and Core Principles

1. Addiction is a treatable, chronic medical disease involving complex interactions among brain circuits, genetics, the environment, and an individual's life experiences. There are many evidence based approaches that an individual can engage and access to support recovery.
 - A. Harm Reduction – Setting realistic and achievable goals to encourage recovery and reduce risk to self and others. Abstinence is not the only goal.
 - B. MAT – Medication Assisted Treatment
 - C. Peer Supports- AA/ NA/ Smart Recovery

2. Accountability

Diversion is voluntary, and individuals that do not follow through with diversion recommendations could be referred back to the legal system. Accepting accountability in life will provide the tools that one needs to remain sober during and after drug abuse treatment.

3. Confidentiality

Community Outreach, Help & Recovery (COHR) staff will operate under the ethics of patient client privilege. The only exception to this is if the individual is at risk of harming themselves or someone else. Client contact and follow up will be kept in a separate data base. Individuals sign an agreement with COHR that state the responsibility to report back to the court on progress and if relevant non-compliance.

Procedures

1. Decision Making, Consultation and Collaboration

SPD officers and their supervisors will utilize this policy as a guideline, along with their training and discretion to identify individuals eligible for diversion. Consultation and collaboration with COHR clinical staff is strongly encouraged. Diversion is a follow up consideration, on scene procedures should address immediate needs to ensure safety for all involved. The following should be considered:

- A. An Individual's Medical Needs
- B. Impact to and Needs of the Victim
- C. Response to Behavioral Health ([Policy 100 – Responding to the Mentally Ill](#))

2. Diversion

The act of causing something or someone to turn in a different direction. In this context, to encourage positive behavioral change that will reduce the risk of recidivism and improve quality of life.

Diversion can be offered at multiple points in the process:

- A. Pre-Complaint
- B. Pre-Arrangement
- C. Post Arraignment

3. Persons Eligible for Diversion

- A. Any individual whose active misuse of illicit, illegal or prescribed substances should be considered as a primary factor for an Officer's decision for Diversion.
- B. Any individual under the age of 18yo, who's involvement is considered a first time offense for the distribution of controlled substances.

4. Persons Not Eligible for Diversion

- A. Individuals whose primary relationship with substances is for the purpose of financial gain through distribution. The interaction involves the Distribution or Possession with Intent to Distribute Narcotics, and there is reason to believe the individual's primary motivation for distribution is to derive income, as contrasted with addiction motivation (i.e., as a source of funding to acquire additional drugs/narcotics for personal use).
- B. The individual appears to exploit minors or others in the distribution/sale of controlled substances.
- C. OUI and DUI are not appropriate, these charges will be determined via the court system.
- D. Victim impact deems diversion inappropriate.

5. Diversion Programs

A. COHR Jail Diversion Program (Preferred)

Officers can refer individuals directly to our in house Diversion program. COHR is familiar with the Middlesex DA program and can work in conjunction with the DA's Office as appropriate. Referrals to COHR can be submitted in QED, utilize report questions for MH (Metal Health) and/or NM (Narcotics Misuse) and note in NIBRS report that you recommend pre-complaint or pre-arraignment diversion. COHR staff will keep the officer updated and will attend pre-arraignment hearings with the officer and defendant to present diversion alternatives to the court. Individuals are required to sign a release of information in order to verify engagement and follow through with all service providers.

- 1) The Self-Initiated Contact referral is a tool to prevent future harm caused by drug abuse. The eligibility requirements will be the same for Officer-Initiated Contact Referrals.

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- 2) COHR can accept referrals based on Self-Initiated Contacts from individuals or family members who are court involved or at risk of future arrests related to substance misuse.
- 3) Pre-complaint – Individuals will have 10 business days to enroll in diversion plan.
- 4) Pre-arraignment – Individuals will have up to one month prior to magistrate hearing to enroll in COHR Diversion Program. COHR Diversion is able to work with individuals across the life span whereas the DA’s Office is more focused on juveniles and young adults under the age of 26.
- 5) Case Conclusion
 - a) Individual successfully completes conditions in diversion contract and the case is closed with no arraignment ever being sought. Individual will continue to have access to COHR supports.
 - b) Individual voluntarily withdraws from diversion program and arraignment may be sought.
 - c) Individual violates diversion contract and case may proceed to arraignment.

B. Middlesex District Attorney Diversion Program [41.4.4]

Provides pre-complaint and post complaint diversion for individuals under the age of 26yo related to behavioral health, this includes addiction and mental illness. An individual meeting the eligibility requirements described below, who is willing to participate and has been accepted into the program, after approval from all operational partners. To make referral please complete attached form and email to appropriate contact listed on form. ([Attachment: Middlesex DA's Office Diversion Form](#))

- 1) Referral
 - a) Pre-complaint – Prior to the issuance of a complaint or arraignment, Officers shall complete and submit the above attached form from the Middlesex District Attorney’s Office for review and consideration. Please note appropriate email for Juvenile Diversion or Adult Diversion, as highlighted on the form.
 - b) Post-complaint – After court complaint but prior to arraignment, eligible cases will be identified and evaluated.

NOTE: Officers wishing to recommend a case for diversion *where a complaint has already issued* are encouraged to contact Melissa Hartford or any member of the diversion team as soon as possible after the issuance of the complaint. In the case of a new arrest, please notify the ADA conducting arraignments in Juvenile/District Court so that the case may be scheduled for a further date and not arraigned.

2) Diversion Program Goals

- a) Foster acceptance of responsibility and consequences.
- b) Connect youth to support services.
- c) Confront and address systemic inequities that lead to disproportionate court system involvement for young people of color.
- d) Prevent the creation or extension of criminal records through the pre-arraignment model.
- e) Prevent future criminal conduct.
- f) Supplement and conserve police, court, and prosecutorial resources.

3) Persons Eligible

- a) Any juvenile under the age of 18yo.
- b) Any young adult under age 26yo.
- c) Willing to accept responsibility for his or her actions and conduct.
- d) Willing to participate and engage in diversion programming.
- e) No significant prior criminal involvement.

4) Cases Eligible [41.4.4]

- a) Any misdemeanor (*except those involving firearms, significant-other domestic violence, or motor vehicle offenses - see below*).
- b) Any felony that if committed by an adult could be prosecuted in the district court (*except if otherwise ineligible - see below*).
- c) Any case involving a victim after consultation with the victim.

5) Cases Ineligible

- a) Minimum mandatory offenses.
- b) Motor vehicle offenses.
- c) Significant-other domestic violence cases.
- d) School-based threats.
- e) Cases involving the possession or use of firearms*.
- f) Cases involving serious assaultive or threatening behavior, serious bodily injury, sexual offenses or conduct, or gang related activity.

NOTE: The final determination of eligibility for the diversion program is within the discretion of the Middlesex District Attorney's Office and may be based on additional factors not specifically included within these guidelines.

*Cases involving use/possession of other weapons may be considered after a fact-specific review.

6) Case Conclusion

- a) An individual successfully completes the conditions set forth in their designed diversion contract and the case is closed with no arraignment required.
- b) An individual voluntarily withdraws from the diversion program and an arraignment may be sought.
- c) An individual violates their signed diversion contract and the case proceeds to an arraignment.