

# GENERAL ORDER



Title	<b>Pre-Arrest Diversion Pilot Program</b>
Number	<b>GO-PCA-502.04</b>
Effective Date	<b>April 24, 2018</b>
Related to	GO-OPS-308.04 (Interacting with Mental Health Consumers) GO-OPS-308.14 (Interactions with Homeless Persons) GO-PCA-501.03 (Handling Intoxicated Persons)

DISTRICT OF COLUMBIA

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## I. PURPOSE

The Metropolitan Police Department (MPD) addresses public order issues that sometimes arise from substance use disorder and mental illness. To address these human services needs, MPD, the Department of Behavioral Health (DBH), and the Department of Human Services (DHS) established the pre-arrest diversion pilot (PAD) program to be implemented by members trained as crisis intervention officers (CIO). PAD seeks to reduce the number of community members who cycle through the criminal justice system, homeless shelters, and hospital emergency rooms, by connecting non-violent, low-level offenders with treatment and social services in lieu of traditional adjudication. PAD also strives to decrease recidivism by facilitating treatment options and housing outcomes.

The purpose of this order is to introduce PAD so that trained members may use these procedures to exercise discretion in diverting individuals that may benefit from PAD services.

## II. DEFINITIONS

When used in this directive, the following terms shall have the meanings designated:

1. Behavioral health consumer – person who a member reasonably believes is suffering from a mental health illness.
2. Mental illness – condition that affects a person’s thinking, feelings, or mood.

3. Pre-arrest diversion program (PAD) – a pilot program aiming to connect non-violent, low-level offenders with addiction and mental health treatment and social services in lieu of traditional adjudication.
4. Substance use disorder – condition characterized by a pattern of continued pathological use of alcohol, medication, non-medically indicated drugs, or toxins, which results in repeated adverse social consequences related to substance use (e.g., failure to meet work, family, or school obligations, interpersonal conflicts, or legal problems).
5. Trained members – sworn members trained in PAD procedures assigned to one of the following patrol service areas (PSA): 102, 104, 108, 506, and 507.

### III. REGULATIONS

- A. Trained members shall be the primary decision-makers for PAD.
- B. When encountering potential PAD participants, trained members shall assess an individual's eligibility based upon **all** of the following:
  1. All potential PAD participants shall meet the "Charge Criteria" and "Participant Criteria" (Attachment A). Applicable charges are listed individually on the PAD charges list (Attachment B).
  2. All potential PAD participants' on-scene behavior shall be amenable to diversion (e.g., non-combative, not experiencing a mental health crisis).
- C. Only trained members in a participating district shall offer pre-arrest diversion and social contact referrals. If a member who is not trained in PAD identifies an individual who may be a candidate for the program, the member may request a trained member to respond to the scene for assistance.
- D. Juvenile arrestees shall not be admitted into PAD.
- E. Members shall ensure that an arrestee's participation in PAD is voluntary.

### IV. PROCEDURES

- A. Pre-Arrest Referral Process
  1. Prior to discussing pre-arrest diversion with an arrestee, trained members shall ensure that the arrestee is eligible based upon the type of crime committed, the arrestee's criminal history, and the arrestee's on-scene behavior.

- a. Trained members shall ensure that all arrestees meet the “Charge Criteria” and “Participant Criteria” (Attachment A). Applicable charges are listed individually on the PAD charges list (Attachment B).
  - b. Trained members shall contact the Investigative Support Section (ISS) to confirm that the arrestee does not have any pending felony, domestic violence, weapons, or simple assault charges. Trained members shall also request ISS to verify that the arrestee does not have any active civil protective orders (CPO), temporary protective orders (TPO), or court order violations. ISS can be reached by calling (202) 727-0599.
  - c. Trained members shall ensure that all arrestees’ behavior is amenable to diversion (e.g., non-combative, not experiencing mental health crisis).
  - d. If, at the time of the arrest, the arrestee is intoxicated or incapacitated and therefore unable to voluntarily consent to participate in the intake process, the arrestee shall not be referred for diversion at that time.
  - e. If, in the trained member’s judgment, an arrestee is unable to provide informed consent or poses a risk to themselves or others, the arrestee shall not be referred for diversion.
2. Trained members shall inform eligible arrestees about PAD according to the following procedures.
    - a. Inform the arrestee about the program by describing the services available through their participation in the program.
    - b. Ensure that the arrestee is made aware that the program is voluntary.
    - c. Determine whether the arrestee is interested in participating in the program.
      - (1) If the arrestee declines to participate, he or she may be charged with applicable offenses.
      - (2) If the arrestee expresses interest in the program, trained members shall ensure that the arrestee is informed that his or her diversion is contingent upon further screening by PAD social workers.
      - (3) If the arrestee commits to participate in the program, trained members shall:

