

**Sacramento Superior Court  
MENTAL HEALTH DIVERSION (MHD)**

**Cheat Sheet for JIMS Outcomes and Minute Order Language**

**Cheat Sheet Updated: July 22, 2019 -- Changes highlighted in yellow are effective 8/2/2109**

**Quick Reference:**

- ☑ Mental Health Diversion (Penal Code § 1001.36) is a pre-plea diversion program for both misdemeanor and felony cases. While it is not necessary for the defendant to enter a plea or plead not guilty, they must waive their right for a speedy trial.
- ☑ If the court grants MHD, the court then suspends the criminal proceedings. The defendant has two years from the grant date to successfully complete their treatment plan or perform satisfactorily or substantially comply with the treatment plan requirements. Criminal proceedings are reinstated if the defendant fails to complete the MHD and/or requests to be removed from the program.
- ☑ There are no fines or fees imposed.
- ☑ Restitution may be ordered and collected by the Department of Revenue and Recovery.
- ☑ Upon successful completion, the court dismisses the case, orders it sealed pursuant to PC § 1001.9. The Court must report the disposition pursuant to PC § 1001.36 to the Department of Justice (DOJ)  
JIMS: Diversion Completed (successful), should report to the DOJ as case dismissed. Staff will need to enter SAB in PF9 after case update.  
Reason = MHDPROGRPT
- ☑ Outcome = CASEDISM. A manual DOJ 8715 is required. A certified copy of the minute order shall be sent to the arresting LEA and to SSD.
- ☑ The treatment plan and written progress reports (and any other documents containing health records/information) must be kept in a confidential envelope in the court file.

Note: It is anticipated that the majority of the misdemeanor cases will already be in Departments 3 or 4, upon the request for MHD. However, the defendant may apply for MHD at any point prior to adjudication. Other departments (i.e., Department 2, any of the jail home courts, and any trial departments) may want to consider transferring the case to either Departments 3 or 4, when a MHD request is made.

POSSIBLE OUTCOMES	HEARING DESCRIPTION
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STEP 1:	A defendant may apply for MHD at any point prior to adjudication.
<b>CONT</b>	<ul style="list-style-type: none"> <li>○ Upon the defendant filing an application for MHD with the Court, the Court should set a status conference (MHDSC) in four to six weeks, to allow defense time to gather additional information about the defendant’s mental health background.</li> <li>○ Special Scheduling instructions for Department 3 and Department 4--There will be two calendars to separate the cases by status <u>to be scheduled on Fridays:</u> <ul style="list-style-type: none"> <li>● 8:30 a.m. for cases that have not yet been granted MHD and are pending a decision; and,</li> <li>● 8:35 a.m. for granted MHD cases that are appearing for progress review.</li> </ul> </li> <li>○ If more time is needed to discuss and assess case for MHD, the Court may set for Friday mornings when appropriate. Friday calendars shall be limited to no more than 25 cases and set as follows: Monday and Wednesday cases shall be set on the 1<sup>st</sup> and 3<sup>rd</sup> Fridays; and the Tuesday and Thursday cases shall be set on the 2<sup>nd</sup> and 4<sup>th</sup> Fridays of the month.</li> </ul>

<b>STEP 2:</b>	<p>The Court must decide if a <i>prima facie</i> basis has been established and if the defendant is suitable for MHD. The Court must further approve the defendant’s treatment plan before granting MHD.</p> <p>Hearing type: MHDSC (Mental Health Diversion Status Conference)</p>
CONT	<p>A. If the Court finds that a <i>prima facie</i> basis has been established, the court should make the finding, but <u>not</u> grant MHD, until the treatment plan has been submitted and approved by the Court. This may necessitate setting another MHDSC hearing.</p> <p>▶ Minute order language: The Court finds deft. eligible and suitable for MHD. Continue for treatment plan approval. MHDSC (typically two to four weeks out, depending on how much time defense counsel needs) _____.</p>
GRANT	<p>B. If the defendant has the treatment plan and the Court approves of it, then the Court should also grant MHD (this will start the time clock running on the two years the defendant has to complete his/her treatment plan). When diversion is granted, the Court should report to the DOJ that the sentence is suspended. If the treatment plan is not suitable, the Court may continue the hearing to allow the defendant more time to get an updated treatment plan. Otherwise, the minute order should state:</p> <p>▶ Minute order language: The Court finds deft. eligible and suitable for MHD. Treatment Plan provided and approved. Deft. waives speedy trial right. Mental Health Diversion granted for max term of 2 years. Criminal Proceedings are ordered suspended. MHDPROGRPT set (the judicial officer can set 30 to 90 days out) _____.</p> <p>Note: the prosecution may object to the Court granting a defendant MHD and may request a contested hearing to put on evidence. The Court may set and notice a contested hearing in its department at a time that will accommodate a possible lengthier hearing.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>JIMS/DOJ: Diversion Granted, should report to the DOJ as criminal proceedings suspended. Reason = MHDSC Outcome = GRANT</p> </div>
DENY CONT FTA BW OTHER REFERMHC	<p>C. If the Court determines that a <i>prima facie</i> basis has not been established, the Court should deny MHD and continue with criminal proceedings. The Court may also determine that a <i>prima facie</i> basis has been established, but <u>not</u> find the defendant suitable for MHD. In this instance, the Court may deny MHD and continue with the criminal proceedings or schedule a contested hearing, if requested.</p> <p>▶ Minute order language: The Court finds deft. ineligible, MHD denied. FP: _____.</p> <p>▶ Minute order language: The Court finds deft. eligible but not suitable, MHD denied. FP: _____.</p> <p>▶ Minute order language: The Court finds the deft. (ineligible/not suitable) for MHD. Deft. requests hearing. MHDCON: _____.</p>

