Board of County Commissioners
Leon County, Florida

Workshop on Alternatives to Incarceration for the Possession of Small Amounts of Marijuana

Tuesday,
March 22, 2022
9:00 a.m.

Leon County Courthouse
County Commission Chambers, 5th Floor
301 S. Monroe St. Tallahassee, FL 32301

The media and the public can access the meeting in real time on Comcast channel 16, the Leon County Florida channel on Roku, the County's Facebook page, YouTube channel, Twitter and County web site.

Leon County
Board of County Commissioners

Notes for Workshop

Leon County Board of County Commissioners

Workshop Item

March 22, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Chasity H. O'Steen, County Attorney

Title: Alternatives to Incarceration for the Possession of Small Amounts of Marijuana

Review and Approval:	Vincent S. Long, County Administrator Chasity H. O'Steen, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Wanda Hunter, Assistant County Administrator
Lead Staff/ Project Team:	Teresa Broxton, Director, Office of Intervention and Detention Alternatives Andy Johnson, Assistant to the County Administrator

Statement of Issue:

As requested by the Board at its October 12, 2021 regular meeting, this workshop item provides an overview of alternatives to incarceration for the possession of small amounts of marijuana including alternatives currently utilized in the Second Judicial Circuit.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option # 1: Accept the report on alternatives to incarceration for the possession of small amounts of marijuana and take no further action.

Report and Discussion

Background:

As requested by the Board at its October 12, 2021 regular meeting, this workshop item provides an overview of alternatives to incarceration for the possession of small amounts of marijuana. The item begins by providing an overview of federal and state laws regulating the possession and use of marijuana for medicinal and recreational purposes, and then discusses the alternatives to incarceration for marijuana possession that are currently utilized in the Second Judicial Circuit and in other Florida jurisdictions. These alternatives generally include pre- and post-arrest diversion programs, although some Florida jurisdictions have adopted local ordinances which, in effect, decriminalize the possession of small amounts of marijuana by allowing law enforcement officers to issue a civil fine rather than making an arrest. As the item discusses in detail, the jurisdictions that have enacted such ordinances have done so with the cooperation of their local law enforcement partners and the State Attorney representing their judicial circuit.

Marijuana, Cannabis and Hemp Defined

At the federal level, "marihuana" which is otherwise spelled "marijuana" and is commonly referred to as "cannabis," is defined as all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin; this definition does not include hemp. See 21 U.S.C. § 802(16)(A). "Hemp", which is excluded from the definition of marijuana, is separately defined as the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis. See 21 U.S.C. § 802(16)(B), 7 U.S.C. § 1639o(1).

Under Florida law, the definition of "cannabis" is very similar to the definition of "marijuana" under federal law, i.e., cannabis is defined to mean all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. See Section 893.02(3), Florida Statutes (F.S.). Notably, this term does not include "marijuana" as defined in the Compassionate Medical Cannabis Act of 2014 (CMCA), if the marijuana is manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with the CMCA. See Section 893.02(3), F.S.

Similar to federal law, hemp and industrial hemp are specifically excluded from the definition of "cannabis" under Florida law. See Section 893.02(3), F.S. Similar to the federal definition, in Florida law "hemp" is defined to mean as the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, that has a total delta-9 THC concentration that does not exceed 0.3 percent on a dry-weight basis. See Section 581.217(3)(d), F.S. "Industrial hemp" is also separately defined to mean all parts and varieties of the cannabis sativa plant, cultivated or possessed by an approved grower under the pilot project, whether growing or not, which contain

a THC concentration that does not exceed 0.3 percent on a dry-weight basis. See Section 1004.4473(1)(c), F.S.

THC, a derivative of cannabis plants, is the main psychoactive compound in marijuana or cannabis. It is the property in marijuana that makes people feel "high" when ingested or inhaled. Applicable to the permissible uses under the CMCA at the state level, "low-THC cannabis" means the plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of THC and more than 10 percent of cannabidiol (CBD) weight for weight; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center. See Section 381.986(e), F.S.

Consistencies and Inconsistencies in Federal, State, and Local Laws

Any possession or use of marihuana is illegal under federal law and is punishable under the federal Controlled Substances Act (CSA). Currently, it is generally unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized in the CSA. See 21 U.S.C. § 844(a). Marijuana is a Schedule I substance under the CSA, meaning that it is designated as a drug that has a high potential for abuse, has no currently accepted medical use in treatment in the United States, and lacks safety for use under medical supervision. See 21 U.S.C. § 812. Therefore, though the CSA provides an exception for medicinal possession of controlled substances, marihuana as a Schedule I controlled substance, by definition, possesses no accepted medical use in the United States. Under federal law, the penalty for marihuana possession is a term of imprisonment of not more than 1 year, a minimum fine of $1,000, or both, with escalating penalties for subsequent offenses. See 21 U.S.C. § 844(a).

The U.S. Food and Drug Administration (FDA) has the federal authority to approve drugs for medicinal use and to date, has concluded that marijuana has no federally approved medical use needed for treatment.

With regard to hemp, the production and sale of hemp and hemp extracts was legalized in 2018 with the enactment of the Agriculture Improvement Act of 2018, which is commonly referred to as the 2018 Farm Bill.

Likewise, "cannabis" is also classified as a Schedule I substance under Florida law. See Section 893.03(1)(c)7., F.S. A person may not be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or construction possession of a controlled substance of a controlled substance as otherwise provided in Chapter 893, Florida Statutes. See Section 893.13(6)(a), F.S. Specific to cannabis, possession of 20 grams or less is a first-degree misdemeanor punishable by up to one year in jail, a maximum fine of $1,000, or both. See Section 893.13(6)(b), F.S.

The CSA and Florida designation of marihuana/cannabis as a Schedule I substance notwithstanding, in 2014 the Florida Legislature passed Senate Bill 1030, known as the Compassionate Medical Cannabis Act of 2014 (CMCA). As amended over the years, the CMCA, which is codified in Section 381.986(2), Florida Statutes, authorizes qualified physicians to issue physician certifications for qualified patients to receive marijuana, including low-THC cannabis, or a marijuana delivery device from a medical marijuana treatment center.

Amendment 2 to the Florida Constitution, approved by Florida voters in 2016, created Florida's medical marijuana program. This provision of the Constitution, entitled "Medical marijuana production, possession and use", protects qualifying patients, caregivers, physicians, and medical marijuana dispensaries and their staff from criminal prosecutions or civil sanctions under Florida law, but not under federal law.

Additionally, at the local level in Florida, a number communities have adopted ordinances imposing civil fines as the penalty for possession of small quantities of marijuana.

In summary, marijuana remains a Schedule I controlled substance under federal law. Accordingly, regardless of any state or local law declaring marijuana possession or use to be legal or subject to a civil fine in that jurisdiction, under Article VI of the United States Constitution, federal law pre-empts state and local law. The Supremacy Clause unambiguously provides that if there is any conflict between federal and state law, federal law shall prevail. Gonzales v. Raich, 545 U.S. 1, 29 (2005). Fundamentally, any possession, in any quantity, or use of marijuana is illegal and a crime.

Enforcement

At the federal level, the government has at times deferred to individual states to enforce marijuana law violations except in certain specific circumstances, such as situations involving drug cartel involvement, violence, and cultivation on federal or state public lands. That was the case in 2013. However, this policy of deferment was rescinded in 2018 under the Trump administration. Under the current administration, U.S. Attorney General Merrick Garland has publicly stated that the U.S. Department of Justice will adopt a policy to not pursue cases against those complying with the laws in states that have legalized and are effectively regulating marijuana, and institute a policy analogous to the policy adopted from 2013 to 2018. Thus, the federal government has exercised its discretion over time about the manner in which it enforces the CSA specific to marijuana.

Ultimately, as stated above, the CSA and its penalties preempt state or local laws that purport to decriminalize the possession of marihuana, The U.S. Supreme Court confirmed this to be true in Gonzales v. Raich, 545 U.S. 1, 17 (2005), by holding that the CSA provisions criminalizing the manufacture, distribution, or possession of marijuana to intrastate California growers and users of marijuana for medical purposes, did not violate the Commerce Clause, which grants Congress power to regulate purely local activities that are part of an economic class of activities that have a substantial effect on interstate commerce.

In an effort to offer communities an alternative to arrest and incarceration, in 2018 the Florida Legislature enacted a model pre-arrest diversion program (Model Program). See Section 901.41,

F.S. The legislation was enacted to authorize and encourage local communities and public or private educational institutions to implement adult pre-arrest diversion programs for certain misdemeanor nonviolent offenses, including possession of 20 grams or less of marijuana. The legislation does not mandate that a particular pre-arrest diversion program for adults be adopted but found that the Model Program to be discussed later in the analysis afforded certain adults the opportunity to avoid an arrest record while ensuring that they receive appropriate services and fulfill their community service obligations for violating the law.

At the state and local levels, law enforcement officers exercise discretion regarding how to handle alleged violations of the law in the course of their investigations. Florida law expressly provides that a law enforcement officer may arrest without a warrant any person who the officer has probable cause to believe is violating Chapter 893, Florida Statutes, relating to possession of cannabis. See Section 893.13(6)(e), F.S. Accordingly, depending on the circumstances of the encounter with an offender in possession of marijuana, law enforcement may choose to issue a warning, issue a formal notice to appear before some other authority, or execute an arrest.

