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POLICY MEMORANDUM

Utilization of Fines in Offers and Case Resolutions

1. This policy reflects the need for increased awareness of the collateral effects of sentence outcomes, especially in light of the high rate of poverty seen among offenders. Too often, “the standard” resolution for a case destabilizes fragile housing or employment situations or places an individual in a financially untenable situation.
2. Codification of practices into formal policies will assist in mitigating the further indebting those already in poverty and challenge the perception that those with financial means may “buy” their way out of consequences for criminal acts. Effective immediately, the use of fines will be de-emphasized, substituting therefore other options including alternative justice referrals, reparative board without probation, or deferred sentences.
3. In cases where a fine is offered, community service valued at \$15.00 per hour or the living wage based on the individual’s circumstances will be offered (based upon the MIT living wage calculator for Washington County), whichever is greater.
4. Other alternatives to fines, accounting for the personal circumstances of an individual are also encouraged, as noted above. Ultimately, the consequence for criminal conduct should be tailored to change behavior and be proportionate – regardless of income or means.
5. Creating a predictable, fair, and equitable approach to case resolution is critical – for some with work and family obligations a fine may be a logical and fair way to resolve a case. Others may have little to no financial flexibility.
6. Further, noting that a recent Washington Post report found that 9% of all Vermont drivers have a suspended driver’s license, deemphasis of fines in driving with license suspended cases is an area of special emphasis. In too many situations licenses are suspended for years beyond the minimum term, simply because an individual cannot pay old fines. To that end:

a. Driving with License Suspended (DLS) cases brought under 23 V.S.A. § 674(a)(2) (“OSC violations”) shall be offered a referral to the Washington County Diversion Program for “DLS Diversion” for a first offense. This codifies the existing practice of the office. Subsequent offenses and referral will be discretionary, but encouraged;

b. DLS cases brought under 23 V.S.A. § 674(a)(1) & (b)(1) for a first offense shall be offered a referral to the Washington County Diversion Program for “DLS Diversion”, if (1) the individual is not subject to lifetime suspension, (2) more than three years has elapsed since the suspension became effective, and (3) the suspension is not based on a felony driving offense or offense where serious bodily injury or death resulted (e.g. grossly negligent operation – eluding law enforcement or negligent operation – serious bodily injury).

7. Vermont’s rural community structure and limited mass transit make the ability to drive critical to finding and keeping a job, and meeting basic needs. This consideration should guide outcomes in such circumstances.

APPROVED May 31, 2018