

Diversion Program Eligibility Criteria

The District Attorney is exclusively authorized to establish, modify and apply eligibility criteria for its restorative justice diversion programs. The overall aim of these diversion programs is to reintegrate participants back into the community and promote self-sufficiency, while stopping the cycle of recidivism.

For all cases, the District Attorney will determine eligibility on a case-by-case basis working in collaboration with the law enforcement agency within whose jurisdiction the offense occurred. This eligibility criteria and misdemeanor offense list were developed in collaboration with Yolo County law enforcement agencies (LEA). *Any exceptions to the below eligibility criteria require District Attorney Supervisor and law enforcement agency agreement.*

The District Attorney has four distinct restorative justice diversion programs:

1. Neighborhood Court (NHC); 2. Neighborhood Court Day Reporting Center (NHC/DRC); 3. The Neighborhood Court Case Managed (NHC/CM); and, 4. Steps to Success (S2S). Offenders who are eligible for NHC or NHC/DRC but suffer from substance use disorder and/or mental illness are more appropriate for S2S or NHC/CM.

Offenders are not eligible for diversion if/when:

- The offender has a prior arrest for any misdemeanor offense within the last year or a felony conviction within the last three years;
- The offender's new offenses include domestic violence, criminal street gang activity, sexual assault, driving under the influence, and/or violation of a restraining order;
- The offender is on felony probation, mandatory supervision, post release community supervision or parole;
- The offender is an active criminal street gang member;
- The offender is a registered sex offender;
- The victim does not consent to diversion after being properly advised about the program and their options;
- The offender wants to contest the charges. Restorative justice requires that offenders accept responsibility for their criminal conduct (Offenders charged with multiple offenses may still be eligible if they contest responsibility for one of the offenses while taking responsibility for others when appropriate.);
- When the offender has a new eligible offense and a misdemeanor violation of probation (VOP) based on the new offense, both the new offense and the VOP will be diverted
- Stand alone Vehicle Code section 14601 cases are not eligible for NHC (see PES 14601 diversion program);
- An infraction was committed in a "Safety Enhancement Zone" within the City of Davis; and/or

- Other aggravated facts or circumstances of the crime or criminal history warrant a traditional prosecution.

NHC has a list of misdemeanor offenses where the offender is presumptively eligible for diversion. Misdemeanor cases not on the NHC eligible list and felonies **should** still be considered for diversion. Other factors for consideration include:

- Offenders who have a prior conviction or convictions for that same offense as currently charged may still be considered for NHC. However, priors will be heavily considered in balancing the gravity of the new offense and appropriateness for NHC diversion;
- New offenses that trigger a violation of misdemeanor probation are eligible for consideration. Since inclusion in NHC is discretionary all available information concerning both the probation case and new charges will be evaluated prior to entry into NHC.
- Offenders with pending Serious Felonies (3 Strikes) may be eligible on a case by case evaluation in collaboration with the law enforcement agency (LEA) who made the arrest and/or whose jurisdiction the crime occurred.
- Offenders with prior a Serious Felony conviction(s) may be eligible on a case by case evaluation in collaboration with the LEA who made the arrest and/or whose jurisdiction the crime occurred.
- Child abuse/neglect cases are evaluated on a case by case basis in collaboration with Child Protective Services and the LEA which made the arrest and/or whose jurisdiction the crime occurred in.

Substance Use Disorder and Mental Illness

The Steps to Success (S2S) and Neighborhood Court Case Managed (NHC/CM) diversion programs are designed for individuals suffering from a substance use disorder and/or mental illness. The goal of these programs is to reduce recidivism and advance the recovery of individuals in these program target populations while maintaining public safety. Incentivizing successful treatment engagement is the guiding force behind the application of above offender eligibility criteria in the offender eligibility determination for these programs.

Unlike other diversion programs, victim consent is **not** required for participation in either of these diversion programs. The victims will be engaged and their input regarding case disposition will be considered in the same manner as all other criminal cases. The requirement that the offender have no new misdemeanor arrests or convictions within one year does **not** apply. Individuals eligible for these programs may not have been previously identified as needing treatment or willing to engage in treatment.

S2S applies the principles of restorative justice and trauma-informed care to provide wraparound services to individuals who are eligible for diversion, but are unlikely to succeed without intensive support due to their history of mental health issues and/or substance use disorders. Eligibility is currently limited to Yolo county residents due to

program funding limitations and the challenge of case managing participants who do not reside within Yolo County.

The NHC/CM target population consists of individuals who suffer from a significant or serious mental illness. Offenders who are full service partners through the Health and Human Services Agency receiving case management services from the Transitional Aged Youth team, the Adult and Aging Branch, and the Turning Point ACT team are excellent candidates. Eligible offenders may also receive treatment services through private pay insurance, the Veterans Administration or other county's Medi-Cal treatment providers that address their mental health.

Mental Health Court (MHC) and Addiction Intervention Court (AIC) may be considered a form of diversion when the case resolves with a deferred entry of judgment instead of a conviction and probation. MHC and AIC are for individuals charged with felonies who need the added structure they provide to be successful and/or individuals with a more significant criminal history.

As noted above any exceptions to the above eligibility criteria require District Attorney Supervisor and law enforcement agency agreement. In certain circumstances, law enforcement agreement will not be necessary, when approved by Supervising Deputy District Attorney Christopher Bulkeley. Questions concerning diversion eligibility for all of the restorative justice diversion programs should be directed to Christopher Bulkeley or the Neighborhood Court Program Coordinator Nicole Kirkaldy.