



DEPARTMENT OF CORRECTIONS

Louis L. Walmsright, Secretary

PRE-TRIAL INTERVENTION PROGRAM MANUAL

Probation and Parole
Services

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PRETRIAL INTERVENTION

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ACQUISITION

PRETRIAL INTERVENTION

INTRODUCTION

Pretrial Intervention (PTI) is the diverting of selected first time offenders (3rd degree felons and circuit court misdemeanors) from the mainstream of the criminal justice system. Because of the adverse social stigma that follows a conviction, PTI gives the offender a second chance to live his or her life as a responsible citizen. The goals of PTI are accomplished without any loss of society's rights to prosecution. Offenders are carefully screened, intensively counseled, and closely supervised. The small percentage of candidates that fail to successfully complete the program are still subject to prosecution for the offense.

I. AUTHORITY

Florida Statutes 944.025 and 944.026(2) (b) provide the Department of Corrections with the authority to supervise or contract for pretrial intervention programs.

II. OBJECTIVES

The program involves diverting selected first offenders from traditional court processing to an immediate controlled supervisory pretrial intervention program. The objectives are to:

- Reduce workload in the court system;
- Allow the system to work more effectively and efficiently;
- Provide a specially-tailored treatment program for the accused individual on a more timely basis;
- Provide a speedier disposition of cases allowing the accused to enter the program with undiminished motivation and a start toward self-improvement;
- Eliminate the stigma of a criminal record which otherwise could impede career opportunities;
- Provide close supervision with frequent meaningful contacts over the short period of the contract;
- Provide a means for the victim to recover restitution.

III. ELIGIBILITY FOR PROGRAM

Eligibility criteria for pretrial intervention shall be clearly established by each circuit where the Department of Corrections is operating a program. Any restrictions either limiting or in addition to those outlined in Florida Statute 944.025 shall be widely distributed within the circuit and a copy sent to the Probation and Parole Services Program Office.

A. CRITERIA

1. Third Degree Felons

(a) Only charges which fall under the jurisdiction of the circuit court qualify.

- (1) A third degree felony charge filed;
- (2) An arrest for a third degree felony charge if not filed;
- (3) A case which the State Attorney may file as a felony of the third degree after determining that the charges brought against the offender by the arresting agency were inappropriate.

2. Prior Record - Accused must have no history of previous convictions. The Department's definition for a first time offender is one who has no prior convictions other than minor traffic charges and no prior probation with or without adjudication of guilt, and no prior pre-trial intervention probation.

3. Misdemeanant - Any misdemeanor from a circuit court is acceptable.

4. Voluntary - Accused agrees to enter the program.

5. Speedy Trial Waiver - The accused offender must knowingly and willingly waive the right to a speedy trial.

6. Consent of Court - Consent of the judge of an initial appearance hearing, if any, is required.

7. Consent of Victim - The victim, if any, must consent that the defendant be permitted to become a program participant.

8. Offender Contract - The accused offender agrees to contract for deferred prosecution including all conditions in the deferred prosecution agreement contract. This includes any special conditions to enter specific treatment programs, restitution, etc.

9. Approved by Department of Corrections - Must be recommended by the Department's officer-in-charge of the circuit pretrial intervention program.

10. Consent of State Attorney - Must obtain the consent of the state attorney or his authorized assistant.

IV. SCREENING PROCEDURE

A. PRIMARY SOURCE

The affidavit from the arresting officer which is on file in the State Attorney's office is the best source to identify offenders who may be eligible.

B. OTHER SOURCES

Additional sources for identifying potential candidates are:

1. preliminary hearing docket
2. initial appearance
3. booking
4. bondsman
5. arraignment calendar
6. private attorney, legal aid or public defender
7. self-referral by the accused
8. state attorney
9. judge

V. INVESTIGATIONS

A. PRELIMINARY PTI INVESTIGATION

1. A Preliminary PTI Investigation may be conducted on any person charged with a felony or a misdemeanor within the jurisdiction of the circuit court in order to screen out those ineligible accused offenders who do not meet all of the basic eligibility criteria.
2. The investigation includes a check through local records as well as FCIC/NCIC (state and national computers) for prior criminal record. An interview may be required with the defense attorney, victim, and the accused offender to determine if the eligibility criteria is met or if the defense attorney is willing to advise his client to pursue the program. Contacts may be required with the judge of the First Appearance Hearing and an assistant state attorney. The DC 4-962 "Referral/Personal Contact" is used.
3. Each person rejected after a screening interview shall have the reason for the rejection entered on this form. The form will be retained for a minimum period of two years.

