


FORT SMITH POLICE DEPARTMENT

POLICIES AND PROCEDURES

SUBJECT	Diversion Programs		
NUMBER	1101.11	EFFECTIVE DATE	November 10, 2000
SCHEDULED REVIEW DATE	Annually beginning January 1	ISSUE DATE	November 10, 2000
DATE REVIEWED	April 21, 2025	REVISION DATE	June 20, 2024
APPROVED BY		CALEA STANDARDS	LE1.1.3

I. Purpose and Scope

- A. The purpose of this policy is to establish and maintain effective channels of communication between the Fort Smith Police Department and various diversion programs within the court system.

II. Policy

- A. It is the policy of the Fort Smith Police Department to institute, maintain, and actively participate in various diversion programs within the criminal justice system, so as to maximize the level of service provided in certain types of cases, divert low-level, non-violent offenders away from incarceration wherever possible, and help connect qualified individuals to needed resources thereby improving overall contributions to the community and positively impacting crime and recidivism.

III. Family In Need of Services (FINS)

- A. Frequently, Fort Smith Police Department officers encounter situations in which juveniles may be involved in incidents, the circumstances of which do not qualify as a "crime" but yet some level of intervention would be appropriate. In these types of instances, the officer is encouraged to consider:
1. Recommending that the parents or guardian contact the Sebastian County Juvenile Office during normal business hours to request a Family In Need of Services (FINS) petition. Personnel there will arrange for an interview, and take other steps they deem appropriate in an attempt to handle the problem.
 2. If the officer feels that apathy or lack of concern by the parents or guardian will cause them to not call the juvenile office, then the officer has the authority to contact the Sebastian County Juvenile Office himself to initiate a FINS petition.

IV. Drug Court

- A. The Sebastian County Drug Court is a program that allows non-violent offenders the means to have pending felony charges expunged from their record. *This program does not expunge all of a person's criminal record, but only applies to pending felony charges.*

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- B. Occasionally, an officer may determine circumstances exist in which he/she feels a non-violent offender may benefit from a sentence other than a criminal penalty such as incarceration. Upon making this determination, the investigating officer is encouraged to:
1. Make a recommendation to the Prosecuting Attorney's office for the individual to participate in the Drug Court program. Occasionally, the Prosecuting Attorney's Office will contact the officer to request their opinion as to whether an individual would be eligible for the program. In either case, the Prosecuting Attorney's Office will conduct a background of the recommended candidate to ensure they meet all qualifications of the program.
 2. To participate in this program, the offender will plead guilty to any offense(s) as charged and be sentenced to an extensive Drug Court Program which will include the following:
 - a. Assignment of a Drug Court Probation Officer;
 - b. Extensive rehabilitation efforts such as counseling, frequent drug screening,
 3. Upon successful completion of the program, the charge(s) will be expunged from the individual's record.

V. First Offender Program

- A. Officers issuing traffic citations have the option of informing the violator of the First Offender Program which may be available to them through the Sebastian County District Court – Fort Smith Division. This probation program is offered to first-time traffic violators as a means of keeping the traffic citation off of their driving record.

VI. Community Diversion Programs

- A. This program is mainly for shoplifting and public intoxication charges and is available to them through the Sebastian County District Court – Fort Smith Division. Options are available for any substance abuse or theft violations as well, should someone qualify.
1. Defendants with substance abuse charges are made to go through a treatment program at Harbor House prior to sentencing, upon successful completion, the jail time and/or community service is suspended;
 2. Defendants with violations involving a theft, are required to get their General Education Diploma at Adult Education in lieu of jail or community service.

VII. DWI Court Program

- A. This program is addressed through the court system and is available to defendants through the Sebastian County District Court – Fort Smith Division. Participants will be required to go through a year of treatment, drug testing, probation visits and other rigorous requirements to graduate the program. Upon successful completion, the jail time (7 to 14 days on DWI 2nd and 90 days on DWI 3rd) are satisfied by the treatment plan and the defendant is not required to serve time in jail. This program does not keep the DWI conviction off the person's criminal history/driving record, it just keeps them from having to serve time in jail.

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VIII. Rise Court

- A. This program is addressed through the court system and is available to defendants through the Sebastian County District Court—Fort Smith Division. Participants are accepted by District Court Judges in instances of misdemeanor drug or theft charges as an alternative to paying fines or jail time. A successful completion of Rise Court sees the charges being dismissed for the defendant. Each defendant is evaluated once per month by a committee, of which the Court Liaison Officer is seated, to determine eligibility for the program. Current participants are also evaluated and given assistance in the form of housing, food, medical care, or education. Failure to adhere to requirements result in sanctions that involve working on a crew overseen by the Court Liaison Officer. This crew also is an alternative to paying fines as the result of convictions within the District Court.

IX. Fort Smith Pre-Arrest Diversion Program

- A. This program in cooperation with Harbor House Inc. allows officers to use discretion to divert willing offenders of certain misdemeanor crimes away from the criminal justice system, while providing access to behavioral health, mental health and substance abuse treatment. If this program is utilized and the offender volunteers to participate and successfully completes the course of treatment offered, criminal charges will not be sought. The criteria and procedures for this program are covered in detail in Operational Memorandum #20-07.

X. Veterans Treatment Court

A. The Sebastian County Veterans Treatment Court is a court-supervised, comprehensive treatment program for eligible offenders. An eligible offender is defined as one charged with a felony offense in Sebastian County who qualifies for Veterans Administration ("VA") benefits and is approved for participation by their attorney, the Prosecuting Attorney and the presiding Judge. This is a voluntary program which includes:

1. Regular court appearances before the presiding Judge
2. Supervision by an officer of Arkansas Community Correction (probation officer)
3. Treatment, as determined by the treatment team, tailored to address your individual needs. Treatment may include, but is not necessarily limited to, attendance at 12-step meetings (NA/AA) or a secular equivalent, individual/group counseling sessions, and in-patient treatment as required,
4. Drug testing

XI. Mental Health Court

A. The Sebastian County Mental Health Court is a voluntary, pre-adjudication, highly intensive supervision program designed to address the needs of criminal defendants with mental illness or co-occurring disorders. Mental Health Court is available only to defendants meeting program eligibility requirements. The defendant must be an adult resident of Sebastian or Crawford County; must not have a previous conviction for a serious felony involving violence as defined by §5-4-501(c)(2); must not have a previous conviction that would require registration as a sex offender; must be identified as high-risk/high-need, as determined by a validated risk-need assessment; must have mental health disorder, and must be identified as clinically appropriate for the program, as determined by a licensed therapist. Mental Health Court is a minimum of fourteen (14) months.

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