

"Keep Orlando a safe city by reducing crime and maintaining livable neighborhoods."

**ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE
1211.0, ADULT CIVIL CITATION PROGRAM**

EFFECTIVE:	6/13/2022
RESCINDS:	
DISTRIBUTION:	ALL EMPLOYEES
REVIEW RESPONSIBILITY:	POLICE LEGAL ADVISOR'S OFFICE
ACCREDITATION CHAPTERS:	Chapter 2
CHIEF OF POLICE:	ORLANDO ROLÓN

CONTENTS:

1. DEFINITIONS
2. CRITERIA FOR USE
3. WHEN THE CITATION DOES NOT APPLY
4. PROCESS OF ISSUING CITATION
5. REQUIRED PAPERWORK
6. ROUTING OF PAPERWORK

POLICY:

The Adult Civil Citation Program is a joint effort between the State Attorney's Office (SAO) and law enforcement agencies within the Ninth Judicial Circuit to create a prearrest diversion program pursuant to section 901.41, Florida Statutes. The program was created to allow officers, in their discretion, to offer certain adults to receive a citation to avoid an arrest record for certain misdemeanor offenses, and who fulfill specified intervention and community service obligations. The Adult Civil Citation Program can benefit the community by reducing costs of prosecution, promoting community awareness, and reducing repeat offenses. Accountability is critical to the success of this program. Failure to complete the terms and conditions will result in removal from the program and charges being filed by the SAO.

PROCEDURES:

1. DEFINITIONS

Qualifying Adult – A person 18 years of age or older:

- a. For whom there is probable cause to believe has committed a Qualifying Offense;
- b. That admits that they have committed the Qualifying Offense;
- c. That has not been previously arrested or received an adult civil citation or other similar prearrest diversion program notice;
- d. That agrees to participate in the Adult Civil Citation Program;
- e. That is a resident of Orange or Osceola Counties; and
- f. That has photo identification or can be otherwise identified by the Department.

Qualifying Offense – One of the enumerated misdemeanor criminal offenses listed hereinafter, unless the offense meets the definition of domestic violence in section 741.28(2), Florida Statutes, and a misdemeanor under s. 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048, s. 784.0487, or s. 784.049 does not qualify for a civil citation or prearrest diversion program; the victim does not consent to referral to Adult Civil Citation Program; or restitution exceeds \$100:

- a. Possession of drug paraphernalia
- b. Possession of marijuana less than 20 grams
- c. Misdemeanor assault
- d. Misdemeanor battery (Under certain circumstances)
- e. Retail theft of a shopping cart
- f. Trespass on property other than a structure or conveyance
- g. Petit theft
- h. Criminal mischief
- i. Disorderly conduct
- j. Littering
- k. Possession of alcohol by person under 21 years of age

- I. Any other misdemeanor offense deemed appropriate by the Law Enforcement Agency and the State Attorney's Office.

Victim – A person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or against whom a crime is committed.

2. CRITERIA FOR USE

Officers may at their sole discretion issue an Adult Civil Citation (ACC) to a *Qualifying Adult* offender who has committed a *Qualifying Offense* **if the victim consents to issuance** of an ACC and the total amount of restitution owed to the victim is \$100 or less. The subject must meet the criteria of a *Qualifying Adult* to be considered for an ACC.

Eligibility for Assault or Battery Offenses: An ACC may be issued on a battery offense only if:

- a. The assault or battery is **NOT** domestic violence as defined by section 741.28, Florida Statutes, or dating violence as defined by section 784.046, Florida Statutes;
- b. For battery offenses, in the opinion of the officer, the victim has no injury or only a minor injury as a result of the battery;
- c. The victim consents to issuance of an ACC after the officer explains the ACC Program to victim; AND
- d. The officer does not believe the individual will harm themselves or others following issuance of an ACC.

3. WHEN THE CITATION DOES NOT APPLY

Under no circumstances will the citation be issued if any of the following circumstances exist:

- a. The subject fails or refuses to give necessary information.
- b. The identification of the subject is in question.
- c. The officer knows the subject has previously been issued an ACC.
- d. The subject has any prior arrests.
- e. The offense involves misdemeanor possession of a firearm.
- f. The offense involves domestic violence, dating violence, stalking, or a similar violation.
- g. The officer believes the subject may harm him/herself or others.
- h. The offense is a criminal traffic offense.
- i. The offense is exposure of sexual organs or other lewd or lascivious behavior.
- j. The offense is animal cruelty.
- k. The offense is directly or indirectly related to gang activity.
- l. **The victim does not consent.**

4. PROCESS OF ISSUING CITATION

The issuing officer shall complete the criminal investigation in accordance with current Department policy. The subject must be given a Miranda Warning prior to questioning. The officer shall obtain all necessary written statements. The officer should not mention the possibility of a citation being issued until the criminal investigation is completed. If the incident involves a victim, the officer shall attempt to contact the victim prior to issuing an ACC. If the officer makes contact with the victim and the victim declines to provide consent, then the officer shall not issue an ACC. If the officer makes contact with the victim and the victim consents to the program, then the officer may issue the ACC.

If the officer is unable to make contact with the victim, the officer may, in their sole discretion, still issue the subject an ACC, but must inform the subject that if the SAO is unable to reach the victim, or if the victim declines to provide consent, that the case will be reviewed by the SAO for criminal prosecution.

