



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 1.2.7

TITLE: ALTERNATIVES TO ARREST – SOBERING CENTER

EFFECTIVE: 11/26/2019

REVISED:

PURPOSE

Elected officials, law enforcement officers, residents, business owners, and service providers in New Orleans want to improve public safety, public health and public order in their neighborhoods, while also reducing future criminal behavior by individuals engaged in low-level offenses. The Department and City of New Orleans desire to divert eligible publicly intoxicated persons as an alternative to arrest to reduce the use of criminal-justice resources and assist individuals in receiving needed services.

POLICY STATEMENT

1. Persons intoxicated due to alcohol who would meet the requirements of **Municipal Ordinance Sec. 54-405 – Public drunkenness, drug incapacitation** and would otherwise be placed under arrest and booked for that violation, may be diverted to the Sobering Center as an alternative to booking when meeting the requirements of this Chapter and when consenting to the alternative after being informed by the officer. The detaining officer, will perform an assessment to determine eligibility to be brought to the Sobering Center and, if eligible, contact the Sobering Center for space availability.
2. Persons intoxicated due to alcohol who would meet the requirements of **Municipal Ordinance Sec. 54-405 – Public drunkenness, drug incapacitation** who are to be charged with ANY other misdemeanor municipal offense **not** involving violence, vice, theft or criminal mischief that is appropriately the subject of a municipal summons, may be issued a summons for the charges and transported to the Sobering Center if authorized by the officer's supervisor, and if the officer and supervisor determine that the individual meets the requirements of issuing a summons in lieu of arrest pursuant to **Chapter 41.8 – Affidavit and Summons**. An affidavit or summons shall not be completed for public intoxication for persons transported to the Sobering Center.
3. The use of diversion for public drunkenness, **SHALL NOT** apply to persons in lieu of a possible DWI charge. (see: **Chapter 61.1.11 – D.W.I. Procedures**.)
4. The use of diversion for public drunkenness, **SHALL NOT** apply to persons also charged with a felony.

DEFINITIONS

Definitions related to this Chapter include:

Sobering Center – a facility maintained by or contracted through the City Of New Orleans to provide a safe, controlled environment for non-violent subjects to stay until the effects of alcohol intoxication have diminished to a safe level. The Sobering Center is not a “treatment facility” within the meaning of R.S. 28:2.

Sobering Center Exception List – a list of persons who, because of identified medical or physiological concerns, have been determined by Sobering Center staff to be ineligible for participation for this type of diversion.

ELIGIBILITY FOR SOBERING CENTER DIVERSION

5. The detaining officer shall utilize the following screening criteria when determining the offense or subject's eligibility for diversion to the Sobering Center:
 - (a) Only **adults** are suitable for diversion.
 - (b) Only **non-violent misdemeanor** (Municipal) criminal offenses that also involve public intoxication are suitable for diversion to the Sobering Center.
 - (c) The suspect cannot have been physically combative with the officer at any time during the entire process from the initial stop to the turnover to Sobering Center.
 - (d) If the subject has a **medical condition** at the time of arrest that requires immediate treatment diversion cannot take place. Instead, the subject will be brought to the appropriate facility for medical treatment. The enforcement action will be processed as a non-diversion action.
 - (e) If the subject is demonstrably unable to understand the process of diversion, diversion will not take place and the subject will be brought to the appropriate facility for medical treatment. The enforcement action will be processed as a non-diversion action.
 - (f) If the subject poses a threat to self or others due to mental health crisis, diversion will not take place (see: **Chapter 41.25 – Crisis Intervention**).
 - (g) If the subject's words and actions about diversion or the Sobering center indicate it would be futile to attempt a diversion strategy, diversion will not take place.
6. There is no exception to the requirements for use of Body Worn Camera (BWC) or In-Car Camera (ICC) during any stop, arrest, screening, and diversion under this Chapter. BWC and ICC, if applicable, shall remain in use from moment of contact through the final mark-up of the incident/item (see: **Chapter 41.3.10 – Body Worn Camera** and **Chapter 41.3.8 – In-Car Camera**).
7. Officers and sergeants will make field screening decisions about the subjects they contact to determine whether or not those subjects should be:
 - (a) Diverted to the Sobering Center.
 - (b) Issued a summons and released IF a responsible adult who is not impaired accepts responsibility for the subject and agrees to relocate them to a safe environment and with supervisory approval. The subject may only be issued a summons if they have the capacity to understand what they are signing, their legal obligation to appear and the repercussions of a non-appearance (failure-to-appear *capias*).
 - (c) Processed as an in-custody, physical arrest and booked.
8. All field screening of subjects for diversion suitability shall begin with a complete records check of the subject by the detaining officer. Attempts at concealment of true identity or total lack of available data in the records system are criteria the detaining officer can use to assess the unsuitability for diversion.
9. After a diversion-eligible subject under this Chapter is identified and the officer's supervisor concurs in the eligibility and decision to transport to the Sobering Center:
 - a. the officer shall contact the Sobering Center to determine if space is available and the subject is not on an "Exception List".
 - i. A subject on the Sobering Center Exception List is not eligible for diversion and shall be processed as a summons or arrested as appropriate.
 - ii. If space is available, diversion may proceed.
 - iii. If space is not available, the officer shall charge the subject and either summons or book into jail as appropriate.
 - b. The officer shall **clearly** state to the diversion eligible subject, as part of the BWC incident recording, that they have the right to refuse to participate in the diversion to the

Sobering Center and the effect of their refusal to participate in the diversion to the Sobering Center and any subsequent enforcement related actions by the officer.

- c. The diversion eligible subject's consent or refusal to participate in the Sobering Center diversion shall be clearly indicated on the BWC incident recording. A non-responsive action is considered a "refusal".
10. The officer shall follow the appropriate prisoner transport guidelines of **Chapter 71.1 – Prisoner Transport**.
 11. At the conclusion of any enforcement action (summons or arrest), the officer or sergeant will contact the OPCD primary dispatch radio talk group for the District and provide them with the appropriate disposition of the item, according to **Chapter 81.7 – Police Complaint Signals and Dispositions** and **Chapter 82.4 – Complaint Signals – Changing of Item Signals and Dispositions**. Specific mention shall be made of the transport to the Sobering Center. Officers shall utilize signal 19SC when marking up calls involving persons diverted to the Sobering Center when no enforcement action is taken.
 12. The officer shall complete all necessary EPR and FIC on the subject as required by the signal for the offense. (See: **Chapter 41.12 – Field Interview Cards**).
 13. The officer or sergeant who made the field screening for diversion to the Sobering Center will:
 - (a) Complete the FIC, EPR, and/or summons as appropriate for the charges and signal other than a stand-alone public intoxication charge that would be needed to refer the case to the appropriate prosecutor. The use of a summons must be approved by the member's supervisor and the summons must be signed by the subject. The subject may only be issued a summons if they have the capacity to understand what they are signing, their legal obligation to appear and the repercussions of a non-appearance (failure-to-appear *capias*).
 - (b) The narrative in the incident report (EPR), if one is written, will clearly state that the subject has been diverted to the Sobering Center. Any related summons shall indicate in the remarks that a Sobering Center referral was involved.
Any summons shall be processed normally. (See: **Chapter 41.8 – Affidavits and Summons**.)
The name and contact information for the responsible adult who is not impaired and accepted responsibility for the subject and agreed to relocate them to a safe environment shall be noted on the summons form.