- (a) Notify PAD social workers by calling (202) 673-6495.
- (b) Handcuff and search **all** arrestees prior to transport. Handcuffs and any other restraining devices shall be used in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).
- (c) Transport the arrestee to the PAD intake location where he or she will be searched and his or her property secured until such time that a final disposition is determined.
- (d) Initiate contact with the PAD social worker and direct the arrestee and PAD social worker to the pre-determined intake location.
- (e) If the PAD social worker determines that the arrestee is not eligible for diversion based upon the facts and circumstances, proceed with the arrest.
- (f) Upon confirmation of eligibility, the arrestee becomes a participant in the program. Complete and sign the PD Form 1004 (PAD Referral Form) (Attachment C).
- (g) When the PAD social worker indicates that the intake process is complete, ensure that the participant signs the PD Form 1004. Photocopy the PD Form 1004, provide a copy to the PAD social worker, and retain the original.
- (h) Submit any evidence collected in accordance with GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into the Custody of the Department).
- (i) Complete an offense report according to the procedures set forth in Part IV.D.2. of this order.

#### B. Social Contact Referral Process

1. PAD accepts referrals based on social contacts with individuals who might be a good fit for the services provided by the program.
2. Upon confirmation that the individual meets all eligibility requirements as outlined in Part IV.A.1. of this order, the trained

member may refer the individual according to the following procedures:

- a. Notify the PAD social worker by calling (202) 673-6495 to report the individual's identifying information, current location, and other known locations that the individual frequents.
- b. Complete and sign the PD Form 1004 (Attachment C). Ensure that the individual signs the form.
- c. Return to service with the dispatcher to be available for priority calls for service.

NOTE: The trained member may remain at the location with the individual until the PAD social worker responds unless he or she receives a priority call for service.

- d. Submit the PD Form 1004 to the district PAD coordinator prior to the end of his or her shift.

#### C. Hours of Operation and Capacity

1. Unless otherwise noted, PAD operates from 1100 hours and overnight until 0200 hours the following day on Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays.
2. The PAD director will make ongoing determinations of the program's capacity.
3. Program capacity updates will be regularly communicated to all district PAD coordinators who will disseminate the updated information to trained members.

#### D. Documentation and Record-Keeping

1. Trained members shall complete a PD Form 1004 for all referrals. All PD Forms 1004 shall be submitted to the district PAD coordinator prior to the end of the trained member's shift.
2. Trained members shall complete an offense report in the records management system (RMS) for all diverted arrestees according to the following procedures. Social contact referrals do not require a report in RMS.
  - a. Under Incident Statistics, label the report as "Referred to PAD program" in the check box provided.
  - b. Diverted arrestees shall be included as a "suspect" in the offense report.

- c. In offenses involving **only** arrestees who have been diverted, complete an offense report.
  - (1) An arrest card **shall not** be completed for diverted arrestees.
  - (2) Scanned PD Forms 1004 for all diverted arrestees shall be attached to the offense report.
  - (3) Mark the case status as "PAD Diversion."
- d. In offenses involving diverted individuals **and** other non-diverted arrestees, complete an offense report according to the following procedures.
  - (1) An arrest card **shall not** be completed for diverted individuals. An arrest card **shall** be completed for any non-diverted arrestees.
  - (2) Scanned PD Forms 1004 for all diverted individuals shall be attached to the offense report.
  - (3) The case status will be automatically marked as "Cleared by Arrest."

- 3. In cases involving PAD participants, district PAD coordinators shall ensure that:
  - a. The information contained on the PD Form 1004 is electronically documented on the PAD tracking form; and
  - b. All offense reports involving PAD participants are completed accurately with an attached PD Form 1004.

E. MPD Coordination with DBH

- 1. District commanders shall appoint one member of the rank of lieutenant or above to serve as the MPD PAD coordinator.
- 2. District PAD coordinators shall attend PAD meetings conducted by the PAD director.

**V. CROSS REFERENCES**

- A. GO-PCA-502.01 (Transportation and Searches of Prisoners)
- B. GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into the Custody of the Department)

**VI. ATTACHMENTS**

Attachment A: Pre-Arrest Diversion Pilot Program Criteria

Attachment B: Pre-Arrest Diversion Pilot Program Charges

Attachment C: PD Form 1004 (Pre-Arrest Diversion Pilot Program Referral Form)

A handwritten signature in black ink, appearing to read "Peter Newsham", with a long horizontal flourish extending to the right.

Peter Newsham  
Chief of Police

PN:KDO:MOC:SMM

## Pre-Arrest Diversion Pilot Program Criteria

### GENERAL CRITERIA

- PAD operates from 1100 hours and overnight until 0200 hours the following day on Tuesdays, Wednesday, Thursday, Fridays, and Saturdays.
- Arrestees **shall not** be referred unless all of the following are confirmed:
  - All of the arrestee's charges are eligible according to the charge criteria
  - The arrestee is eligible according to the participant criteria
  - The arrestee voluntarily elects to take part in the program

### CHARGE CRITERIA

In order to be eligible to participate, the arrestee:

**Must** be arrested for one or more non-violent misdemeanor charges listed on the approved PAD charge list [See Attachment B of GO-PCA-502.04 (Pre-Arrest Diversion Pilot Program)].

