

MULTNOMAH COUNTY
District Attorney's Office, Juvenile Unit and
Juvenile Services Division
Case Processing Agreement

I. PURPOSE

- A.** To articulate agreements between the Multnomah County Department of Community Justice, Juvenile Services Division, and the Multnomah County District Attorney's Office, Juvenile Unit.
- B.** To establish data entry requirements, business policy, and procedures for compliance with established interagency agreements
- C.** To clarify standards and division of responsibilities for effectiveness and efficiency.
- D.** To make consistent and objective determination as to most appropriate case decisions based on youth's risk to re-offend and other determining factors, including but not limited to, public safety issues and youth accountability.

II. POLICY

Multnomah County Juvenile Services Division (JSD) and the Multnomah County District Attorney's Office, Juvenile Unit (also known as the DA's Office), agree to share the responsibility of delinquency referral review and processing as outlined in the Referral Processing and Decisions policy and Data Services Police Report Processing Guidelines approved by the Assessment Policy Steering Committee.

For out-of-custody referrals, the DA's Office will review the report within thirty (30) days of their receipt of the referral from the Juvenile. For in-custody referrals, the DA's Office will review the report on the day the report is received.

JSD will refer all identified Felony and Non-Divertible Misdemeanor law violation referrals to the DA's Office for screening and issuing decisions.

The DA's Office authorizes JSD to informally handle identified Divertible Felony Misdemeanor referrals unless the facts of the matter are particularly grievous. Divertible referrals will be handled exclusively by JSD unless JSD requests involvement from the DA's Office to review and/or adjudicate the referral or the DA's Office has asked to handle the case. The Juvenile Services Division is committed to adherence of the Assessment Model and special attention will be given to carefully review referrals received especially Felony offenses. The Community Justice Manager for Intake, Assessment, and Intervention Unit will review all Class A and Class B Property Felony referrals and consult with the DA's Office in regards to the disposition decisions on these cases.

Cases in which a high-risk youth fails to complete an informal agreement, is referred for a new offense, or cannot be located on a felony matter will be promptly staffed with the designated Community Justice Manager (CJM) for approval to return the referral to the DA's Office for a review and issuing decision.

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Generally, the DA's Office is responsible to notify victims in formal cases and the Juvenile Services Division is responsible for victim contact in informal cases.

JSD will to notify the DA's Office in the event of a high-risk youth violated his/her probation.

This agreement will be reviewed annually and amendments will be made as necessary with mutual agreement of JSD and the DA's Office, Juvenile Unit.

III. DEFINITIONS

IV. PROCEDURES

A. Initial Data Entry of Delinquency Referrals

1. JSD Data Services staff, in the case of out-of-custody referrals, and Custody Services staff, in the case of custody referrals, will enter all delinquency referrals received into JJIS as defined by JJIS Policy.
2. If the DA's Office receives a report directly from a law enforcement agency or another source other than the Juvenile Services Division, the DA's Office will send the report to JSD Data Services for processing according to the LSR/FSD process before entering it into CRIMES.
3. On the police report, Data Services or Custody Services staff writes/stamps:
 - JJIS number
 - Juvenile Department Number if one exists
 - Referral number
 - Assigned JCC if known, and
 - Stamps "Entered in JJIS" on all copies of the police report

B. Processing of Felony, Non-Divertible Misdemeanor, and Custody Referrals

1. Upon completion of the initial data entry, Data Services or Custody Services staff prepares the referral routing forms and forwards the report with applicable materials to the DA's Office for a Formal Screening Decision (FSD).
2. Formal Screening Decisions fall into one of the three categories: Issued, Diverted, and Rejected. If the DA's Office determines:
 - That there is not legal sufficiency to charge the youth with a law violation, the DA's Office will enter their Formal Screening Decision "Rejected" into CRIMES and return the referral materials to the Juvenile Services Division via Data Services with a Case Rejection Memo. The referral will be closed by the Juvenile Services Division.