Further, the State Attorney for each jurisdiction evaluates evidence related to allegations of criminal misconduct on a case-by-case basis and exercises discretion in determining whether to dismiss charges, refer a case to diversion, or proceed with prosecution.

When the 2018 Farm Bill became law, Florida lacked sufficient laboratories with tools necessary to test the level of THC present in a cannabinoid-based substance. As a result, in the absence of a confession, law enforcement could not differentiate between hemp and marijuana. In light of these circumstances, in July 2019, the State Attorney for the Second Judicial Circuit (State Attorney) issued a memorandum to law enforcement agencies within the Second Circuit, informing them that his office would suspend prosecuting possession of marijuana cases. Since that time, however, the Florida Department of Law Enforcement (FDLE) has acquired the necessary authorization and tools to test cannabis-based plants for the THC level, and the State Attorney has resumed his duty of prosecuting those arrested for marijuana possession.

During the September 17, 2019 meeting, the Board received a status report on Leon County's Adult Civil Citation (ACC) program, which included an overview of how the possession of small quantities of marijuana is treated within the ACC program. In addition, as requested by the Board, the status report also provided information regarding the legal and regulatory framework surrounding cannabis, including the medical use of marijuana in Florida, the rise in use and popularity of cannabidiol ("CBD") products, the distinction between industrial hemp and marijuana, and the status of efforts throughout the State and nation to decriminalize the personal possession of small quantities of marijuana. Following discussion on the status report, the Board directed staff to prepare a draft ordinance to provide civil penalties for misdemeanor marijuana possession offenses, and to solicit input from the State Attorney and local law enforcement agencies regarding the ordinance as well as their willingness to participate. The Board considered but did not approve that draft ordinance during the October 15, 2019 meeting.

Analysis:

The analysis section of this item provides an overview of state, federal and local laws governing marijuana possession, as well as alternatives to incarceration for marijuana possession that are currently utilized in the Second Judicial Circuit and in other Florida jurisdictions. This section also includes a discussion regarding arrests for marijuana possession that have occurred over the past three years in Leon County and the disposition of those cases. Of note, and as discussed in greater detail below, there is no one currently detained in the Leon County Detention Facility on a first-time charge of possession of 20 grams or less of marijuana. This is principally due to the success of the existing post-arrest diversion program utilized in the Second Judicial Circuit.

Overview of Alternatives to Incarceration for Marijuana Possession:

Alternatives to incarceration are intended to reduce criminal prosecution, limit the use of incarceration as a punishment, or decrease the time of incarceration for individuals who have committed offenses, particularly low-level offenses. This item refers to the various alternatives to incarceration at three stages: (1) Pre-arrest measures taken prior to the opening of a criminal procedure aimed at limiting entry into the criminal justice system; (2) Post-arrest measures applied after arrest during the criminal process and aimed at preventing the case from resulting in incarceration as the penalty; and (3) Efforts to decriminalize possession of small amounts of marijuana through the adoption of local ordinances reducing the offense to a civil fine.

As discussed in greater detail below, it is important to note that a review of the jail population from January 2019 through February 2022 found no person detained in the Leon County Detention Facility with only a misdemeanor possession of marijuana charge. The State Attorney states that it has been years since anyone was incarcerated for a simple possession of marijuana charge, and that the Post-Arrest Diversion Program is utilized for all eligible first-time offenders arrested for possession of 20 grams or less of marijuana as discussed later in this item.

Alternatives Limiting Entry into the Criminal Justice System – Pre-arrest

Pre-arrest diversion programs, sometimes referred to as civil citation programs, target first-time offenders of nonviolent crimes by essentially removing incarceration as a punishment. Pre-arrest programs allow participants to avoid a criminal record since no arrest is involved. Upon contact with law enforcement, first-time offenders must admit their crime and agree to participate in the pre-arrest diversion program. The offender may be issued a notice to report to the program location and required to pay a fee. In most communities, participants can perform community service hours if they are unable to pay the fee. Participants are then diverted to rehabilitative measures such as community service and/or counseling or treatment, if necessary. After successful completion of the program, any public record of the offense is disposed.

As previously noted in the background, the Model Program was created to encourage jurisdictions to implement adult pre-arrest diversion programs as an additional tool for law enforcement to minimize arrests and incarceration. The Statute describes a "Model Pre-arrest Diversion Program" as follows:

- Grants a law enforcement officer sole discretion to issue a civil citation or similar pre-arrest diversion program notice for a qualifying misdemeanor offense.

- The adult must admit he or she committed the offense or does not contest the offense.
- The adult is only eligible if he or she has not previously been arrested and has not received an adult civil citation or similar pre-arrest diversion program notice unless such an occurrence is permitted under the established pre-arrest diversion program.

Under the Model Program structure, "an adult who receives a civil citation or similar pre-arrest diversion program notice shall report for intake as required by the local pre-arrest diversion program and must be provided appropriate assessment, intervention, education, and behavioral health care services by the program. While in the local pre-arrest diversion program, the adult shall perform community service hours as specified by the program. The adult shall pay restitution due to the victim as a program requirement. If the adult does not successfully complete the pre-arrest diversion program, the law enforcement officer must determine if there is good cause to arrest the adult for the original misdemeanor offense and, if so, refer the case to the state attorney to determine whether prosecution is appropriate or, in the absence of a finding of good cause, allow the adult to continue in the program."

Pre-arrest Diversion Programs Available in the Second Judicial Circuit

Prior to the adoption of state legislation in 2018 encouraging communities to adopt adult pre-arrest diversion programs, Leon County and various criminal justice stakeholders including the State Attorney, Public Defender, the Smart Justice Alliance (a local justice reform advocacy group), the Leon County Sheriff (LCSO), the Tallahassee Police Department (TPD) and Court Administration supported an Adult Civil Citation (ACC) Program from 2013 – 2017. The ACC Program was administered through a community-based substance abuse service provider, Disc Village, Inc. Criteria for participation required a referral from the arresting law enforcement officer. If the law enforcement officer determined the person was an eligible candidate, participants could avoid the full effects of criminal prosecution by paying a fee, attending substance abuse counseling, and submitting to periodic drug testing. After successful completion of the ACC Program, the participant's record was disposed. If the participant failed to complete the ACC Program, the incident was referred to the State Attorney for prosecution. In late, 2017 the State Attorney requested a meeting with all stakeholders in the process and expressed several concerns about the ACC Program including the following:

- Whether an offender's opportunity to participate in the ACC Program may have been influenced based on an ability to pay the program fees.
- Whether the offender was afforded due process.
- Uniformity in application of the program throughout the Second Judicial Circuit.
- Program tracking of key criminal justice statistics to evaluate the success of intervention strategies.

Considering the concerns noted by the State Attorney, in late 2017 the ACC Program was revamped and relaunched under the administration of the State Attorney. The State Attorney executed a Memorandum of Understanding with 21 law enforcement agencies throughout the Second Judicial Circuit, including TPD and the LCSO, as well as educational institutions, Tallahassee Community College (TCC), Florida A&M University (FAMU), and Florida State

University (FSU), offering a Pre-arrest Diversion Program (Attachment # 1) as an additional law enforcement tool (Current Program). The State Attorney operates the Current Program at no cost to the County. The State Attorney has indicated that although the Current Program is available, law enforcement officers submit very few referrals to the program and none for marijuana possession. The occasional referrals his office receives are for first-time incidents of petty theft.

Law enforcement may refer first-time offenders to the Current Program for a variety of misdemeanor nonviolent offenses, including possession of 20 grams or less of marijuana. An officer may indicate in the probable cause affidavit or sworn report, that the offender should be granted diversion rather than criminal arrest. The offender is provided an information sheet from the officer and told to appear at the State Attorney's Office within four weeks of the offense. If the prosecutor determines that diversion is appropriate, the case is referred to the State Attorney's Diversion Coordinator. Each offender is provided written notice of the Current Program requirements which include financial requirements and costs, and additional sanctions, if applicable. The offender is also notified of his or her legal rights and given the option to have the case transferred for traditional prosecution. Upon successful completion of the Current Program, the State Attorney will essentially "drop the charges." The legal terminology for this action is reflected in the public record as "no information filed" if an arrest was executed or a notice to appear was issued. The law enforcement agency that initiated the action is also notified of the resolution of the case, whether a physical arrest was made or not.

In discussing the lack of use of the Current Program with law enforcement representatives from the TPD and LCSO, both indicated they are aware of the Current Program. As a matter of protocol, to ensure consistency, TPD defers to its General Orders on Arrests and Alternative to Arrest for guidance to officers when encountering a person accused of committing an offense (Attachment #2). LCSO could not speak to how often the Current Program is utilized but committed to reminding officers of its availability. He also provided a copy of his office's General Order, 74.3 which outlines arrest procedures (Attachment #3).

The educational institutions (TCC, FAMU and FSU) also entered a Memorandum of Understanding with the State Attorney for the Current Program. However, each institution maintains its own internal Student Code of Conduct policies and procedures relating to marijuana possession and other offenses that may occur on campus. In the most recent communication with these entities, each indicated that they are aware of the Current Program, but generally defer to their respective internal policy for student matters that occur on campus.

