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POLICY MEMORANDUM

Law Enforcement Direct Referrals to Community Justice Centers

Background

In 2007, Vermont provided a statutory framework for “community justice center[s] to resolve civil disputes and address the wrongdoings of individuals who have committed municipal, juvenile, or criminal offenses.” Pursuant to 24 V.S.A. § 1964(a)(3) community justice centers (CJCs) “shall include programs to resolve disputes, address the needs of victims, address the wrongdoing of the offender, and promote the rehabilitation of youthful and adult offenders.”

Vermont has also emphasized the use of court diversion programs, and more recently, the “Tamarack” program to resolve criminal cases without a final adjudication or conviction. Accordingly, there have never been as many effective options to address criminal conduct outside of the traditional criminal justice system.

This office endeavors to resolve cases at the lowest level of disposition possible, recognizing that a wide range of options and variance in case outcomes occurs based on offender history, victim impact, and circumstances of the offense behavior. A spectrum of options exists, ranging from community justice center (CJC) referrals, either pre-charge or post-charge/post-arraignment, diversion referrals, “Tamarack” referrals, and then the traditional criminal court track. Within the criminal justice system, post-conviction referrals to restorative justice programming or boards offered by CJCs is often utilized as part of deferred or probated sentences.

The *de facto* policy of this office, since 2018, has been one of deference to officers, troopers, or deputies in permitting direct CJC referrals at their discretion. This policy memorandum codifies and clarifies this policy, while providing a framework for law enforcement officers to utilize when contemplating direct referral.

References

24 V.S.A. ch. 58 (Community Justice Centers)
3 V.S.A. § 164 (Adult Court Diversion Program)
13 V.S.A. § 5301(7) (Listed Offenses)

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**. A flexible approach and mindset should be applied. The following criteria are relevant when considering direct referral:

1. The conduct constitutes a non-listed misdemeanor offense;
2. Anticipated restitution, if any, is less than \$250.00;
3. The offender is not currently under the supervision of the Department of Corrections;¹
4. The offender has not previously failed to complete or engage in a CJC program or court diversion within the past 12-months.

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

- Victim support or direct request for a CJC referral;
- Criminal or supervisory history supportive of a referral to a court diversion program, if charges were referred for prosecution, e.g. first time offenders or individuals with limited or older criminal histories;
- Demonstrated amenability to participation in a restorative justice process by the offender.

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

- Conduct is in violation of existing Department of Corrections supervision conditions or court ordered conditions of release;
- Criminal history;
- 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;
- Prior unsuccessful referral to a CJC for similar conduct, without excuse or justification, or an absence of compelling changes in circumstances;
- Nature of victim impact or persuasive victim objection to a referral;
- 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;
- 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.

¹ Offenders who are under Department of Corrections supervision may be directly referred to a CJC with concurrence of their probation officer, in lieu of a violation of probation or sanction for offense behavior.

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. Additionally, cases may be submitted with a recommendation that referral to a CJC or diversion program be made upon filing or following arraignment.

Cases that may not be Referred to a Community Justice Center

Some cases may never be referred to a 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 except in Department of Corrections offender reentry programs pursuant to protocols protecting victims.” While permitted by statute, other listed offenses should not be referred without consulting the State’s Attorney’s office.

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) decline further action, (2) cite the individual and refer the matter for prosecution, or (3) 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 January 15, 2021

Encls.

Referral Forms (Montpelier & Barre CJCs)

Distribution:

Washington County Law Enforcement
Barre Community Justice Center
Montpelier Community Justice Center

Police Department Referral to Montpelier Community Justice Center
Restorative Justice Alternative

Person Responsible _____ DOB _____ Age _____

Parent/Guardian (if under 18) _____

Mailing Address _____

Physical Address (if different) _____

Phone: Cell _____ Alternate: _____

Email: _____ Text Ok? Yes No

Offense: _____ Date of Offense: _____

Case #: _____

Description of Offense (or attach affidavit): _____

Has the person been informed of the referral? Yes No If so, date _____

Person Affected _____ DOB _____ Age _____

Mailing Address _____

Physical Address (if different) _____

Phone: Cell _____ Alternate: _____

Email: _____ Text Ok? Yes No

Contact with the affected person(s)? Yes No

NOTE: If there are more affected people, please list on next page.

