



**MIDDLESEX DISTRICT ATTORNEY'S OFFICE
JUVENILE AND YOUNG ADULT DIVERSION PROGRAM**

**DESCRIPTION and GUIDELINES
2019**

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MIDDLESEX DISTRICT ATTORNEY'S OFFICE JUVENILE AND YOUNG ADULT DIVERSION PROGRAM

DESCRIPTION AND GOALS

I. Description

The juvenile and young adult diversion programs are designed to work with eligible young offenders as an alternative to prosecution. The diversion program operates under a pre-arraignment model and can be either pre- or post-complaint. In lieu of prosecution, the diversion program allows the youth the opportunity to complete an individually-tailored remedial program which may include a combination of conditions such as an educational program, counseling, community service, letter of apology, and restitution. Participation in the diversion program is completely voluntary and requires the youth to accept responsibility for his or her conduct and engage in the program with a positive attitude.

Input regarding whether or not to divert a particular youth is *always* sought from the police and where appropriate, from any victims and/or other parties involved with the youth such as schools, parents or other agencies. The diversion staff will monitor the youth's compliance throughout his or her participation in the program which generally runs six months. If the Middlesex District Attorney's Office determines that the youth has satisfied all of the requirements of his or her diversion contract, there will be no further action in the criminal justice system related to the case. If the youth withdraws or does not successfully complete the diversion program, the Middlesex District Attorney's Office may bring the case forward for arraignment and further court proceedings. If it is determined that more time is necessary for a young person to successfully complete diversion, a diversion contract can be extended.

II. Diversion Goals

1. Acceptance of responsibility and consequences;
2. Reform and educate;
3. Individual and community accountability and restitution;
4. Prevent future criminal conduct;
5. Prevent creation of criminal record - pre-arraignment model; and
6. Supplement and conserve valuable police, court, and prosecutorial resources.



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I. Persons Eligible

- a. Any juvenile under the age of 18
- b. Any young adult between the ages of 18 and 25
- c. Willing to accept responsibility for his or her actions and conduct
- d. Willing to participate and engage in a remedial program
- e. No significant prior criminal involvement

II. Cases Eligible

- a. Any misdemeanor (*except those involving firearms, significant-other domestic violence, or significant 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

III. Cases Ineligible

- a. Minimum mandatory offenses
- b. Significant motor vehicle offenses (e.g., OUI)
- 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.



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I. Referral

- a. PRE-COMPLAINT: Prior to complaint (and prior to arraignment), police refer potential cases for diversion review or
- b. POST-COMPLAINT: After court complaint but prior to arraignment, eligible cases identified and evaluated for diversion by clerk, session ADA, police or other involved parties.

II. Case Evaluation

- a. MDAO evaluation consists of factual review, consultation with police, any victim(s), and, where appropriate, school, parents and/or other relevant agencies (e.g., community programs)
- b. Evaluation of past criminal history.
- c. Based on facts of case and input of interested parties, diversion team formulates remedial plan for youth in eligible cases.

III. Diversion Meeting

- a. If youth/case eligible, juvenile and parent(s) *or* youth (parent not required) meet with diversion case manager to discuss case and remedial plan.
- b. Youth accepts full responsibility and displays positive attitude. Negative influences and problematic behavior and decision-making are identified.
- c. Youth signs individualized written diversion contract which includes agreement to remedial plan as identified in agreement. Remedial plan may include assignment to educational programs, community service, letter of apology, restitution, essay writing, curfew and/or other case-specific conditions. Duration of agreement and date by which conditions must be met is set generally six months but a longer term of diversion may be called for and will be employed on a case by case basis.

II. Conclusion of Case

- a. Youth successfully completes conditions in diversion contract and the case is closed with no arraignment ever being sought;
- b. Youth voluntarily withdraws from diversion program and arraignment may be sought; OR
- c. Youth violates diversion contract and arraignment may proceed.



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PROCEDURAL GUIDELINES FOR POLICE DEPARTMENTS

- I. A police officer *recommends* for diversion any youth who meets eligibility requirements.
- II. The officer forwards any diversion eligible case for review to Melissa Hartford, Diversion Program Director. All input from police is welcomed!!
Officer should include:
 - (a) completed diversion referral form with the *reason(s) for the diversion recommendation* and any recommended diversionary *conditions*;
 - (b) copy of completed application for a criminal complaint (*if request is being made pre-complaint*)
 - (c) supporting police report; and
 - (d) completed Board of Probation record/check.
- III. MDAO will review case, confer with police, any victim(s) and school/other agencies where appropriate and notify officer of diversion decision.
 - a. If youth is *accepted for diversion*, copy of diversion contract with conditions and duration sent to officer by the Middlesex District Attorney's Office.
 - b. If case *not accepted* for diversion, officer files application for complaint with the juvenile or district court and requests the complaint issue following a finding of probable cause at clerk's hearing (if a pre-complaint case). *If a complaint has previously issued, the Commonwealth may proceed to arraignment.*
- IV. All youth accepted into diversion program are *monitored* by the MDAO diversion case manager during diversionary period.
- V. If youth *successfully completes* diversion program, case is closed and no court proceedings are ever initiated and no BOP is created.
- VI. If youth *withdraws or fails to successfully complete* the diversion program, officer notified by the MDAO and files application for complaint (if a pre-complaint case) and requests the complaint issue following a finding of probable cause at clerk's hearing. *If a complaint has previously issued, the Commonwealth may proceed to arraignment.*
- VII. The officer may direct any *questions or other communications* concerning any referred or diverted case to the Diversion Program Director or the appropriate Diversion Case Manager during the review and diversionary period.

VIII. Police are notified of diversion outcome.

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, it is also advisable to notify the ADA conducting arraignments in Juvenile/District Court so that the case may be scheduled for a further date and not arraigned.