Juvenile civil citation programs are also a popular tool among Florida's school resource officers and other law enforcement agencies to address youth involved in low-level criminal offenses. A juvenile pre-arrest diversion program has been operating in Leon County for more than a decade. Pursuant to Section 985.12, F.S., the Juvenile Civil Citation Program (Juvenile Program) is administered by the Department of Juvenile Justice (DJJ). The Juvenile Program offers youth charged with a first-time offense such as theft (under $300), disorderly conduct or possession of a small amount of marijuana (less than 20 grams), an alternative to arrest, that does not leave the juvenile's record accessible by the public. To participate in the Juvenile Program the youth and parent or guardian must sign the civil citation agreement, must perform a designated number of community service hours, and depending on the offense, must complete other sanctions which may

include payment of restitution, counseling, or drug treatment. Upon successful completion, any record of the youth's participation in the Juvenile Program is sealed and can only be accessed through a court order.

In response to staff's inquiry, the Chief Juvenile Probation Officer for the Second Judicial Circuit, who has oversight for the Juvenile Program, shared that law enforcement officers in Leon County are utilizing the Juvenile Program. Last year 63 youth successfully completed the Juvenile Program with referrals from both the LCSO and the TPD.

Pre-arrest Diversion Programs in Other Jurisdictions

The Pinellas County Sheriff, the Hillsborough County Sheriff, and the City of Miami Gardens Police Department are among many Florida counties that operate an adult pre-arrest diversion program for the purpose of diverting first-time, nonviolent misdemeanor offenders from incarceration. According to the information available on their respective websites, participants of the program may be issued a civil citation (notice to report to the program location), are required to pay a fee, and are then diverted to rehabilitative measures such as community service and/or counseling and treatment, and restitution, if necessary. All records of an offense are maintained in the law enforcement electronic database. No criminal record is created. If participants are unsuccessful, the offense is referred to the State Attorney for prosecution.

Staff contacted each of the agencies mentioned above to inquire about the use and effectiveness of the programs. At the time this item was finalized for publication, only the Pinellas County Sheriff had responded. The Pinellas County Sheriff's Diversion Program Coordinator shared that the Program is "very effective." The Sheriff was able to secure the cooperation of municipal law enforcement agencies in the surrounding cities to ensure that the program is utilized not only in the unincorporated areas but within city limits as well. The Program has been used to eliminate arrests for several first-time offenders and can be used for some second- and third-time offenders. Participants may be offered diversion no more than three times during their lifetime. The record of participation in the diversion program is maintained in the law enforcement database and thereby, no record of criminal history is created for public record. In 2020 alone, 594 people successfully completed pre-arrest diversion, 60 of which were for possession of 20 grams or less of marijuana

Alternatives Applied After Arrest Aimed at Preventing the Case from Resulting in Incarceration

The State Attorney has operated a Post-Arrest Diversion Program for more than 20 years (since October 1995). The Post-Arrest Diversion Program accepts first-time offenders and some repeat offenders of misdemeanor nonviolent law violations, including those charged with possession of small amounts of marijuana. Generally, upon making contact with a first-time offender in possession of 20 grams or less of marijuana (a misdemeanor offense), a law enforcement officer may issue a "notice to appear" in lieu of making a physical arrest. A notice to appear is a written order issued by a law enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. Following the issuance of a notice to appear, the State Attorney's Office will contact with the offender to discuss their potential participation in the Diversion Program.

A $100 fee is required to offset the administrative costs associated with operating the Program. Defendants who cannot afford to pay the fee may apply for a scholarship to have the fees paid by the State Attorney's Office. Participants may avoid prosecution by completing 15 hours of community service with a nonprofit charity of their choice, and, if applicable, successfully completing drug screening within 90 days of a drug-related offense, to have the charge dismissed. Over the past three years, more than 250 offenders who had a misdemeanor marijuana charge and had no significant criminal history were offered post-arrest diversion or had their charges dismissed. Upon successful completion of this Program, the Diversion Program Coordinator provides participants with information detailing the steps that must be taken to have an arrest record sealed or expunged. As requested by the Board, the records expungement process is discussed in more detail later in the Analysis section of this item.

Felony Drug Treatment Court is another post-arrest alternative to incarceration available for persons who reside within the Second Judicial Circuit, charged with illicit drug crimes. Criteria for participation include the following:

- Be a resident in the Second Circuit.
- The current charge must be a 2nd or 3rd degree felony involving possession or use of marijuana.
- Have no other pending felonies.
- Two or less prior felony convictions for nonviolent offenses.
- No prior arrests for a violent felony offense.
- Not currently on State supervision for a felony offense.

After arrest, the State Attorney assigned to the case may offer Drug Treatment Court. To be eligible for the program, the defense attorney must submit a completed Drug Court referral form to the Court's Criminal Case Management Unit. Thereafter, the referral form is sent to the treatment provider who completes an assessment of the participant. If the assessment determines that the defendant needs substance abuse treatment, both the State and the defendant enter into a contract stipulating to the terms and conditions of Drug Treatment Court. Felony Drug Court participants are supervised by a Department of Corrections Probation Officer. Drug Treatment Court is a 12-month intensive treatment program. The three-phase program includes, but is not limited to regular urinalysis, individual therapy, group therapy, relapse therapy and regular status updates to the Court. As a result of the pandemic, Drug Treatment Court has not been fully operational since 2019 when 16 people participated and graduated from the Program. Participants who successfully complete the Program have the charge(s) dismissed at graduation.

Although several pre- and post-arrest alternatives are in place to address nonviolent misdemeanor offenses, including possession of marijuana, several cities and counties have taken measures to advance marijuana reform by enacting ordinances that give law enforcement officers the discretion to impose civil penalties for most misdemeanor marijuana offenses. To frame the narrative which follows in the analysis below, it is important to note that most of the ordinances discussed were enacted with the support of the circuit-wide State Attorney and the local law enforcement agencies.

Further, none of the ordinances have been challenged legally. The use and possession of marijuana remains a violation of state and federal law, with an exception for medical use under state law as previously outlined.

Efforts to "Decriminalize" Possession of Small Amounts of Marijuana

Since 2015 more than 15 Florida counties and cities have adopted ordinances that give law enforcement the discretion to issue a civil citation resulting in a fine for the use and possession of small amounts of marijuana. In many jurisdictions, the penalty for possession of 20 grams or less of marijuana can result in a fine up to $155 for the first offense. In some communities that authorize the use of civil penalties for subsequent offenses of possession, like the City of Tampa, law enforcement may impose up to a maximum $450 fine for the fourth offense. In other communities, like Alachua County, the fine for the first and second offense is $150; however, with the third offense the fine increases to $200 and the person must be screened to determine if drug treatment is needed. The Orlando ordinance gives law enforcement the discretion to impose a $100 fine for the first offense and a $200 fine for a second offense. Those who cannot afford the fine, may perform community service or participate in an educational course explaining the negative impacts of illicit drug use.

Jurisdictions that have adopted such ordinances argue that the criminal penalty for such an offense is often disproportionate to the severity of the offense and believe that a civil penalty is more commensurate with any social harm caused by possessing a small amount of marijuana. Moreover, they contend that imposition of a civil penalty enables costly criminal justice resources to be used to address the most critical public safety issues in the community.

The Leon County Board of County Commissioners considered drafting an ordinance to provide a civil penalty for misdemeanor marijuana possession offenses at its October 15, 2019 meeting, but voted at that time to take no action. At that same time, the State Attorney expressed his opposition to such an ordinance in Leon County, since misdemeanor marijuana possession remains a criminal offense under both federal and state laws, and the State Attorney considers that any local ordinance intending to decriminalize marijuana would be null and void and would not preclude prosecution. Should the Board choose to again consider an ordinance granting law enforcement the discretion to impose civil fines for possession of small amounts of marijuana, staff will provide a follow-up agenda item for consideration of a proposed ordinance structure, and outline the process and costs that may be associated with the implementation of such an ordinance. Such an ordinance would provide law enforcement with an additional tool they may use at its discretion.

The State Attorney for the Second Judicial Circuit maintains his position that he is opposed to such an ordinance. In addition, the County has no operational authority over law enforcement agencies and cannot require them to enforce the ordinance, but merely offer the ordinance as an additional pre-arrest tool to use at their discretion. In reaching out to the LCSO to prepare this item, the Sheriff stated that he is open to discussions regarding the issuance of a citation imposing a civil fine for this offense. The City of Tallahassee has indicated that if the Board enacts an ordinance, law enforcement may exercise discretion to utilize it as they do with any other pre-arrest tool; however, law enforcement officers are not required to enforce the ordinance.

As previously noted, some local governments in Florida have adopted ordinances providing for civil penalties for possession of small amounts of marijuana. Marijuana possession remains a criminal offense under federal and state law except as previously discussed and as such offenders are potentially subject to criminal prosecution. If challenged, an ordinance adopted by a local government to decriminalize misdemeanor marijuana possession by reducing the offense to a civil penalty may be ruled invalid. In jurisdictions that have adopted ordinances providing for civil fines in lieu of a criminal charge, the respective State Attorney still has the authority to prosecute persons charged with marijuana possession.

Expungement of Criminal Records

As requested by the Board, this section provides an explanation of the record expungement process as well as an explanation of Leon County's pre-employment and random drug screening processes. Many people are concerned about the implications of a minor criminal offense record, including the impact that a charge for marijuana possession may have for them when seeking employment. Like Leon County government, many employers that hire people to fill safety sensitive positions such as paramedics and CDL operators, are mandated by state and federal law to require pre-employment and random drug screening for those positions. Leon County does not require drug testing for any other positions. In addition, for participants of pre-arrest diversion programs the process includes removal of the criminal record. Persons who are prosecuted for minor criminal offenses may file a request to have such record expunged.

