



<b>PATROL</b>		<b>507.00</b>		
		<b>ADULT PRE-ARREST DIVERSION (A.P.A.D.)</b>		
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## PURPOSE

The purpose of this standard operating procedure is to establish guidelines for the certain persons who are referred to the Adult Pre-Arrest Diversion Program (A.P.A.D.) and for Punta Gorda Police Department Officers and staff. Adult Pre-Arrest Diversion was implemented to provide an efficient and innovative alternative to custodial arrests for adults who commit minor, misdemeanor crimes. The program ensures that those certain adult offenders receive swift and appropriate consequences for their actions. The focus of the A.P.A.D. program is to offer restorative case plans, designed to curtail future criminal behavior.

## SCOPE

This procedure shall apply to all Punta Gorda Police Department personnel.

## DISCUSSION

The Punta Gorda Police Department has partnered with the Charlotte County Sheriff's Office in implementing the Adult Pre-Arrest Diversion program. The intent of the A.P.A.D. is to limit the number of persons receiving criminal arrest records for minor offenses, as well as to provide law enforcement an alternative to in-custody arrest (when certain criteria are met). The A.P.A.D.

program is supported by the Punta Gorda Police Chief, the Sheriff of Charlotte County, the State Attorney, the Public Defender, and the Charlotte County Clerk of the Court. An A.P.A.D. Coordinator with the Charlotte County Court Services Unit will monitor the program and offenders who enter the program. The Coordinator will be a supervisor within the Charlotte County Court Services Unit.

## **PROCEDURE**

### **I. ELIGIBILITY CRITERIA**

- A. If the criteria is met, the officer shall make the A.P.A.D. referral and shall not make an arrest nor issue an NTA, without an objective and well-articulated reason. The reason for non-referral shall be documented in the incident report as well as on the arrest affidavit (PCA).
- B. The following conditions are determining factors for referral into the Adult Pre-Arrest Diversion Program:
  1. Be 18 years of age or older.
  2. The alleged offender's record, may include two prior misdemeanors as long as they were offenses listed under the eligible offense section (C.2.(a.-o.)) of this policy, must not have been domestic/dating violence related, and must not be an active case.
  3. Agrees to the sanctions of the A.P.A.D. program.
  4. Agrees to make restitution.
  5. Does not present a risk to the safety of others.
  6. Have a Florida Identification or Driver's License and/or sufficient ties to the community (i.e., local employment/address).
  7. Offender may reside in Sarasota, Lee, Hendry, Glades, or Desoto Counties; however, they must have strong residential ties to their surrounding county or Charlotte County.
  8. Participation in Juvenile Diversion for any misdemeanor (including Juvenile Citation programs), or prior juvenile adjudications of delinquency for misdemeanors, does not affect eligibility to participate in A.P.A.D., as long as the juvenile has not been adjudicated as an adult.
  9. Multiple eligible offenses from one (1) incident be referred at the same time and will be considered one (1) diversion.

10. If both an eligible and ineligible offense is committed, the subject will not be eligible for diversion.
11. If someone who is currently in the A.P.A.D. program commits a new offense (eligible or ineligible), they will be removed from the program and will be made permanently ineligible in RMS.
12. The Police Department shall consider whether the recommendation for the A.P.A.D. program is or was made by the victim.
13. The victim reporting the offense will be given a Victim Rights Brochure according to policy.
14. An administration fee of \$50 will be assessed for the program by the Charlotte County Sheriff's Office.

II. **ELIGIBLE OFFENSES:** The following is a list of eligible offenses for the A.P.A.D. program:

- A. Possession of marijuana up to 20 grams if it is clearly established the marijuana is intended solely for personal use and it does not appear ready for sale.
- B. Possession of drug paraphernalia.
- C. Possession of alcohol under 21 years of age.
- D. Petit theft (misdemeanor).
- E. Retail theft (misdemeanor).
- F. Misdemeanor criminal mischief (vandalism under \$1,000).
- G. Misdemeanor assault (other than domestic/dating violence related).
- H. Misdemeanor battery with no or very minor injuries to the victim (other than domestic/dating violence related).
- I. Disorderly conduct/Breach of peace.
- J. Trespass (misdemeanor).
- K. Littering (misdemeanor).
- L. Violation of a criminal City Ordinance.

- M. Disruption of a school function;
- N. Alcoholic beverage selling or giving to a minor.
- O. Any other minor misdemeanor offense, not domestic/dating violence related, may be reviewed by the Watch Commander in order to be considered for referral into the APAD Program.

