

## **Frequently Asked Questions**

### **How Diversion Would Occur?**

Upon arrest, a law enforcement officer must inquire whether the person is an active servicemember, or has ever served in the armed forces of the United States. If the person is an active or former servicemember or claims to be an active or former servicemember, it must be noted on the complaint-summons or complaint-warrant charging the defendant with a crime.

Upon the defendant's first appearance in court the Judge will explain that an eligible defendant may apply, through that defendant's attorney, to be considered for entry into the program.

The applicant, with the help and guidance of an attorney, will complete the required paperwork and submit that paperwork to the Prosecutor's Office for consideration.

### **How Can Servicemember Status Be Verified?**

Once a defendant claims current or former military service, it is incumbent upon him or her, with assistance of counsel where appropriate, to provide documentation or information that verifies such status. Typically, this will be presented in the form of a validly issued Common Access Card (CAC), DD-214, Certificate of Release or Discharge from Active Duty, retired ID card, a government agency-issued Veterans Identification Card, or other acceptable documentary evidence indicating former service status.

### **What Offenses are Eligible for Diversion?**

Ordinarily, any non-violent third or fourth degree crime, disorderly persons or petty disorderly persons offense is eligible for diversion under this program. Servicemembers charged with other offenses may, depending on compelling circumstances surrounding the criminal offense and at the sole discretion of the Atlantic County Prosecutor's Office, also be deemed eligible to participate in this program. (Please see "Prosecutor Directive" link for more details).

### **What Does an "Eligible" Defendant Mean?**

Verification of a defendant's current or former veteran status is the first step in determining eligibility for the program. After service is verified, a defendant must be deemed "eligible" for entry into the program. To be eligible, a defendant must have some mental illness or substance dependency that may have caused or contributed to his or her commission of the offense. A "mental illness" means a mental disorder classified within the current version of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (DSM), including, but not limited to, anxiety disorders, cognitive disorders, adjustment disorders, schizophrenia and other psychotic disorders, bipolar disorder, depression, and post-traumatic stress disorder (PTSD). "Substance dependency" means a psychic or physical dependence, or both, arising from the use of a controlled dangerous substance or controlled substance analog, as defined in New Jersey Statute 2C:35-2, or alcohol on a continuous or repetitive basis. Drug or alcohol dependence is characterized by behavioral and other responses, including but not limited

to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

While a defendant may be deemed eligible for the program, the decision to accept the defendant into the program is at the sole discretion of the ACPO after considering a number of factors, including, but not limited to:

- The extent of causative or contributory relationship between the person's diagnosed or apparent mental illness and the commission of the offense;
- The amenability of the defendant to participating in the program's conditions;
- The nature and circumstances surrounding the commission of the offense(s);
- The desires of any victim;
- The person's history of prior convictions; and
- The likelihood that diversion will promote the person's recovery, prevent future criminal behavior, and ensure public safety.

### **What Happens After an Eligible Defendant is Accepted into the Program?**

A defendant accepted into the program shall agree in writing to a number of terms per the Prosecutor's Directive, in addition to conditions set forth by the ACPO herein. Specifically, a defendant must agree to:

- Participate in case management and mental health/substance dependency services through an applicable veteran's diversion resource entity, and comply with any recommended course of treatment;
- Authorize any case management or treatment provider to release periodic status reports regarding the admitted defendant's participation to the ACPO;
- Cooperate with case management service providers to procure housing, education and employment services, where appropriate;
- Pay restitution for damages resulting from the offense;
- Refrain from the use of alcohol or illegal narcotics, or frequent any place where such items are sold or used;
- Refrain from the possession or use of firearms or other weapons;
- Refrain from further criminal activity;
- Refrain from any contact with a victim of the offense;
- Cooperate with a designated mentor assigned by a veteran's diversion resource entity;
- Suspend the tolling of time for purposes of the defendant's right to a speedy trial while the defendant is participating in the program;
- Advise the ACPO of any change in address or change in case management or treatment provider; and
- Any other terms and conditions set forth by the ACPO in the interest of the defendant's recovery and public safety.

### **What Happens After Successfully Complying with the Program Conditions?**

A veteran who successfully completes the terms and conditions of this program to the satisfaction of the prosecutor, has not been the subject of any subsequent criminal charges and continues to make progress with mental health and/or substance abuse treatment shall have his/her charges dismissed.

In the case of dismissal of charges after successful completion of the program, a defendant may apply for expungement following the issuance of an order of dismissal.

### **What Happens If a Veteran Fails to Comply with the Program Conditions?**

If, at any time after admission into the program, the prosecutor determines that the servicemember has failed to comply with any term or condition of the diversion agreement, the prosecutor may notify the court that it is prepared to proceed with the prosecution and the court shall schedule court proceedings as appropriate.