In accordance with Section 943.045, F.S., "a criminal history record is created when a person is arrested and fingerprinted and includes the disposition of any charges stemming from the arrest whether it is an adjudication of guilt or the withholding of adjudication, acquittal, or dismissal of charges before trial or other disposition." Adult and juvenile offenders may apply to the Florida Department of Law Enforcement (FDLE) to request criminal records be sealed or expunged, and the applicable Court has the authority to order the criminal record sealed or expunged. A person seeking expungement of a criminal record must first apply for a Certificate of Eligibility to determine whether the record is statutorily eligible for sealing or expungement. When a criminal history record is sealed or expunged, the public will not have access to the record; however, certain governmental or related entities have access to sealed record information. When a record has been expunged, most entities cannot have access to the record without a court order.

Conclusion

There are several existing programs that offer law enforcement tools to address minor nonviolent misdemeanor offenses like possession of small amounts of marijuana. The State Attorney offers an adult pre-arrest and post-arrest diversion program to be used at the discretion of law enforcement, as an alternative to incarceration for persons who commit minor nonviolent misdemeanor offenses. In addition, a Juvenile Civil Citation Program is in place for youth charged with a first-time offense of marijuana possession or other minor offense. Such programs include drug treatment and counseling and other rehabilitative measures.

A review of the jail population from January 2019 through February 2022 found no persons detained in the Leon County Detention Facility with only a misdemeanor possession of marijuana charge, and the State Attorney contends that it has years since anyone has been incarcerated for a

simple possession of marijuana charge. The State Attorney states that all eligible first-time offenders arrested for possession of 20 grams or less of marijuana are referred to the Post- Arrest Diversion Program. Further, the State Attorney maintains sole discretion to dismiss, divert or prosecute any law violation.

A variety of tools are available to law enforcement as alternatives to incarceration, including issuing a warning, a pre-arrest diversion referral, or a Notice to Appear. These options notwithstanding, the State Attorney has reported that the Pre-arrest Diversion Program is seldom used. An Ordinance providing for civil fine in lieu of criminal penalty for possession of small quantities of marijuana would be another tool available to law enforcement to use at their discretion.

Other communities in Florida (as many as 15 to date) have adopted ordinances that enables law enforcement to issue a civil citation with a civil penalty for violation of small amounts of marijuana. However, any possession or use of marijuana is a violation of federal law and state law (except as permitted for medical use) and as such, violators are subject to criminal prosecution. The State Attorney was opposed to the adoption of such an ordinance when the Board considered the concept in 2019, since misdemeanor marijuana possession remains a criminal offense under both federal and state laws, and the State Attorney considers that any local ordinance intending to decriminalize marijuana would be null and void and would not preclude prosecution. The State Attorney maintains his opposition to any ordinance that attempts to decriminalizing marijuana possession by characterizing the offense as a civil infraction and imposing a civil fine. As previously stated, the Leon County Sheriff is open to discussing a proposed ordinance should the Board choose to move forward with such a proposed ordinance.

Options:

1. Accept the report on alternatives to incarceration for the possession of small amounts of marijuana and take no further action.
2. Direct staff to draft a proposed ordinance providing law enforcement the discretion to issue a civil citation imposing a fine for the possession of small amounts of marijuana.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. State Attorney Memorandum of Understanding
2. Tallahassee Police Department's General Orders on Arrests and Alternatives to Arrest
3. Leon County Sheriff's Office General Order, 74.3 – Arrest Procedures

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OFFICE OF
STATE ATTORNEY
SECOND JUDICIAL CIRCUIT OF FLORIDA

Memorandum of Understanding

Intent:

In order to better address minor offenses through making strong interventions without unintended lasting collateral consequences, the Office of the State Attorney for the Second Judicial Circuit is establishing the following diversion program. This process is in partnership with all local governments, law enforcement agencies, and human service providers. The intent of this program to give prosecutors and law enforcement additional options when interdicting criminal behavior, but in no way does this program supplant or otherwise limit the traditional criminal justice options held by all sworn law enforcement, the State Attorney, or the Courts.

Eligibility:

Diversion is reserved for criminal behavior that would otherwise be characterized as misdemeanors or violations of municipal ordinance. Prior participants may be eligible, or may be denied, at the discretion of the Office of the State Attorney. Actions constituting felonies are not eligible. Pre-arrest diversion is not eligible for those with prior criminal history. Crimes involving victims are only eligible if the victim's rights are insured consistent with those in traditional court proceedings.

The following are NOT generally eligible for the program:

Battery or other Violence

Violation of Injunction

Loitering and Prowling

Stalking

DUI

Animal Cruelty

Partners:

The signees are specific partners in this effort and agree and adopt its implementation as a program. However, cases made by non-partner organizations are eligible.

Procedures:

Law enforcement will perform their traditional duties of discovering, investigating, and dissuading criminal behavior. If a law enforcement officer determines a person has committed a crime, he or she can take any traditional lawful action he feels appropriate. This includes making an on view arrest, issuing a notice to appear, preparing a probable cause affidavit for potential judicial review, or creating a regular police report.

Under the diversion program, the law enforcement officer can additionally indicate in their probable cause affidavit or sworn report that they feel the offender should be granted diversion rather than criminal arrest. If the LEO does this, he or she will tell the offender of the intent and provide the offender with an information sheet referring them to the Office of the State Attorney in that county. The offender is then told to appear at the office within four weeks. The law enforcement officer then will forward the probable cause or sworn report and recommendation to the local Office of the State Attorney.

The Office of the State Attorney will review all cases forwarded by law enforcement. This will include those where the officer did not effect an arrest. In all cases, the assigned prosecutor will decide whether diversion is an appropriate intervention based on the facts of the case, criminal history of the offender, and any other information that the prosecutor is able to ascertain. If the prosecutor determines that diversion is not appropriate, he or she will file an information for the charge supported by the probable cause or sworn report and request a court date at which the defendant will be required to appear with a notice to be sent out by the Clerk.

If the prosecutor determines that diversion is appropriate, he or she will refer the case to the diversion coordinator. The Office of the State Attorney will mail notice of eligibility to all qualified offenders and attempt to notify any offenders at arraignment. Offenders who were not arrested will be notified upon their arrival at the Office of the State Attorney.

The Office of the State Attorney will staff the administration of the program. In addition to notice of eligibility, each offender will be provided written notice of the requirements of the diversion program. This will include all financial requirements, counseling and treatment requirements and costs, and any additional sanctions possible. They will also be notified of their legal rights that are subject to waiver including those of speedy trial. They will be afforded an opportunity to retain counsel and be given notice of their consequences for failure to successfully complete the program. They will also be given the option to have the case transferred for a traditional prosecution by the Office of the State Attorney. Upon successful completion of the program, the Office of the State Attorney will file a no information if an arrest or notice to appear was filed. They will also notify the referring or arresting agency of the resolution of the case whether an arrest was made or not.

Program Requirements:

In all cases:

1. No additional criminal activity during the pendency of the diversion. This will last a minimum of 3 months and a maximum of 12.
2. Pay cost of prosecution of $100 to the Office of the State Attorney within 3 months from date of entry into program.
3. Community Service hours.

The Office of the State Attorney will make such conditions a part of the diversion when the prosecutor feels they are appropriate based on the crimes, criminal history, or other information available at the time of review.

1. Pay any restitution at time of entry.
2. Evaluation and follow recommendation of treatment provider. (Anger Management, Mental Health, Substance Abuse Evaluation, Theft Class, Hunter Safety Course) Cost to be borne by offender and payable to vendor.
3. Get a valid driver's license.

All monies paid to the Office of the State Attorney are in the form of money orders. The monies are non-refundable.

Treatment providers can be through any qualified provider. A non-exclusive list of providers and their costs will be provided prior to the offender entry into the program. The offender must provide proof of evaluation and treatment plan to the Office of the State Attorney in the form of a letter on official letterhead capable of independent review.

Community Service Hours can be completed through any charitable organization that is eligible for tax free status pursuant to the IRS. The offender is required to provide proof through documentation on official letterhead capable of independent review.

Driver's License. The offender is required to show their valid driver's license to the Office of the State Attorney or otherwise provide documentation on their inability to gain such a license despite their efforts.

Scholarship:

1. If possible, monies will be secured from local governments to cover the costs associated with this program for those who are indigent. If such funding is available, the offender will request such a scholarship and provide proof of eligibility for the Office of the Public Defender. If funds are available, they will cover the costs of both the Office of the State Attorney and private vender fees. In exchange for such a scholarship, the offender will additionally be required to complete one day on the County Work Camp to repay the debt and provide proof of successful completion to Office of the State Attorney.

Sealing and Expungement:

Upon successful completion of the program, forms will be provided to the offender to allow them to proceed with sealing or expungment.

Memorandum of Understanding:

Through entry into this memorandum of understanding we agree that our agencies will support and utilize the Diversion Program at the discretion of each partner. This does not bind any partner to take any particular action in any case. Nor does is require that the agency or its employees ever make a pre arrest diversion recommendation. It is merely an acknowledgement of the program as a pre-arrest and post-arrest diversionary option for the State Attorney and all law enforcement partners in the Second Judicial Circuit.