### III. ISSUANCE OF ADULT PRE-ARREST DIVERSION REFERRAL

- A. The officer shall determine if the offender and the offense qualify for an A.P.A.D. referral. If the officer chooses not to issue an A.P.A.D. referral to a qualified individual, the officer shall write a brief explanation in the incident report/probable cause affidavit narrative as to why the referral was not issued.
  - 1. If the offender chooses not to take part in the A.P.A.D. program, the officer shall conduct business as usual and note in the incident report/probable cause affidavit the offender's choice to decline the program.
  - 2. If the offender is not cooperative, cannot make an informed decision (i.e. is intoxicated), or where any other uncooperative act is present, the officer shall write a brief explanation in the incident report/probable cause affidavit narrative as to the events/circumstances that prevented the offender from being issued an A.P.A.D. referral.
- B. The officer shall check the individual's criminal history, RMS, and the Comprehensive Case Information System (CCIS), for previous A.P.A.D. referrals. If the network is down or unavailable the officer will call the Charlotte County Jail Intake ([See Policy Appendix V\(B\)\(1\)](#)) to have Jail staff check JMS in order to determine if the offender had previous bookings.
- C. The officer shall check FCIC/NCIC for prior criminal history and adjudications withheld.
- D. If the offender qualifies for an A.P.A.D. referral, the officer shall complete the incident report and issue the offender an A.P.A.D. referral document with the following instructions included:
  - 1. Contact the A.P.A.D. Specialist within two (2) business days by phone or address provided on the referral;
  - 2. Failure to do so will cause the case to be forwarded to the State Attorney's Office for a warrant/summons issuance.
  - 3. If the offender is arrested again prior to reporting to the A.P.A.D. Specialist, the referral will be voided and charges will be forwarded to the State Attorney's Office.

- E. The officer will have the offender sign the A.P.A.D. referral and/or place their right thumbprint on the document, if no identification was provided. A copy will be given to the offender.
- F. The original A.P.A.D. referral will be forwarded to the A.P.A.D. Specialist via email ([See Appendix V \(B\)\(2\)](#)), and scanned/attached to the incident report.
- G. A complete investigation will be conducted and documented as a crime report in RMS. If further investigation is needed, the case will be returned to the reporting officer. If the offender does not successfully complete the A.P.A.D. program, the A.P.A.D. Specialist will complete a sworn statement that will be forwarded to the Punta Gorda Police Department for processing. The originating officer shall then complete a supplement and forward the case to the State Attorney's Office as a warrant/summons request.

**IV. TYPES OF REFERRALS:** There are three (3) ways a person can be referred to the A.P.A.D. program:

A. Law Enforcement (Referred):

1. Offender has committed an eligible offense.
2. Meets initial program screening criteria.
3. An RMS referral shall be issued with reporting instructions.
4. Any controlled substance or evidence will be photographed, confiscated and submitted to the agency's property and evidence section.
5. During screening by an A.P.A.D. Specialist, if the offender is found to be in non-compliance, the officer will be notified.
6. If there is non-compliance, the A.P.A.D. Specialist will complete a sworn statement that will be forwarded to the Punta Gorda Police Department for processing. The originating officer may then issue an NTA if permitted by law, or complete a supplement and forward the case to the State Attorney's Office as a warrant/summons request. A referral to the State Attorney's Office must occur within ten (10) business days of the notice of non-compliance. The State Attorney's Office will not accept any referral beyond ten (10) business days.

B. Jail Pre-Booking/Intake (Non-Referred):

1. Offender has committed an eligible offense.
2. Offender was not referred by arresting officer and was transported to the jail.

3. Offender meets initial program criteria.
4. The Jail Detention Watch Commander will notify the Watch Commander to determine if there were any exigent circumstances or reason for non-referral. If there is no ineligible reason, the agency, arresting officer, and their supervisor will be notified of the eligibility of the A.P.A.D. referral.
  - a. The officer will be required to complete an A.P.A.D. program referral, contact the victim notifying them of the referral, and the offender will be released without booking. A.P.A.D. referral will be scanned and forwarded to the A.P.A.D. email group ([See Policy Appendix V \(B\)\(2\)](#))
5. If determined ineligible, the offender will be returned to the booking process. Any offender who becomes uncooperative during the placement process will become ineligible.
6. If there is a victim, notification will be made.

C. Notice to Appear (Non-Referred)

1. Supervisors shall review all NTAs to verify that eligible offenders have been referred to the A.P.A.D. program. If an eligible offender has not been referred to the A.P.A.D. program, supervisors shall ensure that the reason for non-referral is clearly stated in the incident report.
2. If the supervisor believes that the offender should receive a referral for the A.P.A.D. program, the supervisor shall have the reporting officer make the referral.