B. PTI BACKGROUND INVESTIGATION

1. A PTI Background Investigation shall be conducted on cases that remain eligible after a Preliminary PTI Investigation is completed. The interview is recorded on Form DC 4-930 called the "Investigative Worksheet".
2. Florida Statute 944.025(2) provides for "the administrator of the program" to approve or disapprove eligible offenders for acceptance. The "administrator" is the lead-worker in pretrial intervention in each circuit. An original Background Investigation report shall be prepared, in the format of a presentence investigation, in all cases where the staff member in charge makes a recommendation for program acceptance.
3. A copy of the PTI Background Investigation is retained for the file. Statements made by the defendant shall be verified to the degree permitted during the short period of investigation. The completion date

shall ordinarily be within two weeks from the date of the DC 4-930. The format for the investigation report shall resemble the presentence investigation report. This report is confidential, similar to the presentence investigation report.

VI. PLAN FOR SUPERVISION

A. IDEAL PLAN

A plan for the supervision of each case should ideally be prepared during the background investigation stage since some of the requirements might be pertinent to the contractual "Deferment of Prosecution Agreement".

B. DELAYED PLAN

If delays occur in preparing an adequate plan during the short interval of the background investigation, a complete and comprehensive plan including priorities for special program entrance or completion shall be discussed with the program participant and recorded on the DC 4-921A Case Sheet no later than 30 days after the contract is signed.

VII. CONTRACT DEFERRED PROSECUTION AGREEMENT

Any first offender who has met all eligibility criteria requirements and received the approval of the Pretrial Intervention Program Administrator and consent of the victim is free to enter into a Deferred Prosecution Agreement Contract.

This contract must include:

- A speedy trial waiver;
- An agreement to fulfill basic program requirements;
- A definition to the level of responsibility;
- Employment plan or educational/vocational training program;
- An approved residence;
- A specific treatment plan.

VIII. LEGAL REPRESENTATION

A. ATTORNEY CONSULTATION

Florida Statute 944.025(2) specifies that ". . . in no case shall any individual be so released" on a deferred prosecution pretrial intervention program "unless, after consultation with his attorney or one made available to him if he is indigent, he has voluntarily agreed to such program and has knowingly and intelligently waived his right to a speedy trial for the period of his diversion."

B. WAIVER OF ATTORNEY

The refusal by a defendant to consult with an attorney despite the statutory provision of 944.025(2) shall not be the basis of rejection by the program administrator. If the State Attorney permits his acceptance, a waiver should be signed. An example follows:

"WAIVER: I, _____ do hereby waive consultation with an attorney, retained, or appointed, and agree to enter the process of investigation or pretrial intervention program if accepted. I realize that by entering such a program that I am deemed to have waived my right to a speedy trial. I am aware of Florida Statute 944.025 which provides that an attorney may be made available to me if I am indigent. I make this waiver freely and am under no duress to do so. Signed _____. Sworn to and Subscribed before me this _____ day of _____, 19__.

NOTARY PUBLIC, My Commission Expires: _____.

Two waivers will be signed as above with one being retained in the pretrial intervention office files for the duration of the contract plus two years. The second will be delivered to the State Attorney for consideration. A carbon copy or reproduction should be prepared and given to the defendant.

C. LEGAL ADVICE BY STAFF

Department staff performing the pretrial intervention program function are reminded not to render legal advice. No comment should be given as to the suitability or unsuitability of an accused offender waiving his or her right to an attorney, right to a speedy trial, or other legal considerations.

IX. INVESTIGATION CASE FILE

A. CASE NUMBER

The case under Preliminary PTI Investigation is not assigned a file number. After the background investigation interview is conducted, an individual case jacket is prepared, and a local number is assigned.

The District Kardex shall be used to note PTI cases as well as probation and parole cases.