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- That there is legal sufficiency to charge the youth, and the DA's Office wants the referral adjudicated, the DA's Office will enter their Formal Screening Decision "Issued" into CRIMES and¹:
 - a. Generate, print, and file the law violation petition with the State Clerk's Office.
 - b. Keep a copy for the DA's Office file.
 - c. Give the State Clerk's Office:
 - i. A Petition Filing Checklist
 - ii. Two signed and certified copies of the petition
 - iii. One copy of the discovery for the defense attorney
 - iv. One copy of the Plea Negotiation Form
 - d. Forward to the Juvenile Services Division:
 - i. Six signed and certified copies of the petition², and
 - ii. One copy of the Plea Negotiation Form
 - e. Mail a copy of the summons to be served on the youth provided by the Juvenile Services Division to the victim(s) whose name(s) appear on the petition accompanied by other notice detailed in ORS 419C.306(4).
- That there is legal sufficiency for a lesser-included offense or an offense that meets the divertible criteria and would be appropriate for the Juvenile Services Division to handle informally, the DA's Office will enter the Formal Screening Decision "Diverted" into CRIMES and return the referral materials to the Juvenile Services Division via Data Services or Preliminary Hearing Processor.

C. Legal Sufficiency Review on Divertible Referrals

1. Upon completion of the initial data entry, Data Services staff prepares a "Legal Sufficiency Review" form with a copy of the report to the DA LSR Desk.
2. The DA's Office will review the LSR packet, indicate the result of the review on the form, and return the completed form and packet to Data Services.
3. The DA's Office has the discretion to ask that the referral be submitted to the DA's Office via a Formal Screening Decision.
4. Upon receipt of the DA's LSR completed form and packet, Data Services will process referral according to the approved Referral Processing policy and procedure.

D. Handling of Traffic Crimes

¹ In cases which the youth is appearing at a Preliminary Hearing, the petition is filed, Court dates are set, and an attorney is appointed, the attorney and the Juvenile Services Division receive a Pretrial Offer form, and the parties receive a summons during the Preliminary Hearing.

² Juvenile Services Division will keep 1 copy, serve copies upon youth, mother and father, give one (1) copy to DHS and/or OYA (if involved), and maintain extra copies for other use.

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1. All traffic crimes will be processed according to the Referral Processing Policy.
 - If the DA's Office decides to issue, then the case will follow the normal Formal Screening Decision process for adjudication.
 - If the DA's Office decides not to issue, the DA's Office will follow the procedure to return the matter to JSD for handling.

E. Processing of Referrals Received from Law Enforcement with No Law Violation Number

1. When a report is received by the Juvenile Services Division without a specified law violation statute or code number, and the nature of the report describes an incident that may meet the criteria for potential Non-Divertible Felony or Misdemeanor, Data Services staff will forward a copy of the report with the LSR Form to the DA LSR Desk without entering the report into JJIS. The LSR form will have a notation that the law number is unknown.
2. The DA's Office will review the report and complete the LSR form including the appropriate law or statute number on the form if it is determined that the youth is alleged to have committed a crime.
3. The DA's Office has the discretion to ask that the referral be submitted for Formal Screening Decision.
4. Data Services will enter the referral in JJIS and process the referral accordingly if a charge is indicated.

F. Probation Violations

1. The JCC must notify the DA's Office via email of any formal or informal handling of a moderate or serious probation violation involving a high-risk youth.
2. The Juvenile Court Counselor will determine whether to handle violations of probation *formally or informally*, following the probation violation policy and sanctions grid. At the DA's Office's discretion, the DDA may choose to file the PV petition.
 - If a PV on a high-risk youth is handled *formally*, the JCC must notify the DA's Office of the PV petition filed, hearing date and time, and must do so regardless of whether or not the youth contests the allegation(s). Notification will be made via email to the assigned DDA, if known. If not, then notification will be made to the DA's Office Legal Assistant.

Note: The assigned JCC will deliver discovery information and log in the binder provided at the DA's Office.

- If a PV on a high-risk youth is handled *informally*, the JCC will notify the assigned DDA via email the nature of the violation and

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the sanction given. The notification will be made to the DA's Office Legal Assistant if the assigned DDA is unknown.

3. The DA's Office does not need to attend the PV hearing EXCEPT in sex offense cases or in those instances in which the JCC requests DA's Office involvement or at the DA's discretion.
4. The JCC will enter a JJIS Note making a notation following the notification to the DA's Office.

Note: The assigned JCC must notify the DA's Office in the event a Motion for a Review Hearing or a Motion for Further Proceeding is filed on youth who violated their Alternative Disposition agreement (AKA Conditional Postponement).