Referred by (print) _____ Date _____

Referring Agency (check) MPD NPD BPD VSP

Phone _____ Email _____

Submit to: Erin Anderson, Restorative Programs Coordinator
Montpelier Community Justice Center, 39 Main Street, City Hall; Montpelier, VT 05602
eanderson@montpelier-vt.org / Phone: 802.223.9606 / FAX: 223-9529

Person Affected (2) _____ DOB _____ Age _____

Mailing Address _____

Physical Address (if different) _____

Phone: Cell _____ Alternate: _____

Email: _____ Text Ok? _____ Yes _____ No

Person Affected (3) _____ DOB _____ Age _____

Mailing Address _____

Physical Address (if different) _____

Phone: Cell _____ Alternate: _____

Email: _____ Text Ok? _____ Yes _____ No

Person Affected (4) _____ DOB _____ Age _____

Mailing Address _____

Physical Address (if different) _____

Phone: Cell _____ Alternate: _____

Email: _____ Text Ok? _____ Yes _____ No



Barre City/Barre Town Police
Restorative Justice Program
Barre Community Justice Center
DIRECT REFERRAL FORM
(Please fill out as much information as is known)

Participant Name _____ DOB _____ Gender _____

Address _____

Phone _____ W _____ Cell _____ Email _____

Parent/Guardian _____ Home Phone _____ Work Phone _____

Address _____ Email _____

Parent/Guardian _____ Home Phone _____ Work Phone _____

Address _____ Email _____

School _____ Grade _____ Other Relevant Information _____

Incident Information: Offense Details (or attach write up) _____

Date of Offense _____

Has the person been charged or cited? Yes _____ No _____ If so, date _____

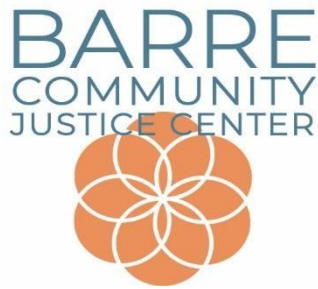
Date of next court appearance _____

Has the person been informed of the referral? Yes _____ No _____ If so, date _____

Victim Information: Victim's Name _____ DOB _____

Phone # _____ W _____ cell _____ email _____

Address _____



Parent/Guardian _____ Address _____ Email _____

Phone: H _____ W _____ cell _____ Email _____

What contact has your office had with the victim? _____

Referred by _____ Phone _____ Email _____

Things to keep in mind									
<ul style="list-style-type: none"> ● The offending party needs to agree to participate. ● If they are a youth the parents should be notified by the police officer of the referral. <p>Email referral form and other paperwork to: Erica Back eback@barrecjc.org</p>	<p>If the offense happened in:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Barre</td> <td style="width: 50%;">Plainfield</td> </tr> <tr> <td>Barre Town</td> <td>Washington</td> </tr> <tr> <td>Cabot</td> <td>Williamstown</td> </tr> <tr> <td>Marshfield</td> <td>Woodbury</td> </tr> </table> <p>It is covered by the Barre Community Justice Center</p> <p>Please call if you would like to discuss a case before referral at 802-498-5525</p>	Barre	Plainfield	Barre Town	Washington	Cabot	Williamstown	Marshfield	Woodbury
Barre	Plainfield								
Barre Town	Washington								
Cabot	Williamstown								
Marshfield	Woodbury								

Vermont State Police
Restorative Justice Program
Community Justice Center
DIRECT REFERRAL FORM
(Please fill out as much information as is known)

Participant Name _____ DOB _____ Gender _____

Address _____

Phone _____ W _____ Cell _____ Email _____

Parent/Guardian _____ Home Phone _____ Work Phone _____

Address _____ Email _____

Parent/Guardian _____ Home Phone _____ Work Phone _____

Address _____ Email _____

School _____ Grade _____ Other Relevant Information _____

Incident Information: Offense _____ Date of Offense _____

Has the person been charged? Yes _____ No _____ If so, date _____

Date of next court appearance _____

Has the person been informed of the referral? Yes _____ No _____ If so, date _____

Victim Information: Victim's Name _____ DOB _____

Phone # _____ W _____ cell _____ email _____

Address _____

Parent/Guardian _____ Address _____ Email _____

Phone: H _____ W _____ cell _____ Email _____

What contact has your office had with the victim? _____

Referred by _____ Phone _____ Email _____

See next page for Community Justice Referral

Referring agent

Please alert the appropriate CJC to this referral via email **on the day the case is referred** and attach the following scanned documents: this referral form, affidavit(s) and other supporting documents that describe the offense, its legal history and victim list. Email to appropriate CJC.

If the offense happened in

Berlin	Moretown
Calais	Northfield
Duxbury	Roxbury
East Montpelier	Waitsfield
Fayston	Warren
Middlesex	Waterbury
Montpelier	Worcester

Erin Anderson

eanderson@montpelier-vt.org

Montpelier Community Justice Center
802-223-9606

If the offense happened in

Barre	Plainfield
Barre Town	Washington
Cabot	Williamstown
Marshfield	Woodbury
Orange	

Erica Back

eback@barrecjc.org

Barre Community Justice Center
802-498-5525