B. INACTIVE FILE

If a case undergoes a PTI Background Investigation and is not found to be acceptable to the program, the file can immediately be placed with inactive files along with probation and parole inactive files.

X. RECORD OF DISPOSITION

The arresting agency completes a "final disposition report" and sends to the Florida Department of Criminal Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32303, Attention: Crime Information Bureau. The "final charges" reflect the offense for which he is on PTI and then disposition alternatives

are checked as "other" and explained under an area of the report called "sentence provisions". The result of this registration of the individual's case surfaces when checking with the FCIC or NCIC (Florida or National Crime Information Center).

XI. SUPERVISION OF CASES UNDER DEFERRED PROSECUTION CONTRACT

A. EFFECTIVE DATE

Supervision begins at the time the State Attorney or his representative and the defendant signs the deferred prosecution agreement contract form. When the case enters supervision, the case file is placed with the active supervision files. The name and data requested is entered on the Intake Information Sheet, (Form DC 4-946) and forwarded at the end of the month to the Central Office.

B. FILE CONTENTS

Case files may contain the following:

1. A copy of the deferred prosecution contract;
2. Waiver of attorney, if appropriate;
3. PTI Background Investigation;
4. Completed DC 4-921A Case Sheets not in use in fieldbook;
5. DC 4-930 Investigative Worksheet;
6. Court Orders;
7. Case reviews;
8. DC 4-917 Progress Reports;
9. Probable Cause Affidavits;
10. Police Officer's and victim's consent letters (optional);
11. Letter of acceptance into the program to the State Attorney;
12. Clerk's office and judge's correspondence to the victim regarding the restitution arrangement;
13. Letter to program participant advising him that he has completed the active period of supervision;
14. Letter to the Clerk's office to place the case on the calendar for successful termination;
15. Nolle Prose Order (copy).

C. FILE LOCATION

Active pretrial intervention case files shall be maintained in the physical location of the office where pretrial staff are assigned.

D. FILE RETENTION AND DESTRUCTION

The Department of Corrections' Policy and Procedure Directive No. 4.03.03 shall be adhered to. It requires the retention of inactive files on persons no longer under active investigation or supervision for a minimum of five years. A Kardex is retained indefinitely despite the destruction of any file contents except as directed by the court or the department in cases of expungement.

E. CASE FIELDBOOKS

1. Each officer supervising pretrial intervention cases shall maintain a current fieldbook on each case under his or her jurisdiction.
2. The fieldbook shall consist of DC 4-921A Case Sheets. Sheets shall be alphabetically organized in a loose leaf notebook.
3. Information that is useful for the front of the case sheet includes:
 - a. Name of program participant
 - b. Current address and mailing address
 - c. Telephone number
 - d. Name of firm employing
 - e. Name of supervisor at work
 - f. Name of persons aware of PTI status
 - g. Salary at time of start PTI program
 - h. Salary at close of PTI program
 - i. Names and addresses of collateral contacts to be used in the course of case supervision
 - j. Name and address of volunteer
 - k. Relatives, children
 - l. Amount of dependent support payment or alimony
 - m. Restitution amount and rate of payment
 - n. Special conditions of deferred prosecution agreement
 - o. Special problems
4. Upon making a contact with the participant or a collateral contract with another person, the officer shall make an immediate legible chronological entry and summary of the conversation. This record becomes part of the permanent file after dictation of progress summaries. All case sheets removed from the fieldbook shall be placed in the active supervision case file.
5. Maintaining a current case sheet for each program participant is the responsibility of the officer in charge of the pretrial intervention case. The case book shall be made available upon request to supervising personnel, the case analyst, or the Pretrial Intervention State Coordinator.

F. CASE REVIEW

1. Frequency - Each case under supervision will be reviewed by the PTI Supervisor, his immediate superior or the case analyst at 90-day intervals.
2. Standards - The Department standards and manual in regards to the frequency of contacts, quality of supervision, etc., shall be used as a guide by the person conducting review of cases.
3. Summary - A general summary of the case review shall be discussed with the officer and then placed in the administrative files under "case reviews". A copy shall be provided to the officer reviewed and, upon request, to the line supervisor or the Pretrial Intervention State Coordinator.