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State Attorney of Second Judicial Circuit

Jared Miller
Sheriff of Wakulla County

Walt McNeil
Sheriff of Leon County

A.J. Smith
Sheriff of Franklin County

Morris Young
Sheriff of Gadsden County

~~David Hobbs~~ Alfred K McNeill Jr
Sheriff of Jefferson County

Eddie Joe White
Sheriff of Liberty County

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Michael Deleo
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David Perry
Chief of Florida State University Police Dept.

Terence Calloway
Chief of FAMU Police Dept.

Tracy Smith
Chief of Havana Police Department

Deric Mordica
Chief of Midway Police Department

Glenn Sapp
Chief of Quincy Police Department

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Chief of Gretna Police Department

Greg Gibson
Chief of TCC Police Department

Richard Swearingen
Commissioner of FDLE

Curtis Brown
Director of FWC Commission

Vann Pullen
Chief of Chattahoochee Police Department

Bobby Varnes
Chief of Apalachicola Police Department

Gary Hunnings
Carrabelle Police Department

TALLAHASSEE POLICE DEPARTMENT
GENERAL ORDERS

Proudly Policing Since 1841	**SUBJECT** Arrests and Alternatives to Arrest **CHIEF OF POLICE** *Signature on File*	Nationally Accredited 1986

NUMBER	ORIGINAL ISSUE	CURRENT REVISION	TOTAL PAGES
6	07/15/1985	05/28/2021	17

AUTHORITY/RELATED REFERENCES

CIB-12, Follow-up Investigations
FS 776.08, Forcible Felony
FS 790.052, Carrying Concealed Firearms; Off-duty Officers
FS Chapter 901, Arrests
FS 984.04, Juvenile Justice; Oaths, Records, Confidential Information
FS 985.031(8), Kaia Rolle Act
Florida Rules of Criminal Procedure, Rule 3.1.25, Notice to Appear
General Order 59, Transporting and Booking Procedures
General Order 69, Foreign Nationals and Diplomatic Immunity
General Order 71, Juvenile Civil Citation Program
General Order 72, Search and Seizure

ACCREDITATION REFERENCES

CALEA Chapters 1, 74, 82
CFA Chapter 2

KEY WORD INDEX

POLICY

Department officers shall use reasonable judgment and appropriate discretion when making decisions which may lead to an arrest or an alternative to arrest. Officers shall abide by the United States Constitution, Florida Statutes, and other applicable legal guidelines in all arrest situations.

DEFINITIONS

Bias Policing: The selection of individuals for enforcement action based in whole or in part on a trait common to a group, without actionable intelligence to support consideration of that trait. This includes, but is not limited to race, ethnic background, gender or gender identification, sexual orientation, religion, economic status, age, cultural group, or other identifiable characteristics.

Off-duty: When an officer is not engaged in on-duty or secondary employment activity.

On-duty: When an officer is working their regular duty assignment, or any special assignment compensated by the Department.

Secondary Employment: Employment where an officer works for an entity other than the Department, and a condition of the employment is the actual or potential use of law enforcement powers by the employed police officer.

Shall: Indicates the described action is mandatory.

Should: Indicates the described action is not mandatory, but preferred.

PROCEDURES

I. GENERAL GUIDELINES

A. When effecting arrests, officers shall ensure those rights mandated by the United States Constitution are provided to the arrested person.

B. When effecting arrests, officers shall obey the laws of arrest as outlined in FS Chapter 901 (Arrests).

C. Officers shall not make any arrest decision based upon bias policing.

D. Officers shall not arrest a child younger than 7 for a delinquent act or violation of law based on an act occurring before he or she reaches 7, unless the violation of law is a forcible felony as defined in FSS 776.08.

E. The protocols of General Order 69 (Foreign Nationals and Diplomatic Immunity) guide officer actions regarding diplomatic immunity and certain notifications to federal entities and foreign government representatives.

F. Officers shall document an arrest in an appropriately classified offense report.

G. When an officer arrests an employee of the school district for a felony, or a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance, the officer shall notify the Sergeant of the Juvenile Services Unit. The notification will be made by Department email to tpdshocap@talgov.com. The Sergeant of the Juvenile Services Unit (or designee) will notify the Leon County District Superintendent (or designee). The notification will include the arrestee's name, address, and specific charge(s) for which the employee was arrested.

II. ARREST AND ALTERNATIVES TO ARREST PROCESSES

A. When probable cause exists to believe a person has committed a violation of criminal law or ordinance, on-duty police officers and officers working secondary employment should make a physical arrest.

1. Officers shall handcuff all arrested persons (hands behind back) unless circumstances reasonably justify otherwise.

2. When objectively reasonable, officers are authorized to utilize additional or other Department-approved restraint devices for the safety of the arrested person, the officer, and others.

3. After handcuffing, officers shall conduct a search incident to arrest as authorized in General Order 72 (Search and Seizure).

B. In all arrest situations, the officer shall conduct a full and complete investigation of the incident while utilizing standard Department officer-safety protocols.

Decision Making Processes –

C. It is the responsibility of officers to use reasonable judgment and appropriate discretion, including the consideration of such factors as listed in subsection D below, in making a determination to:

1. Complete standard arrest processing (i.e., transport to a detention facility),

2. Implement an alternative to arrest (see subsection L below), or

3. Release the suspect with only a verbal warning.

D. The factors for officers to consider include the ones listed below.

1. The totality of the circumstances surrounding the criminal act, to include the victim's input (see subsection E below).

2. The arrested person's level of cooperation during the arrest, handcuffing and subsequent search.

3. The existence of any contraband or items of evidentiary value located during the search incident to arrest.

4. The ability to establish the arrested person's identity.

5. Any wanted, probationary or pre-trial release status of the arrested person.

6. The arrested person's eligibility for participation in an alternative to arrest program.

E. Officers should take into consideration the victim's desire to have the suspect arrested or not arrested, or to pursue criminal charges in court; however, the victim's input shall not:

1. Be the sole determining factor in whether or not an arrest is made, or

2. Override any statutorily mandated arrest.

F. Except when approved by a named representative of the State Attorney's Office (SAO), or lieutenant or higher rank, officers shall always make arrests when:

1. Probable cause exists to believe a person has committed a felony, or

2. A person has an outstanding warrant or active capias.

G. In the decision to make or not make an arrest, officers should not consider the possibility the suspect may:

1. Not be prosecuted, or

2. Be used as a confidential informant.

H. There may be situations where probable cause exists for the arrest of a suspect, but circumstances might cause officers to not make an arrest. Some of these circumstances include:

1. When the arrest would cause a greater risk of harm to the general public than not arresting the suspect (e.g., the suspect in a minor offense takes refuge in a large, volatile crowd).

2. When police resources are limited and there is a large volume of high priority calls for service (e.g., making an arrest for a minor offense in which the City or State is the victim during an extremely busy shift would take too much valuable officer time).

3. When referral to a recognized diversion program seems a more appropriate and reasonable course of action.

I. Even if an arrest is not made at the time of the criminal act, officers may obtain arrest warrants for suspects whom they have probable cause to believe committed a crime.

J. Officers shall not make arrests outside their jurisdiction, except in:

1. Fresh pursuit of a suspect for a violation occurring inside their jurisdiction, or

2. Mutual aid situations.

K. If officers have questions or doubts about making or not making an arrest, they should seek the counsel of a supervisor (if supervisors have questions, they should seek the counsel of the Legal Advisor).

<u>Alternatives to Arrest</u> –

L. It is the policy of the Department that when allowed by Florida Statute, this written directive, and reasonable to do so, officers should implement an alternative to arrest.

1. The preferred method of an alternative to arrest for adult arrestees, in descending order of preference, is as follows:

a. Pre-arrest Diversion Program (section III below).

b. Notice to Appear (section IV below).

2. For juvenile arrestees, the issuance of a Juvenile Civil Citation is the available alternative to arrest. See General Order 71 (Juvenile Civil Citation Program).

3. Unless needed to de-escalate the situation, officers shall not mention the possibility of an alternative to arrest to the arrestee until it is determined this is the most reasonable course of action at the conclusion of the investigation.

Arrested Person's Safety –

M. When detaining or arresting any person who appears to be inebriated, intoxicated, not in control of their physical functions or exhibiting other unusual behavior, officers shall:

1. Attempt to reasonably assess the person in accordance with their training and experience to recognize the signs of a medical emergency,

2. Examine the person to ascertain whether or not they are in possession of medic-alert identification (e.g., bracelet, necklace) specifically describing a medical disability or condition which would account for the actions of the person, and

3. If such identification is found or if it is reasonably believed the person has an underlying medical condition:

a. Take immediate steps to ensure the person receives appropriate medical attention for the disability or condition, and

b. Continue to employ prudent security measures and officer safety tactics while supporting the patient status of the person.

N. Officers are responsible for the safety and protection of arrested persons while in the custody of the Department and shall ensure arrested persons are:

1. Not left unattended, and

2. Provided appropriate medical care for any known and/or observed:

a. Injury sustained during the arrest, or

b. Injury or illness unrelated to the arrest in a manner described in General Order 59 (Transporting and Booking Procedures).

O. In situations when an arrested person is transported by ambulance to a medical facility an officer shall accompany the person in the ambulance.