### PARTICIPANT CRITERIA

In order to be eligible, the individual must meet the following criteria:

- **Must** be 18 years of age or older
- **Must** exhibit one or more of the following conditions:
  - Mental health condition
  - Substance use disorder

Individuals **are** eligible when they have been arrested previously or multiple times on the same or different charges when the following criteria are confirmed.

An individual is **not eligible** if he or she:

- Cannot reasonably be identified by MPD by name, or place of residence
- Cannot conduct a coherent interview
- Indicates an intention to cause harm to any person or property or exhibits signs that he or she presents danger
- Indicates an intention to flee or otherwise poses a serious risk of flight, or makes a statement that he or she will not participate in the program
- May be held pursuant to D.C. Official Code § 23-1322 for one of the following reasons:
  - Is on release in a pending felony case
  - Is on release in a simple assault, domestic violence, or weapons offense
  - Has an outstanding, extraditable warrant from another jurisdiction
  - Has a current active warrant in the District of Columbia
  - Is in violation of a court order (e.g., stay away order)
- Is a current GunStat candidate (a current list of active GunStat candidates are searchable in WALES)
- Is arrested on White House grounds



## Pre-Arrest Diversion Pilot Program Charges

Offense Description	Statute Code
<b>Disorderly Conduct</b>	
Affray	22DC1301
Blocking Passage	22DC1307
Crowding, Obstructing, or Incommoding	22DC1307(A)
Disorderly Conduct - Creating Fear	22DC1321(A)(1)
Disorderly Conduct - Disrupt Gathering	22DC1321B
Disorderly Conduct - Disrupting a Public Building	22DC1321(C-1)
Disorderly Conduct - Disrupting a Public Conveyance	22DC1321(C)
Disorderly Conduct - Disrupting Noise at Night	22DC1321(D)
Disorderly Conduct - Fighting Words	22DC1321(A)(3)
Disorderly Conduct - Jostling	22DC1321(G)
Disorderly Conduct - Peeping	22DC1321(F)
Disorderly Conduct - Urinating or Defecating in Public	22DC1321(E)
Lewd, Indecent, or Obscene Acts (Excluding Sexual Proposal to Minor)	22DC1312
Panhandling	22DC2302 et al.
Temporary Abode	24DCMR121.1
Tent / Temporary Abode Regulation Violation	24DCMR121, 100.6
Throwing Stones or Missiles	22DC1309
Wearing Hood or Mask	22DC3312.03
<b>Liquor Law Violations</b>	
Alcohol Beverage Control Act Violation	25DC201-211
Alcoholic Beverages And Narcotics (Drunkenness)	38RUSC1.218a7
Drinking In Public	25DC1001
Intoxication	25DC1001C
Misrepresent Age To Procure/Possess Alcohol	25DC1002(B)(1)
Possession of Open Container of Alcohol/Public Intoxication	25DC1001(A)
Providing Alcohol to a Minor	25DCMR785(B)
Purchase, Possession or Consumption of Alcohol by Persons Under 21	25DC1002
<b>Narcotics</b>	
Consumption of Marijuana in Public Space Prohibited; Impairment Prohibited	48DC911.01
Possession of a Controlled Substance - Misdemeanor	48DC904.01D
Possession of Drug Paraphernalia	48DC1103A-X
Possession of Drug Paraphernalia (syringes)	48DC904.10
<b>Prostitution</b>	
Sexual Solicitation	22DC2701
<b>Theft</b>	
Shoplifting	22DC3213
Taking Property without Right	22DC3216
Theft Second Degree - Misdemeanor	22DC3211
<b>Trafficking/Receiving Stolen Property</b>	
Receiving Stolen Property (less than \$1000)	22DC3232
<b>Unlawful Entry</b>	
Unlawful Entry	22DC3302

**Pre-Arrest Diversion Pilot Program Referral Form**  
**(Complete for all individuals screened for pre-arrest or social contact referrals)**

**Instructions**

This form is to be completed at the hand-off location while the referring member is waiting for the completion of the intake process. Upon entering the intake location, the trained member will photocopy this form and provide a copy to the pre-arrest diversion (PAD) social worker.

The referring member will remain at the intake location with the referred individual and PAD social worker until intake is complete. The PAD social worker and trained member will then escort the individual out of the intake location.

Once intake is complete, this form will be scanned and attached to the offense report. The hard copy form will be submitted to the district PAD coordinator.

**Referring Member**

**CAD #**

**Supervisor**

**CAD #**

**Date**

**Location**

**Time**

**CCN**

**Participant Name**

**Participant DOB**

**Reason for referral**

**Arrest**

**Social contact referral**

**Additional narrative**

**Release of Information**

I, \_\_\_\_\_, give permission for the District of Columbia Metropolitan Police Department to share information relating to my diversion, my criminal history, and my police contacts while participating in the program with the District of Columbia Department of Behavioral Health in order to provide case management services and secure resources on my behalf. I understand that my information will only be shared when necessary to meet the requirements of my established service plan.

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**Participant Signature** **Date**

**Intake location** **Time of arrival**

**Hand off time** **Time spent at intake location**

**PAD social worker name**