**V. REPORTING TO A.P.A.D. FOR PROGRAM:**

- A. There is one centralized office for referred offenders: Charlotte County Sheriff's Office on the first floor of the Charlotte County Justice Center ([See Policy Appendix V \(B\)\(3\)](#)).
- B. Offenders referred may report by phone 24 hours a day, 7 days a week by calling the pre-recorded line ([See Policy Appendix V \(B\)\(4\)](#)), or in person during the hours of 9am to 3pm to set an appointment for an A.P.A.D. interview and Evaluation.
- C. Offenders will be provided with the program overview and expectations for participation.
- D. Interview and evaluation will determine program needs, if any.
- E. Assignment of community service and requirements will be given at the time of the A.P.A.D. interview.

- F. The offender will be required to report into the A.P.A.D. Specialist once a week either by phone, in person, or by email, to report on their progress within the program.

## VI. DIVERSION MEASURES

- A. Upon completion of the initial screening, the A.P.A.D. staff will inform the participant of the sanctions imposed. These sanctions will include community service hours as set forth below and, if appropriate, other educational programs and/or restitution and program fee. A \$50.00 program fee will be assessed to each participant, with a waiver procedure in place for indigent persons.
- B. A.P.A.D. participants will be required to completed the following Community Service Standards:
1. Community service will be completed at an approved 501(c)(3) organization.
  2. Healthcare insurance is required to perform community service at a not for profit organization. If the participant does not have health insurance, insurance may be purchased at \$5.00 per 50-hour block.
  3. A.P.A.D. diversion required 24 community service hours within 60 days.
- C. A.P.A.D. participants may be required to complete education related courses based on offense type. These courses will be at the offender's expense. These courses are available on-line, utilizing the Advent eLearning site, located at adventsf.com. A certificate of completion will be forwarded to the A.P.A.D. Coordinator:
1. Shoplifting.
  2. Anger Management.
  3. Alcohol and Substance Abuse.
  4. Conflict Resolution.
  5. Theft.
  6. Marijuana Education.
  7. Underage Drinking
  8. Corrective Thinking.
  9. Harassment.

10. Anger Management Level II (designed for repeat offenders).

D. A.P.A.D. participants may be required to pay restitution if applicable:

1. Restitution will be made payable to the Charlotte County Sheriff's Office and will only be accepted in the form of US Currency, a money order or cashier's check. The Charlotte County Sheriff's Office will submit restitution payment, in the amount received by the participant, to the victim.
2. Personal and business checks will not be accepted.
3. Estimates may be requested from the victim for restitution purposes. If the victim provides restitution in an amount which is greater than the amount provided by the reporting officer, (Example: being a criminal mischief amount of \$500, rises to \$1500/Felony amount) the A.P.A.D. Specialist will assign the case back to the appropriate officer for submittal to the State Attorney's Office.

E. Veteran Referrals:

1. When interviewing offenders for placement into A.P.A.D., the Specialist will ask whether or not the offender is a United States Military Veteran.
2. If the offender states they are a veteran, they will be provided additional resources.

F. Mental Health Assessment:

1. During the Interview and Evaluation, if the participant appears they may need additional services, they will be referred to outside sources, which the participant may elect to attend on their own.

## VII. EVIDENCE PROCEDURES

- A. All A.P.A.D. evidence material being submitted shall be submitted to the Evidence Section according to [SOP 800.00 – Evidence and Property](#).
- B. If the offender successfully completes the A.P.A.D. program, the officer will be notified. The officer will then notify the Evidence Technician that the evidence can be disposed of in accordance with state guidelines. The Evidence Technician will dispose of the evidence upon this notification.

**VIII. UNUSUAL OCCURRENCES:** The following will be referred to an A.P.A.D. Specialist, and will be considered on a case-by-case basis:



- A. Offenders who verifiably suffer chronic physical or mental health conditions causing them to be unable to participate.
- B. Offenders who, subsequent to job assignment, develop physical or mental health conditions which would preclude them from completing their required diversion measures.
- C. Offenders whose physical or mental health is adversely impacted upon due to the nature of the community service job assignment.
- D. If the offender is found to be indigent, the administration fee will be waived by the Charlotte County Sheriff's Office. Eligibility will be decided on a case-by case basis.

**APPROVED**



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**PAMELA R. DAVIS, CHIEF OF POLICE**

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