G. PROGRESS REPORTS

1. Purpose - Progress reports reduce to summary all the pertinent notes entered on the DC 4-921A case sheet in the fieldbook. Progress reports allow the case officer to evaluate the participant as changes occur. It serves as a case history and allows easier review by administrators and case analysts. It provides information to other staff members in the office that may assist the case or assume supervision by transfer.
2. Frequency - All cases under active supervision of pretrial intervention that are within the State of Florida shall have a Progress Report for the period of supervision covered prior to a recommendation to terminate.

H. CASE TRANSFERS/TERMINATIONS

1. Transfers - Each circuit prepares a case transaction summary on the designated form (See DC 4-963, PTI Monthly Statistical Recap). All cases shown as "active caseload" shall have been entered through the DC 4-964 Intake Information Sheet. No transfers within the circuit Pretrial Intervention office need be reflected on the DC 4-965 Transaction, Treatment and Evaluation Sheet; however, all cases transferring to another circuit shall be listed on both the sending and the receiving circuit's DC 4-965. The receiving circuit is responsible for setting the date of transfer after same is requested by a sending circuit; however, extreme care must be given to setting a date through written or telephone communication to the other district so that both can properly enter the transaction on the same month's form DC 4-965. The receiving circuit offices will record the receiving officer's position number.
2. Termination
 - (a) Prior to the date of recommendation for dismissal the last circuit supervising the case shall be responsible for notifying the original circuit office personnel of the progress and coordinate the termination. The original circuit shall make contact with the State Attorney's office. When the recommendation is accepted, the originating circuit advises the supervising circuit immediately. The supervising circuit officer is responsible for making the termination entry on the DC 4-965.
 - (b) If a case can be properly handled by another state's PTI office or through another department (such as probation) the DC 4-965 shall also reflect a drop "as by transfer to outside program" and the originating circuit no longer counts that case under active supervision.
3. Other State
 - (a) Cases transferred to the Department from another state or outside program will be reflected in the DC 4-964 as an intake and on the DC 4-963 under "Total number of cases accepted for supervision of PTI".
 - (b) At the termination of other state cases, an entry showing the termination will be recorded on the DC 4-965 by the last circuit supervising the case and it counts as a successful termination.

4. Case File - All case materials should be forwarded to the receiving PTI circuit office. Copies of the deferred prosecution agreement, waiver of attorney, if any, the PTI background investigation, the preliminary investigation, and the kardex should be retained in the originating office. After a case is dropped from active supervision, the file material is returned to the originating circuit PTI office, including the progress report and a copy of the exit interview.

I. CONTRACT MONITORING/CONDITION COMPLIANCE

1. Compliance - The officer in charge of each case shall, not less than monthly, make an assessment of the cases under his supervision to determine the degree of compliance with the deferred prosecution agreement contract. As special conditions are met, the officer will initial the copy of the contract.

Special conditions may include:

- | | | |
|------------------|----------------|------------------|
| a. restitution | c. alimony | e. debt payments |
| b. child support | d. lawyer fees | f. counseling |

2. Non-compliance

(a) Violation and recommendation for continuance of prosecution where contract terms are not met will require notification of the State Attorney by the administrator (FS 944.025).

(b) A written letter from the officer in charge of the case shall be provided the program participant in brief, factual terms stating the reason.

(c) The law provides for the State Attorney to resume pending criminal proceedings and that he alone shall make the final determination as to whether the prosecution shall continue.

3. Participant Involvement - The program participant should be involved in helping prepare the contract so that he accepts the goals and feels responsible to complete the program.

J. CONTACT FREQUENCY: MINIMUM STANDARDS

The minimum standard of contact in each case is as follows:

1. First 90 days of supervision - PTI cases will be seen personally by the officer no less than eight times during the initial 90 days of supervision. Collateral contacts with others such as school officials, employers, spouses, counselors, etc. shall be no less than three during the first 90 days.
2. Subsequent 90 day period(s) - Excluding telephone contacts, at least six personal and two collateral contacts are required.
3. Contacts - Contacts may be accelerated in situations where the professional feels the offender may benefit. Contacts should be in the home and "field" but for counseling purposes, the majority may take place in the office.