Once the criminal investigation is concluded, and the officer has concluded that an ACC may be appropriate, the officer shall do the following:

- a. Confirm the individual's identity using an identification card, driver's license, or other means.
- b. Conduct a search on the individual in National Crime Information Center (NCIC). Individuals with prior criminal history are not eligible for an ACC.
- c. Ask the individual if they have ever received an ACC before. If the individual says that they have not previously received an ACC and the individual otherwise qualifies for an ACC, then the officer may issue an ACC and notate the individual's response in the incident report. The SAO will maintain a database of ACC Program participants and will ensure that the individual has not previously received an ACC prior to entry in the ACC Program.
- d. Explain the ACC Program and the difference between an ACC and an arrest.
- e. Inform the individual that participation in the ACC Program is voluntary.
- f. Provide the individual with an ACC Program Brochure.
- g. Request the individual read and sign the ACC Form.
- h. Advise the individual that they must contact the SAO's ACC Office within ten (10) calendar days, failure to do so may result in termination from the program, and the contact information for the SAO's ACC Office is listed in the ACC Program Brochure.
- i. Clear the call with the disposition code "AD."
- j. The case shall be cleared as "Exceptionally Cleared" and noted to be "Administratively Resolved."

The officer shall indicate in his/her report that the Adult Civil Citation Program was thoroughly explained to the subject. The officer shall document whether the victim approves or disagrees with the issuance of the ACC. The victim's objection is a complete bar to issuing an ACC.

5. REQUIRED PAPERWORK

The issuing officers are required to ensure that the following documents are complete when issuing an adult civil citation:

- a. Uniform Charging Affidavit for APS cases;
- b. Incident Report;
- c. Adult Civil Citation;
- d. Written statements; and
- e. Supporting documentation (.e.g., evidence receipt).

6. ROUTING OF PAPERWORK

At a minimum, officers shall submit a complete APS package with the adult civil citation to their supervisor for review every other shift, and prior to the beginning of their scheduled days off. **The issuing officer is required to forward a copy of the ACC Form to AdultCivilCitation@sao9.org before the end of their tour of duty.**

Supervisors shall return case files to officers for corrections, if necessary. The supervisor will sign and date the checklist and shall place the case file in the Criminal Intake Unit receptacle for processing within 5 calendar days, including the date of arrest, or as otherwise required for the processing of adult misdemeanors pursuant to Policy and Procedure 1208.

The Criminal Intake Unit shall distribute a copy of the required paperwork to the SAO no later than three days from the date of receipt. Any copies of statements obtained will be forwarded to the Records/ID Unit.

ATTACHMENT A

Paperwork can be found in the Quartermaster Unit

ADULT CIVIL CITATION/ PREARREST DIVERSION						
Agency: <input type="checkbox"/> S.O. <input type="checkbox"/> P.D.		Case#:		NCIC/PCIC Check <input type="checkbox"/> Yes <input type="checkbox"/> No		
Zone/District/Area:	DAY OF WEEK	MONTH	DAY	YEAR	TIME	<input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
NAME (PRINT)	LAST,	FIRST	MIDDLE			
STREET		CITY		STATE	ZIP	
PHONE NUMBER:	DATE OF BIRTH	RACE	SEX	Defendant Identification (DL, DAVID, MILITARY ID, ETC.)		
LOCATION OF OCCURRENCE:						
The undersigned has probable cause to believe the above defendant did commit the following offense:						
<input type="checkbox"/> Possession of Drug Paraphernalia, F.S. 893.147(1) <input type="checkbox"/> Possession of Cannabis < 20 grams, F.S. 893.13(5)(b) <input type="checkbox"/> Misdemeanor Assault, F.S. 784.011(1) <input type="checkbox"/> Misdemeanor Battery, F.S. 784.03(1) <input type="checkbox"/> Retail Theft of a Shopping Cart, F.S. 506.513(1) <input type="checkbox"/> Trespass on Property other than Structure or Conveyance, F.S. 810.09 <input type="checkbox"/> Petit Theft, F.S. 812.014(1) <input type="checkbox"/> Criminal Mischief, F.S. 806.13(1)(b) <input type="checkbox"/> Disorderly Conduct, F.S. 877.03 <input type="checkbox"/> Littering, F.S. 403.413(4) <input type="checkbox"/> Possession of Alcohol by Person < 21, F.S. 562.111(1) <input type="checkbox"/> Other Misdemeanor Offense: _____ F.S.: _____						
CO-DEFENDANT:						<input type="checkbox"/> Arrested <input type="checkbox"/> At Large <input type="checkbox"/> Civil Citation
Witness? <input type="checkbox"/> Yes <input type="checkbox"/> No		Evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No		Items:		
Victim Consent? <input type="checkbox"/> Yes <input type="checkbox"/> No		Obtained From:				
Probable cause exists to charge the above listed offense. However, in lieu of an arrest, law enforcement officers within the Ninth Judicial Circuit are authorized to issue an Adult Civil Citation according to § 901.41, Fla. Stat., Prearrest Diversion Program. By signing below, I agree and attest to the following: <ol style="list-style-type: none"> I have never been arrested or charged with a criminal offense. I have never been issued an Adult Civil Citation. I am a resident of Orange or Osceola County, Florida. I wish to participate in the Adult Civil Citation Program. I understand that participation in this program is voluntary. That solely for the purpose of this program, I admit to the offense(s) cited above. I waive my right to a speedy trial for this offense(s). I understand that I must contact the OFFICE OF THE STATE ATTORNEY, Adult Civil Citation Coordinator, 415 N. Orange Ave., Orlando, FL, 32801, Phone: 407-836-1190 within the next 10 days and make an appointment with the program coordinator. I understand that the State Attorney's Office will review my case and determine my eligibility. I understand that if I do not contact the State Attorney's Office Program Coordinator, or fail to successfully complete this program, I may be tried and prosecuted for this offense. <p align="center">I HAVE READ AND UNDERSTAND THE ABOVE AGREEMENT.</p>						
Defendant Signature: (Mandatory)			Arresting Officer:		ID #:	