G. Domestic Violence Referrals

The DA's Office has expressed special concern about and interest in misdemeanor referrals involving domestic violence. While the DA's Office recognizes that many person misdemeanors are appropriate for informal resolution, there is also agreement that JCCs should review these cases carefully for gravity, extent of injury, threat of ongoing violence, etc. Frequently, victims of domestic violence are unwilling to cooperate with prosecution, yet these cases may still be appropriate for adjudication if the case can be proven without the victim's participation. Serious person misdemeanors should be handled through adjudication. They should not be diverted or handled as a Probation Violations.

The following guidelines are designed to assist the JCC in determining which person misdemeanor cases to refer to the DA's Office for adjudication. The JCC is required to discuss and staff the case with their Community Justice Manager if one or more of these elements apply to a particular situation:

1. Youth has two or more legally sufficient referrals for person law violations (including the pending charge).
2. The referral involves a serious threat of harm with a weapon of any kind.
3. The referral involves a youth who has mental or emotional issues or other problems such that informal handling is unlikely to be adequate to meet the youth's needs or prevent re-offending.
4. A case in which it appears that an on-going threat of violence or threat to public safety exists. "On-going threat or violence" means that based on patterns of past behavior, a youth's mental health issues, relationship dynamics including obsessions, stalking behavior, etc., family relationship dynamics, stated intention/threats, professional assessments by therapists, psychologists, etc., and/or similar factors, it appears probable that youth will act out aggressively against others in the future.
5. Any case in which it appears informal resolution is unlikely to prevent the re-offending domestic violent behavior.

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The DA's Office encourages the JCC to call to discuss any case about which they have concerns or questions.

H. Consolidation of Multiple Referrals or Victims

1. When the DA's Office reviews a law violation referral regarding a youth who has an active divertible misdemeanor case pending JCC Review, the JCC will inform the DDA of the other active referral(s).
 - If the DDA chooses to file a petition on the more recent law violation referral, the JCC will include the DA's Office in negotiation regarding disposition of the previous referral.
2. When the JSD receives a law enforcement report that lists more than one victim arising of a one episode or "spree", Data Services will coordinate and consult with the DA's Office to determine whether the referral will be entered as one (1) referral with multiple allegations or multiple referrals, one incident/victim per each referral.

I. Victim Notification

1. Pre-Adjudication
 - For formal cases where there is a petition filed, the DA's Office will send the DA's Office initial victim contact information including summonses, etc., and notify victims of 'Critical Stage Hearings' including setovers, to honor a victim's right to a meaningful role in hearings. The assigned JCC will collaborate with the DDA to ensure we make reasonable effort to honor the victim's rights as well.
 - The DA's Office will forward any victim information especially restitution information if received from the victim prior to Plea or Disposition Hearing.
 - a. If victim information is received, the assigned JCC will include the information in the Court Report with a recommended payment plan.
 - b. If victim information is not received from the DA's Office as expected, the assigned JCC will contact the assigned DDA by phone or email to inquire of the status of victim information.
2. Post-Adjudication
 - The assigned JCC is responsible to notify victims of any scheduled PV related hearings, including PV and PV/WRT Prelims, in which the "basis for alleged violation directly implicates victim's rights or well being." Since time is of essence due to short Prelim and PV docket timeframe, telephone contact is made for this type of notice.
 - Hearing notification will include date, time, and location of the hearing. Leaving voicemail messages would be sufficient.

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- If the victim was not notified or present at the hearing, the assigned JCC will inform the victim by phone or letter of the hearing outcomes if the Court's decisions or orders affect the interest of the victims.
- Hearing notification will be made at the earliest time possible and documented in JJIS via JJIS Note.

