

NORTHAMPTON POLICE DEPARTMENT Administration & Operations Manual		
Policy: Restorative Justice Program		AOM: O-709
Massachusetts Police Accreditation Standards Referenced:		Issuing Authority <hr/> Jody Kasper Chief of Police
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I. Introductory Discussion

Restorative justice views crime as more than breaking the law - it also causes harm to people, relationships, and the community. It is a theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to transformation of people, relationships, and communities.

The three basic principles that all restorative justice programs subscribe to are:

- A. **Crime is a violation of people and relationships.** While a law may have been broken, the harm is primarily against people, not an abstract law or other state entity.

- B. **Crime creates harms, needs, and obligations.** If crime upsets the balance and results in actual harms and needs, then who should be primarily obliged to restore that balance?
- C. **Those most affected should be meaningfully included and empowered.** If a person broke into a home, the victim should be asked what they want and need from the process.

For specific cases, it is the policy of the Northampton Police Department to use a community-based restorative justice program as an alternative to traditional case-resolution through the court system. Diversion to a community-based Restorative Justice Program (RJP) will be considered for many misdemeanor cases and some felony cases.

Generally, the most successful cases are those in which an individual or institution has been affected or harmed. When there's no aggrieved party (e.g., simple drug possession), restorative justice is possible by using a victim representative but can be less impactful. RJ should be considered for instances in which there is harm or the fear of potential harm to an individual, community, or group that might be repaired through a restorative dialogue and restorative agreement.

II. Definitions

- A. Restorative Justice: M.G.L. Chapter 276B defines “restorative justice” as a voluntary process whereby offenders, victims, and members of the community collectively identify and address harms, needs, and obligations resulting from an offense, in order to understand the impact of that offense; provided, however, that an offender shall accept responsibility for their actions and the process shall support the offender as the offender makes reparation to the victim or to the community in which the harm occurred.
- B. Community-based Restorative Justice Program: A voluntary program established on restorative justice principles that engages parties to a crime or members of the community in order to develop a plan of repair that addresses the needs of the parties and the community.

III. Training

Police Officers and the Court Liaison Officer shall complete a standard basic training course administered by the Department. The training shall include an overview of the Restorative Justice concept, the benefits of this diversion strategy, and the process for referrals to RJP.

IV. Duties of Officers

Police officers and detectives investigating cases, will make no changes in how they prepare a case for court. Incidents shall be investigated to their conclusion, as if the case were going to be handled in the court system. For a case to be appropriate for referral the criteria outlined in Section V must be met.

V. Criteria

- A. Cases may be referred to the RJP when the following three criteria are met:
1. The offender must be willing to admit to committing the offense. They may not understand the full impact of the harm they have caused, but must show some remorse and a desire to repair harm.
 2. The victim is willing to have the case proceed through a restorative justice process instead of pressing charges or letting the offender be summoned.
 3. The Department can be reasonably sure of a safe process.
- B. Incidents that involve the following charges are not eligible for referral to the RJP, unless extenuating circumstances exist:
1. OUI Alcohol or Drug
 2. License Suspension/Unlicensed Operation (unless charged along with a Negligent Operation or Leaving the Scene, which might be appropriate)
 3. Sexual assaults, sexual exploitation, and any and all related sexual offenses as defined by section 1 of chapter 123A
 4. Domestic Violence and/or abuse defined by MGL c. 209A, § 1 against a family or household member as defined by MGL c. 265, § 13M
 5. Cases with vulnerable victims, including elder abuse, child abuse, and abuse of disabled persons
 6. Crimes involving significant violence or intimidation against a person (e.g., Strangulation, ABDW, Armed Robbery, Unarmed Robbery, Mayhem)
 7. An offense resulting in serious bodily injury or death, unless on post-arraignment referral
 8. Harassment and Restraining Order violations
 9. Arson, including dwelling houses; burning or aiding in burning

VI. Referral Process

- A. Participation in a community-based restorative justice program shall be voluntary and may be available to both juvenile and adult defendants. A juvenile or adult defendant may be diverted to a community-based restorative justice program pre-arraignment or after arrest in partnership with the court.
- B. All cases that are not exempt (as defined in V.B.) will be presumed appropriate for referral to C4RJ, except as described below in VI. C-D, the Court Liaison Officer will contact the people involved in the case and shall ensure the following:
1. The Offender understands the restorative justice process, including that it will require acceptance of responsibility for the conduct and the harm caused, and understands that if the RJP process does not come to a resolution, the case may be referred to the court system.
 2. Victim understands the restorative justice process and is willing to have the matter referred.
 3. A thorough police report has been written, as if the case were proceeding in court.
- C. Where the Department is in possession of private information about an offender (e.g., CORI, substance abuse history, mental health, etc.) that renders a case potentially inappropriate, the

Department shall share with the RJP partner a redacted statement of facts and all private information with identifying information redacted to determine appropriateness.

