



CHARGES TO BE DECLINED

Charges for which the Default is to Decline Prosecuting (unless supervisor permission is obtained).



- Trespassing
- Shoplifting (including offenses that are essentially shoplifting but charged as larceny)
- Larceny under \$250
- Disorderly conduct
- Disturbing the peace
- Receiving stolen property
- Minor driving offenses, including operating with a suspend or revoked license

- Breaking and entering — where it is into a vacant property or where it is for the purpose of sleeping or seeking refuge from the cold and there is no actual damage to property
- Wanton or malicious destruction of property
- Threats – excluding domestic violence
- Minor in possession of alcohol
- Drug possession
- Drug possession with intent to distribute
- A stand alone resisting arrest charge, i.e. cases where a person is charged with resisting arrest and that is the only charge
- A resisting arrest charge combined with only charges that all fall under the list of charges to decline to prosecute, e.g. resisting arrest charge combined only with a trespassing charge

Instead of prosecuting, these cases should be (1) outright dismissed prior to arraignment or (2) where appropriate, diverted and treated as a civil infraction for which community service is satisfactory, restitution is satisfactory or engagement with appropriate community-based no-cost programming, job training or schooling is satisfactory. In the exceptional circumstances where prosecution of one of these charges is warranted, the line DA must first seek permission from his or her supervisor. If necessary, arraignment will be continued to allow for consultation with supervisor. Thus, there will be an avenue for prosecuting these misdemeanors when necessary but it will be appropriately overseen by experienced prosecutors.

Note: this is essentially already happening for drug possession cases in Roxbury and Dorchester District Court.

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