K. RESTITUTION

The goal is to secure either monetary or symbolic restitution in every case where warranted.

1. Verification of payment is the responsibility of the officer in PTI assigned the case for supervision.
2. Payment to the victim shall be made by money order or check (never cash). Payments may be made direct or through the office.
3. The date and amount of restitution shall be recorded on the case sheet.
4. A monthly summary of payments will be reported to the PTI State Coordinator. The report consists of a monthly and year-to-date summary of the total amount of restitution paid or services performed by participants within each circuit.

L. COMMUNITY RESOURCES

The use of appropriate available community resources is vital to any pretrial intervention program. These may include:

1. Testing
2. Counseling
3. Financial aid
4. Education
5. Vocational training
6. Employment services
7. Others

M. SALARY IMPROVEMENT GOALS

All officers should record the participant's salary at the beginning and end of the program.

N. JOB, VOCATIONAL AND EDUCATIONAL GOALS

If the person entering PTI is working beneath his skill level or has a desire to improve skills, it is the responsibility of the officer to encourage and assist the participant. Continuation of education or GED preparation should be encouraged in appropriate cases.

O. TERMINATION/DURATION OF PTI SUPERVISION

1. Period of Supervision - Periods of supervision will be recommended to be 90-day intervals in accordance with FS 944.025.
 - a. At the end of each 90-day period a recommendation shall be made in writing to the State Attorney for the officer in charge of the program within the circuit. The recommendation may include:
 - (1) An additional 90-day continuance;
 - (2) Program completion;
 - (3) Termination of supervision;

- (4) Dismissal of charges;
- (5) Return for prosecution.

b. Recommendation beyond 180 days - In unusual cases a continuance beyond 180 days may be recommended to the State Attorney per FS 944.025(4)(b).

2. Exception to 90-day period:

- a. A recommendation for a return for further prosecution can be made by program administrators when it becomes evident that the divertee is no longer responding properly. A case summary or a Violation Report including dates and type of contacts will be prepared and presented to the State Attorney.
- b. Early terminations - may be recommended by the program administrator within the circuit at any time.

3. Requirements prior to termination recommendations:

- a. It is mandatory that local and FCIC records be searched to determine any record of arrest or conviction within the period of deferred prosecution.
- b. Review all aspects of the case thoroughly, including contract condition fulfillment.
- c. If the case is being supervised in other than the originating circuit, notify the original PTI office.
- d. The program participant will be required to sign a DC 4-969 "Exit Interview" form.

P. EXIT INTERVIEW

Recommendations to the State Attorney for successful termination of the PTI program or continuation of deferred prosecution, without our supervision, shall undergo an exit interview. This interview is designed to obtain direct from the participant:

- 1. Impression of his progress;
- 2. Evaluation of completed program objectives;
- 3. Handwritten comments and signature should appear on the Form DC 4-969 "Pretrial Intervention Exit Interview". (See Forms Section.)

Q. DISMISSAL OF CHARGES

At the time specified by the deferred prosecution agreement, or earlier in special instances, the recommendation of the person administering the PTI program shall be submitted to the State Attorney. PTI staff generally assist the clerk of the court if the case needs to have a court order or appear on the docket. Names and dates are furnished in a written notification memorandum. The State Attorney's office in some jurisdictions notifies the clerk of the court regarding the above.

XII. ADMINISTRATIVE

A. ADVISORY COMMITTEE

1. Statutory Authority - FS 944.025(6) provides that the chief judge may appoint an advisory committee for the circuit pretrial intervention program.
2. Composition - FS 944.025(6) provides that the committee shall be composed of the chief judge or his designate, who shall serve as chairman; the State Attorney, public defender, and program administrator, or their representatives; and such other persons as the chairman shall deem appropriate. The committee may also include persons representing any other agencies to which persons released to the pretrial intervention program may be referred.
3. Purpose - The committee may review the plans, operations, problem areas and other aspects of the program to advise and assist in developing and maintaining a close working relationship with the criminal justice system and community organizations.