J. Handling of FDDP

1. Eligibility

- Eligible charges include:
 - a. Felony-level Possession of a Controlled Substance (PCS)
 - b. Delivery of Marijuana for No Consideration (DCS),
 - c. Delivery within 1000 Feet of a School with approval of DA's Office
- Ineligible Charges include:
 - a. Delivery of a Controlled Substance (DCS), except as noted above
 - b. Manufacturing of a Controlled Substance (MFS)
 - c. Possession of any quantity of a controlled substance that would qualify as a "substantial quantity" under adult sentencing guidelines
 - d. Any qualified charge accompanied by a legally sufficient non-drug felony or person misdemeanor charge in the same episode.
- Ineligible Circumstances
 - a. If youth is unwilling to participate in the diversion program.
 - b. If youth has a felony or person misdemeanor petition filed and pending adjudication.
 - c. If youth is already on probation or parole for a person felony or a firearm charge.
 - d. If at the time of screening, the youth is on runaway or warrant status. If the youth is located and any outstanding warrant(s) recalled, the youth may be re-screened for eligibility for diversion.
 - e. If the youth's behavior places them at extreme imminent risk to self.
 - f. If it appears that the youth presents an on-going threat of violence or threat to public safety. "On-going threat of violence" means that based on patterns of past behavior, the youth's mental health issues, relationship dynamics including obsessions, stalking behavior, etc., family relationship dynamics, stated intention/threats, professional assessments by therapists, psychologists, etc., and similar

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factors, it appears probable that the youth will act out aggressively against others in the future.

2. Case Processing Procedure

- The DA's Office will screen all felony-level drug cases for legal sufficiency within 5 days of receipt of lab results on non-custody cases. Custody cases are screened the day they are received by the DA's Office.
 - a. If a case is legally sufficient for a diversion-eligible felony-level drug charge, the screening DDA will file a petition in the case and will initially process the case like any other non-divertible felony offense.
 - b. DA's Office support staff will provide a copy of the petition, the police reports, and the pretrial offer form to the Juvenile Department. In custody cases, these materials will go to the Preliminary Hearing Processor. In non-custody cases, these materials will go to Data Services unit.
 - c. DA's Office support staff will provide copies of the petition, police report and pretrial offer to the State Court Clerk's Office consistent with established case processing practice.
- The Clerk's Office will prepare an order appointing counsel for a Judge's signature and notify the JJC Preliminary Processor (x83491) that the order has been prepared within 3 working days of receipt of the case materials. The Preliminary Processor will obtain a signature at the next ex parte scheduled before a Juvenile Court judge. The preliminary Processor will return the signed order to the Clerk's Office. The Clerk's Office will:
 - a. put a copy of the petition, police report and pretrial offer in the Felony Drug Diversion Program envelope, and
 - b. place the envelope in the in-box for the appointed law firm within 2 working days of the signing of the appointment order.
 - c. In custody cases, the Placement Coordinator will make the petition, pretrial offer and police reports available to the youth's assigned law firm in the Felony Drug Diversion Program envelope consistent with current practice.
- Prior to the Trial Readiness date in the case, the Adjudication JCC will consult with the assigned Intake, Assessment, and Intervention Unit JCC (AKA FDDP JCC). The FDDP JCC and defense counsel will meet with the youth and will assess the youth's eligibility for diversion based upon the criteria detailed in this policy.
 - a. If the youth qualifies for diversion, the JCC will advise the youth's attorney and the assigned DDA in writing prior to the Trial Readiness date.

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- b. If the youth does not wish to participate in the Felony Drug Diversion Program, defense counsel will promptly notify the assigned JCC and DDA in writing and the case will proceed to trial.
- c. If the youth wants to participate in the Felony Drug Diversion Program, the youth will consent to an assessment within 30 days to determine the level of care required before signing the "Consent to Diversion" form, a Petition to Make an Admission, and a Waiver of Rights. The forms provide that if the youth fails the diversion program, s/he agrees s/he will be found within the jurisdiction of the court and will not litigate any motions to suppress evidence, speedy trial, or other motions. Defense counsel will promptly provide a copy of the signed forms to the assigned JCC and the DDA.
- d. Upon the youth's completion of assessment, agreement to participate, and youth is appropriate for Diversion, the JCC will communicate with all parties to proceed with the petition dismissal.
- e. If the assigned DDA agrees with the JCC that the youth qualifies for diversion based upon the criteria detailed in this policy, the DDA will contact the defense attorney and JCC in writing prior to the Trial Readiness date and report that the youth is appropriate for diversion.
- Upon notification that the DDA is in agreement with diversion,
 - a. the defense attorney will prepare the Consent to Diversion, Petition to Make an Admission, and Waiver of Rights forms and give to the assigned JCC for filing.
 - b. the assigned JCC will file the paperwork and provide copies to the youth, parent, and DDA.
- The defense attorney and the DDA will report at Trial Readiness that the youth is eligible for and wants to participate in diversion.