1. Officers shall not provide handcuffs, handcuff keys, flex-cuffs, linear leg restraints or leg irons to EMS personnel in lieu of accompanying an arrested person being transported in an ambulance.

2. An officer following an ambulance in a police vehicle does not constitute accompanying the person in the ambulance.

Arrested Person's Property –

P. Officers are responsible for any personal property in possession of, or under the control of, a suspect at the time of the arrest and shall ensure the property is either:

1. Turned over to an authorized person of the arrested person's choice,

2. Properly impounded, or

3. Properly submitted to another agency.

III. PRE-ARREST DIVERSION PROGRAM

A. The Pre-arrest Diversion Program is managed by the State Attorney's Office (SAO).

1. The program is intended to provide persons subject to custodial arrest or issuance of a Notice to Appear with an alternative to judicial prosecution.

2. The program provides officers and prosecutors additional options when addressing a person's criminal behavior but does not supplant or limit the traditional criminal justice options available to officers, prosecutors, or judges.

3. It is the responsibility of the SAO to:

   a. Determine if program participation is appropriate for the person,

   b. Conduct all follow-up contact with the person regarding program participation,

   c. Establish program requirements and conditions for the participant, and

   d. Implement, at its discretion, any consequences for failure to abide by the program conditions and restrictions.

4. Officers are responsible for adhering to the protocols of this section in the Department's support of the program.

5. An officer's responsibilities under the program are limited to:

   a. Determining a person's eligibility for program participation,

   b. If the person is eligible, making a recommendation to the SAO for participation in the program, and

   c. Properly documenting the recommendation (see subsection I below).

B. Except as outlined in subsection E below, an officer shall recommend the Pre-arrest Diversion Program (PDP) for a person when **all** the following criteria are met:

   1. The crime is a misdemeanor and is not one of the exceptions listed in subsection C below,

2. There is no likelihood the criminal behavior might continue (i.e., persons or property endangered) if the suspect is not incarcerated, and

3. The person:

   a. Is an adult,

   b. Has no prior criminal arrest history,

   c. Did not resist arrest (nor is a response to resistance report required for interactions with the suspect due to their actions),

   d. Is in possession of government-issued identification verifying their identity,

   e. Resides within the Second Judicial Circuit (Leon, Franklin, Wakulla, Liberty, Jefferson, or Gadsden Counties),

   f. Is cooperative during the handcuffing process, subsequent search incident to arrest and any investigation, and

   g. Agrees to sign the Pre-arrest Diversion Program form (PD 403) and accept a copy of the PD 403.

C. Officers shall not recommend a person for the PDP if they are subject to arrest for one or more of the following crimes:

   1. Battery or other crime of violence,

   2. Violation of a court injunction,

   3. Loitering and prowling,

   4. Stalking,

   5. Driving under the influence,

   6. Exhibition of sexual organs, or

   7. Animal cruelty.

D. A person's prior participation in the PDP does not prohibit an officer from recommending program participation to the SAO.

E. In incidents where the person meets the criteria set forth in subsection B above, but the circumstances of the situation warrant the person not being offered the PDP, the officer shall explain the circumstances to a supervisor for consideration of approval to deviate from the PDP recommendation.

F. When recommending a person for the PDP, the officer is responsible for:

1. Advising the person subject to arrest of the intent to recommend the person for the PDP, and

2. If the person accepts the recommendation, providing the person with a copy of the completed and signed PD 403.

G. If the person refuses to accept participation in the PDP and is arrested, the officer has the option to either:

1. Issue a Notice to Appear as outlined in section IV below or

2. Transport the person to the Leon County Detention Facility (LCDF).

H. The person's signature on the PD 403 attests to their agreement to PDP participation and officers shall issue Miranda Warnings prior to obtaining the person's signature on the form.

I. Offense Report Protocols –

The issuance of a PD 403 requires the completion of an offense report and officers are responsible for ensuring the report:

1. Is completed in a manner consistent with the report writing protocols set forth in General Order 46 (Rules of Conduct) and PTL-16 (Reports),

2. Contains details of the circumstances and probable cause for the incident,

3. Contains a statement recommending the person for the PDP and their acceptance of the PD 403, and

4. Indicates an "exceptionally cleared" disposition.

IV. NOTICE TO APPEAR ISSUANCE PROTOCOLS

A. An officer should issue a Notice to Appear (NTA) in lieu of a physical arrest upon making contact with a person who is subject to arrest when **all** the following criteria exist:

1. The crime is a misdemeanor,

2. There is no likelihood the crime charged might continue (i.e., persons or property endangered) if the suspect is not incarcerated,

3. There is no indication the person has previously:

   a. Failed to appear/respond to a notice or summons, or

   b. Violated the conditions of any pretrial release program, and

4. The person:

   a. Is an adult,

   b. Did not resist arrest (nor is a response to resistance report required for interactions with the suspect due to their actions),

   c. Is in possession of government-issued identification verifying their identity,

   d. Resides within the Second Judicial Circuit (Leon, Franklin, Wakulla, Liberty, Jefferson, or Gadsden Counties),

   e. Is cooperative during the handcuffing process, subsequent search incident to arrest and any investigation, and

   f. Agrees to sign the affidavit and accept a copy of the NTA and appear in court.

B. A person issued an NTA shall not be transported to the LCJ for the offense charged in the NTA.

C. The issuance of an NTA requires the completion of an offense report and officers are responsible for ensuring:

1. The NTA form and offense report are completed in a manner consistent with the report writing protocols set forth in General Order 46 and PTL-16, and

2. The offense report indicates a “cleared by arrest” disposition.

V. OFF-DUTY OFFICER ARREST AUTHORITY

A. While off-duty, officers shall not make arrests in the situations listed below.

1. In their own quarrels, in those of their families or friends, or in disputes arising between their neighbors except in circumstances where the officer reasonably believes:

a. They are justified in using force to prevent injury or death to another person,

b. They are justified in using force in self-defense, or

c. A serious crime has been committed.

2. For non-threatening crimes except when the violations are willful and repeated.

3. For traffic violations except when officers reasonably believe an arrest must be made to prevent injury to themselves or another person.

4. Outside their on-duty jurisdiction except as denoted in subsection II G above.

5. When they are under the influence of alcohol or taking medication, which impairs their judgment.

B. To avoid confusion to suspects, citizens and responding officers, off-duty officers who are authorized to make an arrest shall do so only when in possession of appropriate Department identification, including, but not limited to:

1. Police identification card with officer photograph, and

2. Department-issued or authorized police badge.

C. Officers making an off-duty arrest when acting under the authority of this General Order and FS 790.052 (Carrying Concealed Firearms; Off-duty Officers) shall:

1. Be armed with a Department-approved firearm, and

2. Not utilize any non-Department-approved firearm to make an arrest unless it is used to prevent the imminent great bodily harm to or death of themselves or another person.

D. Off-duty officers who make arrests shall:

1. Summon on-duty officers as soon as practical,

2. Ensure the appropriate arrest/booking paperwork is completed contemporaneous to the arrest, and

3. Submit other required police reports within 24 hours of the arrest unless directed to do otherwise by an on-duty supervisor.

VI. ARRESTS WITHOUT A WARRANT

General –

A. When making arrests without a warrant, officers shall comply with FS Chapter 901 and current federal and Florida case law.

B. Officers shall not enter a dwelling or structure to make a warrantless arrest absent a valid exception to the search warrant requirement.

Incarcerated Persons –

C. The following protocols are applicable when an officer places any additional criminal charge on a person already incarcerated at the LCDF.

1. Whether or not the officer conducts an interview of the inmate, the officer shall coordinate with detention staff to have the person brought to the booking area to be processed on the new charge(s).

2. Officers may contact the LCDF in advance to schedule a time to meet the inmate in the booking area to be processed on the new charge(s).

3. The officer is responsible for abiding by FS 901.17 (Method of Arrest by Officer Without Warrant) which mandates the officer "inform the person to be arrested of the officer's authority and the cause of arrest."

VII. ARRESTS WITH A WARRANT

Verification of the Warrant –

A. Before making an arrest with a warrant, officers shall determine if:

   1. The person to be arrested is the one for whom the warrant is issued, and

   2. The warrant is valid.

B. Officers shall use reasonable diligence to ensure the person to be arrested is the person named in the warrant. When in doubt, officers shall use simple and direct means of checking identification when such means exist (e.g., photographs, automated inquiries, fingerprint classifications, intelligence information).

C. Officers shall verify the validity of all Leon County arrest warrants through the Justice Information System (JIS).

D. Officers shall verify the validity of non-Leon County arrest warrants through FCIC/NCIC.

E. Officers may request a check or a verification of a warrant through the Consolidated Dispatch Agency (CDA).

F. Officers shall verify arrest warrants and pick-up orders for juveniles by contacting the Juvenile Assessment Center (JAC).

Extradition Considerations on a Verified Warrant –

G. If there is no mention of an extradition status in FCIC/NCIC on a verified warrant, the officer shall transport the person to the LCDF.

H. If there is a specific indication in FCIC/NCIC that the involved jurisdictional authority will not extradite the person, the officer shall not detain the person further unless there is some other authority to detain or arrest the person.

I. Other than complying with the no-extradition information in FCIC/NCIC, officers do not have to confirm whether or not the involved jurisdictional authority will extradite a person on a verified outstanding warrant.

