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## **Law Enforcement Direct Referrals to Community Justice Centers.**

### Considerations for Direct Referral to a Community Justice Center

Officers, Troopers, or Deputies may, at their discretion, directly refer the following cases to a CJC for disposition when they conclude that such referral will appropriately address the behavior of concern and provide a sufficient form of accountability for the behavior.

1. Retail theft under \$100 (First Offense)
2. Unlawful Trespass
3. Disorderly Conduct
4. Excessive Speed (no aggravating factors)
5. DLS- OSC
6. Juvenile Possession of Marijuana
7. Juvenile possession of Alcohol (no aggravating factors)
8. Driving without a license
9. Simple Assault Mutual Affray
10. Petit Larceny under \$50

## **Aggravating Factors for Possession of Marijuana**

1. Possession of large quantities
2. Prior offenses- a history of prior drug or other criminal offenses that may lead to stricter consequences.
3. Use of weapons or violence- if offense is linked to weapons or violent behavior.
4. Paraphernalia or distribution tools-possession of items like scales, baggies or large sums of cash indicate intent to sell, rather than personal use.
5. Impairment while driving- if the juvenile is found in possession of marijuana while operating a vehicle, especially under the influence.
6. Failure to comply with diversion programme: if the juvenile has previously been offered diversion program but failed to complete it.
7. Involvement of others: if the juvenile was supplying marijuana to other minors or involving others in illegal activities.
8. Juvenile on probation for similar conduct.

### **Aggravating Factors for Possession of Alcohol**

1. Driving Under the Influence (DUI): If the juvenile consumes alcohol and operates a vehicle, this significantly aggravates the offense.
2. Repeat Offenses: Prior alcohol-related offenses.
3. Providing Alcohol to Others: If the juvenile is involved in furnishing alcohol to other minors.
4. Involvement in Criminal Activity: If alcohol consumption is associated with vandalism, theft, assault, or other crimes, it exacerbates the offense.
5. Endangering Others: Engaging in behavior while intoxicated that puts others at risk, such as reckless driving or physical altercations.

6. High Blood Alcohol Content (BAC): A BAC significantly over the legal limit for minors may be considered an aggravating factor.
7. Underage Drinking at a Party: If the juvenile is part of a larger event where alcohol is distributed unlawfully.
8. Impact on Others: If someone else is harmed as a result of the juvenile's intoxication (e.g., in an accident).

### **Aggravating Factors for Excessive Speed**

1. Speeding in Certain Zones: School Zones, Construction Zones
2. Endangering Others: If excessive speed puts pedestrians, passengers, or other drivers at risk.
3. Reckless or Aggressive Driving: Speeding combined with dangerous behaviors.
4. Driving Under the Influence (DUI): Speeding while intoxicated compounds the severity of the offense.
5. Accidents or Property Damage: Speeding that causes a collision or damage to property.
6. Injuries or Fatalities: If excessive speed results in injury or death, penalties are significantly increased and can include felony charges.
9. Eluding Law Enforcement: Speeding to flee from police is a serious offense.
10. Repeat Offenses: A history of prior speeding or traffic violations.

### **Factors that may weigh in favor of a direct referral to a CJC:**

1. Victim support or direct request for a CJC referral;
2. Criminal or supervisory history supportive of a referral to a court diversion program, charges were referred for prosecution, e.g. first-time offenders or individuals with limited or older criminal histories;

3. Demonstrated amenability to participation in a restorative justice process by the offender.

**Factors that may weigh against a direct referral to a CJC:**

1. Conduct is in violation of existing Department of Corrections supervision conditions or court ordered conditions of release;
2. Criminal history;
3. Offender lacks the capacity to meaningfully participate in the process, e.g. serious mental diseases or defects, a significant traumatic brain injury, or other developmental disabilities that would render an offender incompetent to stand trial;
4. Prior unsuccessful referral to a CJC for similar conduct, without excuse or justification, or an absence of compelling changes in circumstances;
6. Nature of victim impact or persuasive victim objection to a referral;
7. Substance abuse or mental health concerns that require a higher level of supervision or care, and are unlikely to be addressed through a CJC program;
8. Need for conditions of release, pretrial screening, pretrial monitoring, or other pre-adjudication responses from the justice system to protect public safety or public order.

Ultimately, sound judgment and common sense should influence direct referrals.

**Other Options for Referral to a Community Justice Center** If there is uncertainty as to whether a case should be directly referred to a CJC or referred for prosecution the case may be submitted to this office as a review case, more informally, you may speak with an available attorney in the office concerning disposition at or near the time of the incident or arrest.

**Cases that may not be Referred to a Community Justice Center.**

Some cases may never be referred to as CJC. Pursuant to 24 V.S.A. § 1967 “[n]o case involving domestic violence, sexual violence, sexual assault, or stalking shall be referred to a community justice center.

### **Case Management & Accountability**

It is the referring law enforcement officer’s responsibility to complete referral paperwork and to submit case materials to the appropriate CJC. Likewise, it is the referring officer’s duty to react and take appropriate action if an individual fails to engage or fails to complete the CJC contract: electing to

1. cite the individual and refer the matter for prosecution, or
2. attempt to re-refer the action to the CJC, if supported by the CJC. Agencies are also requested to submit direct referral data to my office by July 15th each year, for the prior fiscal year (July 1st – June 30th). Data should reflect the total number of referred cases, and the number of cases that did or did not successfully complete, or those that remain in progress.

APPROVED December 22, 2024