



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

**DESCRIPTION and GUIDELINES
2023**

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DESCRIPTION AND GOALS

I. Description

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

Input regarding whether or not to divert a particular youth is sought from the police and any victims and, where appropriate, from other parties involved with the youth such as schools, parents or other agencies. The determination of whether diversion will be offered rests solely with the Program Director.

The diversion staff will monitor the youth's compliance throughout their participation in the program which generally runs six months. If the youth satisfies all of the requirements of their diversion program, there will be no further proceedings 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 and/or adjusted.

II. Diversion Program Goals

1. Foster acceptance of responsibility and consequences
2. Connect youth to supportive services
3. Confront and address systemic inequities that lead to disproportionate court system involvement for young people of color
4. Prevent creation (or extension) of criminal records (through pre-arraignment model)
5. Prevent future criminal conduct
6. Supplement and conserve police, court, and prosecutorial resources



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I. Persons Eligible

- a. Any juvenile under the age of 18
- b. Any young adult under age 26
- 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

II. Cases Eligible

- 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

III. 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.



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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, counsel, police or other involved parties.

NOTE: Our program is pre-arraignment to avoid the creation or extension of a criminal record. Should circumstances develop post arraignment which would indicate that a juvenile or young adult matter should have been sent for diversion review, the matter may be reviewed for diversion eligibility despite an arraignment already having taken place. If determined to be eligible for diversion and if diversion is successfully completed, the Middlesex District Attorney's Office will then work with the diversion participant and counsel to expunge the diverted matter from the diversion participant's CORI.

II. Case Evaluation

- a. Evaluation by diversion staff consists of factual review, consultation with police and any victim(s), and, where appropriate, school, parents and/or other relevant agencies (e.g., community programs)
- b. Evaluation of past criminal history. *Note that past criminal history is NOT in and of itself a disqualifying factor for juvenile or young adults.*
- c. Based on facts of case, and considering input of interested parties, diversion team formulates remedial plan for youth in eligible cases.

III. Diversion Meeting

- a. If youth/case eligible, juvenile, counsel and parent(s) *or* youth (parent not required) and counsel, if applicable, meet with diversion case manager to discuss case and diversion plan.
- b. Youth accepts responsibility. Strategies for better decision-making and areas in which youth needs support are identified.
- c. Youth signs individualized written diversion contract. Contract 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 case may proceed to arraignment



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PROCEDURAL GUIDELINES FOR POLICE DEPARTMENTS

- I. A police officer recommends for diversion any youth who meets eligibility requirements. ***Departments are encouraged to reach out regarding any case in which they believe diversion would be appropriate.***
- II. The officer forwards any diversion eligible case for review to Melissa Hartford, Diversion Program Director.
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. Diversion staff will review case, confer with police, any victim(s) and other collaterals where appropriate and notify officer of diversion decision.
 - a. If youth is *accepted for diversion*, copy of diversion contract with conditions is sent to officer.
 - b. If case *not accepted* for diversion, officer may file application for complaint with the juvenile or district court. *If a complaint has previously issued, the Commonwealth may proceed to arraignment.*
- IV. Youth accepted into diversion program are monitored by a 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 entry associated with the diverted charge is created.
- VI. If youth *withdraws or fails to successfully complete* the diversion program, officer is notified and may file application for complaint (if a pre-complaint case). *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.

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.