Note: The petition is kept on the Call Docket with the TR date until the petition is officially dismissed so that we will not lose track of the petition.

- The District Attorney's office will submit a motion to dismiss without prejudice for the court to sign at the Trial Readiness hearing.
- If the DA's Office or JCJ are of the opinion that a youth should not be accepted into diversion even though the youth qualifies for diversion based upon the established criteria, the DDA or JCC will advise the youth's attorney in writing prior to the Trial Readiness date. The youth may choose to file a motion with the court asking

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for judicial review of the decision to exclude the youth from diversion.

3. JSD Handling Upon Acceptance Into Diversion
 - The assigned JCC will complete the Juvenile Crime Prevention Assessment (JCP) with the youth, and the youth will follow the recommended treatment.
 - All youths in the diversion program will be expected to give random UAs at the request of the JCC and/or treatment provider.
 - The JCC may offer to the youth skill-building programs and other interventions that the youth may participate in voluntarily to help support the youth's sobriety, re-engagement in, and success in, treatment.
 - The youth may not be placed in detention or on electronic monitoring as an intervention or sanction.
 - The JCC will provide compliance report to the District Attorney's Office and defense counsel on each youth in the program via monthly meeting. The compliance report will include, but not be limited to, the following:
 - Progress toward meeting treatment goals
 - Attendance
 - Results of UA's
 - New referrals
 - Parent participation
 - JCC supervision activities and contacts
 - Services offered
 - Treatment provider recommendations
 - JCC recommendations
4. Successful diversion completion
 - The youth will be deemed to have successfully completed the diversion program if the youth has:
 - a. Completed 2/3 of his or her treatment plan goals, and
 - b. Been abstinent from all use of mind-altering substances, as verified by random testing, for 30 days prior to having completed treatment
 - c. Successfully completed 90 days of post-treatment supervision, which will include random UAs and other support and supervision as appropriate, based upon the recommendations of the youth's treatment provider.
 - d. If the youth successfully completes treatment but has a dirty UA during the 90-day post-treatment supervision period, the youth will meet with the JCC and treatment provider. This meeting must take place within two weeks of the dirty UA. The focus of the meeting will be on making further treatment plans, changing expectations for youth

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involvement, and/or the possibility of extending the supervision period.

- The JCC will provide ongoing supervision during the 90-day post-treatment period and may schedule case management sessions with the youth's counsel, assigned DDA, family advocate, treatment provider and others as necessary to ensure appropriate decision-making in the youth's case.
- The JCC will advise the District Attorney's Office and defense counsel in writing when the youth has successfully completed the diversion program by preparing a case closing summary report.
- When the youth reaches the age of 18, the Department of Juvenile Community Justice will move to have the record of the youth's diversion case expunged. Youth's counsel or JCC may move for earlier expunction of the case record in appropriate cases.

5. Termination from diversion

- A youth will be terminated from diversion if the youth:
 - a. Fails to meet with defense counsel or the JCC; or
 - b. Fails to sign a Petition to Make an Admission and Consent to Diversion Form; or
 - c. Fails to cooperate with the JCC to complete required assessments; or
 - d. Is terminated unsuccessfully from treatment; or
 - e. Is found within the jurisdiction of the court for a new felony law violation, for a new person misdemeanor or non-divertible misdemeanor law violation, or more than one non-person misdemeanor;³ or
 - f. Absconds from supervision (has been out of contact with treatment program and JCC for 30 days or more without excuse).
- If the youth qualifies for Termination from Diversion, the JCC will provide a Notice of Termination from Diversion to defense counsel and the DA's Office. The DA's Office will file a petition in the case and will schedule a court hearing on the matter.
- At the Termination Hearing the youth's admission will be made a matter of record and the Court will proceed to disposition.

³ Because research indicates that youth in recovery are likely to lapse, collaborating partners agreed on October 7, 2003 that youth in the program who commit a new PCS felony will not be adjudicated, barring egregious circumstances; youth who commit a third PCS charge while in the program will be adjudicated. Youth who commit a divertible misdemeanor property crime will be handled at the discretion of the Juvenile Services Division. Youth who obtain a new DCS charge of any kind, or a non-divertible misdemeanor, will be adjudicated.