- D. Where the Department and the RJP partner disagree as to whether a case should be diverted to C4RJ, the Department's Court Liaison Officer and a representative from the Northwestern District Attorney's Office (NWDAO), and a staff member from C4RJ will meet either in person or virtually, with the RJP partner. The Court Liaison Officer will present the basic facts of the case and other known information as described in VI.C. After discussion, the final decision rests with the Department. If the final decision is to refer a case, the Court Liaison Officer shall contact the people involved, pursuant to VI.B.
- E. If drugs or alcohol were factors in the incident, the local RJP may still accept the case; however, RJP may require a substance use or mental health evaluation before proceeding with a circle.
- F. Once the RJP has recommended the case for diversion, and all criteria are met after the Court Liaison Officer's contact with those involved with the case, the Court Liaison Officer shall notify the RJP regarding cases that are ready for RJ diversion. They will then provide the following information to the community-based restorative justice program in the police report or by supporting documentation:
 - 1. Victim's (and supporters, if applicable) first and last names, with address.
 - 2. Victim's email, home & cell phone numbers (if available).
 - 3. Name of offender(s).
 - 4. If a juvenile, names of supporters/parents (are parents married or separated?), if applicable.
 - 5. Addresses and phone numbers (both parents if they are separated), if applicable.
 - 6. Age of offender; if youth, the school attended and grade.
 - 7. Laws that were broken and potential penalties.
 - 8. Other action expected to be taken (e.g. clerk magistrate hearing, other complaint to be held by police, etc.).
 - 9. Police report, including incident narrative, which will be redacted of information that is either covered under privacy provisions of MGL or not directly relative to the specific incident being referred to RJ; and
 - 10. Supporting information (e.g. concerns about offender's psychological issues, possible learning disorders, views of the parents, victim, supporters, etc.).
- G. If a juvenile or adult defendant does not successfully complete the program or is found to be in violation of program requirements, the case shall be returned to the Court Liaison Officer and the case will be filed in the appropriate court.
- H. If an offender has been arrested, the NWDAO makes the determination about referral to C4RJ. The determination can be made prior to or after arraignment or at any time during the pretrial process. The NWDAO may seek guidance or further information from the Department in making its determination but will make the final decision.

VII. Restorative Justice Circles

- A. In certain circumstances, as noted in Section VI, officers may be requested to take part in a circle. Circles are not a fact-finding or investigatory process and cannot be used for discovery. An investigation must be complete before referral. This process is guided by the victim's needs.
- B. The investigating officer or another assigned officer may be asked by the RJP to participate in an opening and closing circle. Officers who take part in circles shall be in plain clothes and their weapon must be concealed.
- C. The Court Liaison will be the primary contact with C4RJ and will notify the officer if their presence is requested at a circle. The officer will consult the Administrative Lieutenant regarding scheduling. The presence of the officer at a circle will be considered a priority in scheduling.

During the opening circle, the following will be accomplished:

1. Personal introductions.
2. Review of information about the offense and what the penalties could be if the case were prosecuted. The officer might describe what s/he observed about the behavior of the parties throughout the incident and the legal consequences of the offense. It is valuable to include not only the facts but also the emotions and intangibles observed/experienced.
3. Development of a restorative agreement by which the offender will address the needs of the victim and the community.
4. If there are any problems between the opening and closing circles in completing the repair items, the circle participants may be called upon to reconvene and reevaluate the terms of the agreement.

During the closing circle, the following will be accomplished:

1. During the closing circle, the discussion will focus on what the offender has done and learned during the program, and the officer may be able to support the victim in voicing any remaining concerns.
2. After the closing circle, a completion memo will be submitted to the Department by the RJP. That memo will be scanned and added to the case file.

VIII. Confidentiality

The circle process is confidential. According to M.G.L. 276B, no statement made by a juvenile or adult defendant during the course of an assignment to RJP shall be subject to disclosure in any judicial or administrative proceeding, and no information obtained during the course of such assignment shall be used in any stage of a criminal investigation or prosecution or civil or administrative proceeding. However, nothing in this section shall preclude any evidence obtained through an independent source or that would have been inevitably discovered by lawful means from being admitted at such proceedings. Additionally, nothing in this section releases police officers from their mandated reporting as required by MGL for elders, children or vulnerable persons.

IX. Documentation

The Court Liaison Officer shall maintain a summary spreadsheet (O-709.a) of all cases that are presented and referred to the RJP. The spreadsheet shall contain the case number (OF), charges, date of initial presentation to RJP, and final disposition. This document shall be provided to the Chief of Police on an annual basis at the conclusion of a calendar year, and is due by February 1. It shall be included in the Department's annual report.