Execution of an Arrest Warrant –

J. Officers may arrest a person whom they reasonably believe has an outstanding arrest warrant; however, since FS Chapter 901 allows only sheriffs and their deputies to execute arrest warrants, officers shall deliver the arrested person to a deputy sheriff for execution of process. Delivery of an arrested person to the LCDF or the JAC meets the statutory requirement.

VIII. OBTAINING AN ARREST WARRANT

A. To obtain an adult or juvenile arrest warrant (pick-up order), officers shall adhere to the protocols listed below.

1. Complete and sign the probable cause form and warrant affidavit.

2. Ensure both the probable cause form and warrant affidavit are properly notarized.

3. Provide the probable cause form and warrant affidavit to their immediate supervisor for:

   a. Review and critique, and

   b. Decision on whether or not State Attorney's Office (SAO) review is warranted.

4. As needed or directed, contact the SAO for review of the probable cause.

5. Deliver the approved probable cause form and warrant affidavit to a judge for review and signature.

6. Pick up the signed paperwork from the judge and deliver it to the Leon County Clerk's Office to be logged in and entered into JIS unless approved by a Section Commander (lieutenant) to not be entered for a specific and articulable investigative purpose. Also see subsection B below.

7. If the warrant is a traffic warrant, officers shall complete a Uniform Traffic Citation for the applicable charge(s) and attach a copy to the warrant.

B. In situations where a Section Commander approves an officer not entering the warrant (as described in subsection A 6 above), it is the responsibility of the officer to deliver the warrant to the Leon County Clerk's Office within 14 days or contact the Section Commander for continued approval.

C. The officer who originated the warrant shall complete an SAO arrest packet (file of all pertinent documents for prosecution of a criminal case) and submit it to the Criminal Investigations Bureau within 10 days from the date the warrant is issued.

D. Officers are not responsible for sending arrest warrants to other jurisdictions. The LCSO Warrants Unit will send arrest warrants to sheriff's offices in other jurisdictions if there is a known address for the wanted person in the other jurisdiction.

E. When obtaining an arrest warrant after regular business hours, officers shall contact the appropriate on-call CIB investigator and adhere to protocols set forth in CIB-12 (Follow-up Investigations) which include the following procedures:

1. If an arrest warrant is signed by a judge after the regular business hours of the LCSO Warrants Unit and/or the Leon County Clerk's Office, the investigator shall contact the CDA and have the warrant entered into NCIC/FCIC as a "Temporary Warrant Entry," and

2. These temporary warrant entries automatically purge from the NCIC/FCIC system after 72 hours so the investigator must ensure the warrant is officially entered during regular business hours.

IX. REPORT COMPLETION PROCEDURES

In addition to the other documentation protocols included in this written directive, officers are responsible for the report completion procedures listed below.

A. When officers do not make an arrest in an incident, they shall still complete an offense report if any person involved in the incident could subsequently:

1. Claim to be physically injured,

2. Claim to have suffered a property loss, or

3. Seek to pursue criminal charges against another person involved in the incident.

B. When an officer is unable to implement an alternative to a misdemeanor arrest via the Pre-arrest Diversion Program or a Notice to Appear the officer is responsible for indicating the following in the offense report:

1. The disqualifying reason(s) or the person's refusal to participate, and

2. Any subsequent enforcement action.

C. When an officer is prevented for making an arrest on an outstanding arrest warrant because the involved jurisdictional authority will not extradite the person, the officer is responsible for documenting the warrant and extradition information in an offense report.

History: previous title (*arrests*) – issued 07/15/1985, revised 03/01/1988, 06/30/1998, 11/15/2001, 10/06/2008, 06/19/2014 (*change of title*), 02/06/2015, 05/17/2016, 08/08/2017, 02/12/2018, 06/20/2019, 09/09/2019, and 10/16/2019.

LEON COUNTY SHERIFF'S OFFICE

General Order 74.3
Arrest Procedures

EFFECTIVE:	*REVISED:*	RESCINDS:
7 January 1997	18 April 2018	6 July 2017

A. PURPOSE: The purpose of this order is to establish guidelines for effecting arrests.

B. SCOPE: This order shall apply to all Leon County Sheriff's Office sworn law enforcement members.

C. DISCUSSION: None

D. POLICY: It shall be the policy of the Leon County Sheriff's Office to maintain procedures to be followed when effecting arrests.

E. DEFINITIONS:

***PRE-ARREST DIVERSION PROGRAM* –** The office of the State Attorney of the Second Judicial Circuit offers a pre-trial diversion program to suspects with no criminal history. Referrals for diversion from prosecution may be made by deputies prior to an arrest.

F. PROCEDURE:

1. **Statutory Authority:** Section 30.15, Florida Statutes, sets forth the powers, duties, and obligations of a sheriff. Authority for law enforcement officers to arrest is provided in Chapter 901, Florida Statutes. The requirements set forth in Section 901.17, Florida Statutes, require a law enforcement officer making an arrest without a warrant to inform the arrestee of their authority and the cause of the arrest. The exception to this occurs when the arrestee flees or forcibly resists such arrest prior to the peace officer informing the arrestee or when providing this information imperils the arrest.

2. **Arrests of Incarcerated Persons by Probable Cause Affidavit:**

   a. Any law enforcement officer seeking to arrest any person in the custody of the Leon County Detention Facility without an arrest warrant, shall be responsible for informing the detained arrestee their authority to make such arrest and the reason for the arrest in person.

b. The Department of Detention Chief will make every reasonable effort to expedite a meeting between an inmate and any law enforcement officer presenting an arrest by probable cause affidavit to ensure compliance when such officer appears at the Leon County Detention Facility**.**

3. Execution of Arrest Warrants or Capias:

a. Arrest warrants received for service can only be executed within the jurisdictional boundaries of Leon County by sworn agency members in accordance Chapter 901, Florida Statutes

b. Each warrant must be confirmed prior to the actual arrest. Confirmation shall be as follows: [CFA 26.06B] [CFA 26.06C]

1) Verification of an outstanding arrest warrant through NCIC/FCIC;

2) Verification of an outstanding arrest warrant through the Justice Information System (JIS).

c. FCIC Hit on Child Support Writs of Attachment: In the event a member conducts an FCIC check on an individual and finds an active Writ of Bodily Attachment, the member shall:

1) Confirm the writ in the same manner as a warrant. [CFA 26.06C]

2) Once the FCIC hit has been confirmed, the subject shall be arrested and transported to the Leon County Detention Facility where the arrestee will be booked into the facility and allowed to purge out, if a purge is listed.

a) The only exception is if the defendant produces a *Payment of Child Support* receipt, (this will be the original, multi-colored copy of the receipt).

b) The member shall compare the information on the receipt with the information on the FCIC hit. If it matches, the subject is to be released, and not taken to the Leon County Detention Facility.

c) It is important to compare the case number and the date of issuance on the receipt with the information provided on the FCIC hit. Writs of Bodily Attachment are civil in nature. The civil process cannot be served on Sundays from 0001 hours to 2400 hours, unless a judge authorizes the service or authorization is written on the order itself.

d) If the hit falls into this time frame, and the FCIC printout does not specify service on Sunday is allowed, a *Field Investigation Report* (FIR) shall be completed on the subject, and then the subject shall be released. The FIR will be sent to the appropriate Sheriff's Office.

3) The Leon County Detention Facility shall notify the appropriate Sheriff's Office of the arrest so the FCIC hit can be removed.

d. Should the validity of a Leon County warrant or capias be questioned, the verification procedure is as follows: [CFA 26.06C]

1) The deputy will contact their supervisor to advise them of the situation.

2) Warrant information is available twenty-four (24) hours a day. [CFA 26.06E] During normal business hours, 8:00 a.m.-5:00 p.m., Monday - Friday, the supervisor will call the Warrants Unit to verify the validity of the warrant/capias.

(a) The Warrants Unit will be responsible for contacting the appropriate clerk's office and having the file physically checked to verify any updates, etc., on the warrant/capias.

3) If, after normal business hours or on a holiday, there is still a question of the validity of the warrant/capias even after checking the JIS system, the on call warrants supervisor should be contacted for consultation. In these situations the warrant unit supervisor should be notified of the outcome. [CFA 26.06E]

4) If confirmation cannot be made because the clerk cannot confirm the file data or the warrant/capias is valid, the subject will be released, and a *Field Interview Report* will be completed when needed, and a copy forwarded to the Warrants Unit Supervisor.

5) All out-of-county arrests will be confirmed by the Leon County Sheriff's Office Warrants Unit, upon their notification of the arrest. Also, the warrant will be confirmed the day of transport.

6) Should there be a question about the validity of the warrant upon the transport officer's arrival, or anytime thereafter, the transport officer will conduct a warrant confirmation prior to transporting.

e. The Warrants Unit supervisor shall be responsible for the distribution, processing, record keeping, filing, and updates of warrants.

f. When a Leon County warrant is received, the following shall occur:

1) A warrant folder is prepared with the subject's name placed on the folder. The warrant folder becomes part of the agency files.