B. CAPITAL EQUIPMENT

Capital equipment purchased by the federal LEAA grant has certain restrictions in use and particularly in being declared excess property or disposed of and the reader is directed to the Bureau of Criminal Justice Planning and Assistance, "Subgrant Awards Administrative Manual" for details. An inventory must be kept accounting for all capital equipment purchased with grant funds. The officer in charge of each circuit shall document any changes of property indicating the items, property numbers, the date of transfer and where located.

C. OFFICE FILES

Filing of DC 4-962, Preliminary Investigation Reports:

1. Shall be done in duplicate;
2. One copy will be filed alphabetically in a suspense file. This suspense file will allow the supervisor to control work in progress. When work is completed on the case by either accepting or rejecting the defendant, the copy will be removed from the suspense file and placed in a work completed file. At the end of each month, the work completed file will be used to provide the State Coordinator and line supervisor with a statistical summary (DC 4-963);
3. The second copy will go with the case material to the officer assigned to do the investigation and become part of the case file.

D. OTHER PROGRAM/TRANSFER OF CASES

The Department's goal is to have a network of offices throughout the judicial circuits to depend upon each other for the orderly transfer of cases, assistance in supervision and investigation, standard operating procedures, etc. The offices are to facilitate this by rendering the best services available to other circuits needing your help. It is the intention of the Department to assist

other programs with supervision if the case meets the Department's criteria for program eligibility. If an out-of-state case has a prior conviction, he should be declined.

E. TRAINING

Each Pretrial Intervention non-clerical employee should receive a minimum of 60 hours per year in-service training. This training shall be reported to the Pretrial Intervention State Coordinator monthly by Memo. Appropriate staff meetings may be considered as training.

F. SUPPLIES

All supplies are to be ordered through the normal procedure for offices within the District or Area.

G. WORKLOAD/STAFFING

1. Work Production has been allocated on the basis of the potential workload in a given circuit. Monthly, the officer assigned to a circuit program should strive to meet and exceed five deferred prosecution agreement contracts along with:
 - a. Completion of seven or more background investigations;
 - b. Twenty-one or more preliminary investigations;
 - c. Caseloads usually range from twenty-five to thirty-five cases per officer.
2. Supervisors in charge of smaller offices are expected to participate in both supervision and investigative activities in addition to their duties of office management, staff supervision, case reviews, approval of recommendations to the State Attorney, training, monitoring office and field work, etc. The supervisor is responsible for the accuracy of all statistical or information reports. He should be able to prepare any reports himself when the need arises.
3. Probation Officer I's and II's are utilized to do the supervision, counseling and investigative activities. Aide positions assist in the investigations and do initial screening. Travel is required for all positions but clerical, in order to complete screening for eligibles, prepare investigations, make visits in the field with participants, defendants and victims, law enforcement officers and others.

H. RECORD CHECK FOR RECIDIVISM

Record check for recidivism - Basically, there are two methods for checking recidivism of cases that have successfully completed the program.

1. Six-month interval checks - should be conducted by new programs through NCIC/FCIC for a period of two years to determine those convicted of a new offense. See instructions on DC 4-971A.

2. Two year record checks - Programs in operation long enough to have cases terminated for two years shall conduct one FCIC/NCIC record check to determine subsequent convictions. In performing the record check, follow guidelines on DC 4-971B. The DC 4-965 is the best source of identification of the cases needing this record check.

I. STAFF MEETINGS

Staff meetings shall be conducted regularly to exchange information, review workload progress and to conduct on-the-job training and other matters which can be handled in a group. The meetings should occur weekly but not less than twice per month. Minutes of the meeting and an agenda are recommended to provide a record.

J. EXPEDITING WORK

Due to the time limits in normal prosecution, it is necessary to complete investigations as rapidly as possible.

K. PENDING INVESTIGATION LIST

A pending investigation list should be maintained.

L. PROGRAM MONITORING

All materials pertaining to office operation, case material or investigations shall be made available to representatives of the program office upon request.

XI. FORMS

A. INSTRUCTIONS

The overview of forms used in pretrial intervention work follows and provides information on the number of each form, name of form, use, frequency and distribution.

B. SAMPLE OF FORMS

To obtain a sample of each form used in pretrial intervention, turn to the separate forms section of this manual.

END