<b>STEP 3:</b>	<b>The Court can hold a separate hearing to resolve any contested issues, if necessary, i.e.:</b> <b>A. The District Attorney objects to the Court granting MHD;</b> <b>B. The defense objects to the Court denying the defendant MHD; or</b> <b>Hearing type: MHDCON (Mental Health Diversion Contested Hearing)</b>
<b>CONT</b> <b>GRANT</b> <b>DENY</b>	A and B. For contested issues regarding acceptance into MHD, the Court will either grant or deny MHD. Utilize the applicable minute order language noted in Step 2: A, B, or C.

<b>STEP 4:</b>	<b>The Court must monitor the progress of the defendant in meeting his/her treatment goals.</b> <b>Hearing type: MHDPGRPT</b>
<b>CONT</b>	A. If Defendant progressing, set another MHDPGRPT in 30 to 90 days. <ul style="list-style-type: none"> <li>▶ Minute order language: Satisfactory progress shown and ordered filed. Set for further progress report: _____.</li> </ul>
<b>MHDCOMP</b> <b>CASEDISM</b>	B. Defendant successfully completes the MHD. <ul style="list-style-type: none"> <li>▶ Minute order language: Deft. successfully completed MHD. Criminal proceedings reinstated. Case dismissed and ordered sealed pursuant to PC § 1001.9.</li> </ul> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>JIMS/DOJ: Diversion Completed (successful), report to DOJ as case dismissed and arrest relief granted. Staff will need to enter SAB in PF9 after case update and complete a manual DOJ 8715 form.  Reason = MHDPGRPT  Outcome = CASEDISM  Reason = 851.91 (arrest relief granted per PC 851.92/91)  Outcome = GRANT (reports to DOJ as arrest relief granted per PC 851.91)</p> <p>A certified copy of the minute order shall be sent to the arresting LEA and to SSD.</p> </div>
<b>DENY</b> <b>CRIMREINS</b> <b>MHDTERM</b> <b>REFERMHC</b>	C. If the Defendant is not making satisfactory progress, the Court may: <ul style="list-style-type: none"> <li>▶ Minute order language: Deft. terminated from MHD. Criminal Proceedings reinstated. Cont. for FP: _____.</li> </ul> <p>If referred to Mental Health Treatment Court (MHTC):</p> <ul style="list-style-type: none"> <li>▶ Minute order language: Deft. terminated from MHD. Criminal Proceedings reinstated. Deft. referred to MHTC. REFERMHC: _____ (continue to Dept. 8, on either Tuesday or Wednesday at 1:30 p.m.).</li> </ul> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>JIMS/DOJ: Diversion Terminated (unsuccessful). Staff will need to enter SAB in PF9 after case update.  Reason = MHDPGRPT  Outcome = CRIMREIN</p> </div>

<b>STEP 5:</b>	<p>The Court can hold a separate hearing to resolve a motion to terminate diversion, if necessary, i.e.:</p> <p><b>A. The District Attorney files a motion to terminate defendant from MHD due to lack of progress or other issues, and the defense objects.</b></p> <p><b>Hearing type: MOT/TRMMHD (Motion to Terminate Mental Health Diversion)</b></p>
<p><b>CONT</b> <b>GRANT</b> <b>DENY</b> <b>CRIMREINS</b> <b>MHDTERM</b> <b>REFERMHC</b> <b>OTHER</b> <b>FTA</b> <b>BW</b></p>	<p>A. Possible termination hearing outcomes :</p> <ul style="list-style-type: none"> <li>▶ Minute order language: Motion granted. Deft. terminated from MHD. Criminal Proceedings reinstated. Cont. for FP: _____.</li> </ul> <p>If referred to Mental Health Treatment Court (MHTC):</p> <ul style="list-style-type: none"> <li>▶ Minute order language: Deft. terminated from MHD. Criminal Proceedings reinstated. Deft. referred to MHTC. REFERMHC: _____ Continue to Dept. 8, on either Tuesday or Wednesday at 1:30 p.m.).</li> <li>▶ Minute order language: Motion denied. Set for MHDPROGRPT: _____. (the judicial officer can set 30 to 90 days out). Note: The Court may make further orders to modify and/or increase defendant’s treatment level.</li> </ul> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>JIMS/DOJ: Diversion Terminated (unsuccessful). Staff will need to enter SAB in PF9 after case update. Reason = MOT/TRMMHD Outcome = CRIMREIN</p> </div>

<b>OTHER:</b>	
	<ul style="list-style-type: none"> <li>• At any time of the proceedings, the defendant’s competency to stand trial may be addressed. If this occurs, diversion will be terminated (if applicable) and proceedings will occur pursuant to PC § 1368.</li> </ul>