2) All "Wanted Persons" warrants will be entered into FCIC/NCIC via the Warrants Unit Monday - Friday, 0800-1700 hours. In cases of an emergency after 1700 hours and on weekends, "Wanted Persons" shall be entered via the Consolidated Dispatch Agency by using the temporary entry format. It shall be the responsibility of the entering member, on the

following week day, duty-day, to have the warrant re-entered into the Warrant Unit. All entries concerning "Wanted Persons" must have a geographic location indicated for the purpose of extradition. When acquiring a warrant, the deputy shall have this determined by the State Attorney's Office. All stolen property, missing persons, etc. shall continue to be entered into the system through the Consolidated Dispatch Agency. All entries will follow rules mandated in the FCIC Operations Manual. [CFA 26.06A]

3) Upon receipt of the monthly validation report from FCIC, the Warrants Unit will review the JIS system to determine if the warrant is still valid. If there is a question as to the validity of the warrant, the appropriate clerk's office and the issuing agency will be contacted for verification. [CFA 26.06C] Should there still be a question as to the validity of the entry, then the entry will be canceled. [CFA 26.06D]

4) A copy shall be made of the warrant and from this copy, service attempted.

g. When a warrant is received from another agency, the following shall occur: [CFA 26.06B]

1) Obtain available information on the warrant and the subject of the warrant from the initiating agency;

2) Depending upon the amount of information received and the charge, the warrant is prioritized; and

3) Service shall then be attempted.

h. Transportation of Persons Arrested on a Leon County Warrant:

1) Persons arrested under these circumstances shall be taken into custody from the local arresting agency and transported to the Leon County Detention Facility by agency members or by agencies contracted by the Leon County Sheriff's Office. This shall be done as soon as possible.

2) If a subject arrested pursuant to a Leon County Warrant is injured during an arrest by a local arresting agency, the subject shall receive treatment and/or be medically screened prior to being taken into custody by Leon County Detention Facility members. This medical screening and/or treatment shall be the responsibility of the arresting agency. Documentation of medical screening and/or treatment shall be provided to Sheriff's Office members prior to taking custody of the prisoner.

3) If the person arrested pursuant to a Leon County Warrant has an injury which was not caused by the arresting agency, then any treatment of the injury will be the responsibility of the individual or the Leon County Detention Facility.

4) The Leon County Detention Facility shall not take custody of a prisoner with apparent life threatening, serious, or incapacitating injuries.

5) Persons arrested based on probable cause by a local law enforcement agency who also have Leon County Warrants outstanding shall be processed in the same manner as a warrant arrest and transported by the agency to the Detention Facility. The local arresting agency shall be responsible for the completion of all the necessary paperwork on the probable cause charges.

6) Transportation of persons arrested by local law enforcement agencies on probable cause, out-of-county warrants, or pickup orders shall be the responsibility of the arresting agency. The arresting agency shall be responsible for completing all paperwork required for incarceration at the Detention Facility.

i. Arrests on Out-of-Jurisdiction Warrants: [CFA 26.06B]

1) When NCIC or FCIC shows an outstanding warrant, written confirmation shall be obtained to indicate the warrant is active with the originating agency and the agency will extradite. [CFA 26.06C]

2) Upon confirmation of an active warrant from one of the surrounding Florida counties (Gadsden, Liberty, Wakulla or Jefferson) and there are no existing local charges, the arrestee shall be transported to the respective county line and turned over to a deputy of that jurisdiction. If the adjoining jurisdiction does not have a deputy available then the arrestee will be transported to the Leon County Detention Facility.

3) Upon confirmation of an active warrant and intent of extradition the subject shall be arrested, transported to the Detention Facility and an arrest affidavit completed.

4) If someone is detained because of a NCIC or FCIC hit and it is determined the entering agency will not extradite from Leon County, then the subject shall be released if there are no known local charges.

j. Canceling Warrant Information: [CFA 26.06D]

1) The Warrants Unit shall ensure the information is removed from NCIC/FCIC.

2) The warrant copy shall be recalled by the Warrants Unit.

3) The Warrants Section shall return the canceled warrant to the Clerk of the Court.

3. Arrest Made From Within a Motor Vehicle; Vehicle Searches:

a. Deputies shall conduct vehicle searches in accordance with federal and State of Florida laws.

b. A consent to search form should be obtained/signed when applicable.

c. When a deputy impounds a vehicle incident to an arrest, an inventory search of the vehicle shall be conducted.

4. Discretion: Deputies are cautioned to use discretion in the performance of their assigned duties, taking into consideration the conditions present at the time, the constraints of existing policy, statutes, laws, and ordinances pertaining to the situation, and the available alternatives and direction from supervisors.

a. Upon execution of a notice to appear in court, persons arrested for misdemeanors, county ordinance violations or criminal traffic offenses should not be booked into the Leon County Detention Facility.

1) An accused person who has been properly identified and refuses to sign a *Notice to Appear, Criminal Citation, Citation requiring a court appearance,* or provide sufficient information for a *Notice to Appear* shall be arrested, transported, and booked in the Leon County Detention Facility.

2) The decision regarding an arrest should be made after careful consideration of the following:

a) Whether the arrest would cause a greater risk of harm to the general public than not arresting the offender;

b) Whether the offense can best be dealt with through informal warnings (i.e. warnings or talking with the parents of a juvenile offender);

c) The seriousness of the crime committed; and

d) Whether public empathy may be enhanced by careful use of discretion and potential ill-will can be avoided.

3) Release on Signature: If the arresting deputy plans to release the defendant after securing a signature on a *Notice to Appear*, the following procedure shall be followed:

a) The deputy shall obtain positive identification from the accused; and

b) The following information shall be included on the *Notice to Appear*:

(1) The defendant's name, date of birth, employer, and correct address;

(2) The correct statute or ordinance;

(3) All required court information.

c) A thumb print should be obtained if there is any question as to the suspect's identity**.**

b. Alternatives to Arrest: [CFA 2.02] Not all arrestable offenses require the incarceration of the offender. Alternatives to arrest and pre-arraignment confinement may be utilized. These include, but are not limited to:

1) Subjects committing offenses under the influence of alcoholic beverages, narcotics, or suffering from mental disorders may be referred to the appropriate treatment facility;

a) Any deputy utilizing the Marchman Act shall transport the subject to the central receiving facility and release the subject into their custody, in accordance with Florida Statutes and the Leon County Behavioral Health Transportation Plan. An *Offense/Incident Report* shall also be completed.

b) Any deputy utilizing the Baker Act shall complete transport the subject to the central receiving facility and release the subject into their custody, in accordance with Florida Statutes and the Leon County Behavioral Health Transportation Plan. An *Offense Incident Report* shall also be completed.

2) The issuance of a citation or *Notice to Appear* for misdemeanors or violations of ordinances in accordance with the guidelines in this order;

3) Informal resolution of the problem;

4) A verbal or written warning prohibiting the conduct;

5) Referral to a community service organization;

6) Juveniles who may be released to the custody of a parent or legal guardian;

7) Juveniles who may receive a civil citation; and

8) Adults who may be referred to the Office of the State Attorney for the Second Judicial Circuit Pre-arrest Diversion Program.

5. Pre-arrest Diversion Program:

a. The Office of the State Attorney for the Second Judicial Circuit has established a pre-arrest diversion program. The process is a partnership with local government, law enforcement agencies, and human service providers.

b. Diversion is reserved for criminal behavior which would otherwise be characterized as misdemeanors or violations of municipal ordinance. Prior participants may be eligible, or may be denied, at the discretion of the Office of the State Attorney. Actions constituting felonies are not eligible. Pre-arrest diversion is not eligible for those with prior criminal history. Crimes involving victims are only eligible if the victim's rights are insured consistent with those in traditional court proceedings.

c. The following offenses are generally not eligible for the program:

1) Battery or other crimes of violence;

2) Violation of Injunction;

3) Loitering and Prowling;

4) Stalking;

5) DUI; and

6) Animal Cruelty.

d. Procedures:

1) When investigating crimes which qualify for the pre-arrest diversion program, Deputies will conduct a thorough investigation to include, but not limited to, obtaining evidence, victim statements, witness statements, and suspect statements.

2) Deputies will document in a probable cause affidavit and incident report their investigation and the reasons supporting the diversion of the suspect. The probable cause affidavit and incident report will be electronically forwarded to the State Attorney's Office for review.

3) The deputy will notify the suspect of their intent to refer the suspect to the pre-arrest diversion program. The suspect will be provided with the program information sheet as a referral to the State Attorney's Office.

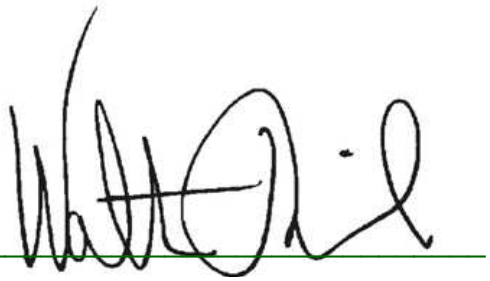
4) The suspect must appear at the State Attorney's Office within four weeks.

5) The assigned prosecutor will review the case to determine if the suspect qualifies for the pre-arrest diversion program.

6) If participation in the program is denied, the prosecutor will submit an information filing with the court for the charge(s) supported by the probable cause affidavit and incident report.

7) Suspects who do not qualify for the pre-arrest diversion program will be notified during their appearance at the State Attorney's Office.

8) Cases, where the prosecutor has determined the pre-arrest diversion program is appropriate, will be referred to the Diversion Coordinator at the State Attorney's Office.

APPROVED: 

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SHERIFF, LEON COUNTY