

Office of the District Attorney
State of New Mexico



**Sixth Judicial District
Attorney's
Pre-Prosecution Diversion
Program**
PPD Client Information Packet

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THE SIXTH JUDICIAL DISTRICT ATTORNEY'S PRE-PROSECUTION DIVERSION PROGRAM

Pursuant to the Pre-Prosecution Diversion Act (31-16A-1 NMSA 1978), the Pre-Prosecution Diversion Program (PPD) of the 6th Judicial District Attorney's Office provides for persons charged with non-violent¹ low level felonies, who are assessed to be amenable to treatment, the opportunity to participate in a rehabilitation program that addresses the underlying causes of the crimes committed while working to repair the harm caused by the offender through a restorative justice process.

The goal of the 6th Judicial District Attorney's Pre-Prosecution Diversion Program (PPD) is to provide alternatives to incarceration utilizing evidence-based best practices to increase public safety and reduce recidivism while holding offenders accountable for their criminal behavior.

District Attorney Michael R. Renteria believes that by engaging lower-level offenders early and continuously with intensive oversight, providing them with appropriate community-based services, mandatory drug testing (when applicable), and through the use of appropriate incentives and sanctions, the 6th Judicial District Attorney's Pre-Prosecution Diversion Program (PPD) will increase positive rehabilitative outcomes for participants. Therefore, reducing crime, increasing public safety, and ultimately making our communities a safer place in which to live and work.

The major objectives of the Pre-Prosecution Diversion Program are:

- 1) To prevent future criminal activity and promote rehabilitation among certain offenders by diverting them from traditional processing into community supervision and services, including, as appropriate, mental health and substance abuse treatment.
- 2) To conserve prosecutive and judicial resources.
- 3) To provide, where appropriate, a vehicle for restitution to affected communities and victims of crime.

The following topics will be covered in this information packet:

- 1) Eligibility Requirements
- 2) Program Procedures
- 3) Application Process
- 4) Written and/or Recorded Statement of Admission
- 5) Acceptance into the Program
- 6) Rejection from the Program
- 7) Successful Completion
- 8) Termination
- 9) Frequently Asked Questions
- 10) Appendices

PPD ELIGIBILITY REQUIREMENTS

- A. The defendant must be represented by an attorney.
- B. The defendant must have no prior felony convictions for a violent crime and no prior felony convictions for any crime for the previous ten years.
- C. The current charge(s) may be misdemeanor or felony. However, felony charges must be non-violent in nature.
- D. If the defendant's charges involve drugs, only those cases in which a small amount of drugs are involved will be considered.
- E. If the defendant has already been indicted, the Defendant, through their attorney, must file a Speedy Trial Waiver in District Court to be considered for the Program.
- F. Pre-Prosecution Diversion (PPD) requires an admission statement setting forth all elements of each crime committed by the Applicant and all appropriate waivers to allow the case to be refiled without a probable cause proceeding.
- G. Defendants who qualify for the PPD and have co-defendants will be required to truthfully testify against their co-defendant(s) in all proceedings the Sixth Judicial District Attorney's Office deems necessary.
- H. The defendant must not have previously had his/her probation revoked or unsatisfactorily discharged.
- I. The defendant must not have been previously admitted to a diversion program within the last ten years.
- J. If restitution is owed, the defendant must make regularly scheduled payments as required for damages or losses suffered by the victim (s).
- K. The investigating law enforcement agency and the victim(s) will be consulted as to the defendant's participation in the PPD Program.
- L. The defendant must agree to comply with all the requirements of the Program as outlined in the PPD Contract.
- M. The defendant must have the recommendation of the Pre-Prosecution Diversion Director and approval from the District Attorney or Chief Deputy District Attorney for acceptance into the program.
- N. The District Attorney may at any time elect not to divert any person to the program, even though that person may meet the minimum criteria.

PROGRAM PROCEDURES

Defendant must agree to and abide by all requirements of PPD. These requirements are set forth in the Terms & Conditions and in the PPD Contract.

1. Confer with your attorney regarding your voluntary participation in the PPD Program to determine if it is in your best interest to participate.
2. Through your attorney, notify the prosecutor of your interest in participating in PPD.
3. The Prosecutor will refer you to PPD for screening.
4. A preliminary background check will be conducted to determine if you meet minimum qualifications based upon the eligibility requirements listed above.
5. The prosecutor will notify your attorney of your eligibility to apply, and a letter will be mailed to your address on file.
6. Within 2 weeks from notification to your attorney, the Application and Written Statement of Admission must be submitted to the prosecutor.
7. Once your application is received by the PPD Director from the prosecutor, you will be scheduled for orientation and interview. *This should occur no later than 30 days from the date your packet is submitted to the prosecutor.*
8. During your interview, you will be asked a series of questions geared toward determining your initial individualized treatment needs. As you progress in the program, and more information is gathered, your treatment plan may change.
9. Referrals will be made to various community-based services providers to assist you in addressing the issues that brought you to the attention of the District Attorney's Office.
10. Random drug testing may be required.
11. Community Service Work is mandatory for all participants and will not be excused nor will monetary donations to a non-profit be used to credit your hours.
12. Payments of restitution to victims are required for continued participation in PPD.
13. PPD Fees are \$60.00 monthly, however, depending on your situation, additional community service hours (4) may be worked in lieu of payment.
14. In addition to regularly scheduled check-ins with your PPD Officer at the District Attorney's Office, unannounced home visits may be implemented to monitor compliance depending on your individualized case plan.
15. You will be expected to sign a contract to participate in PPD which will outline all requirements specific to you and your situation.

APPLICATION PROCESS

1. Defendant and attorney for defendant will execute and file the magistrate court document: **“Waiver of Time Limit for Preliminary Hearing”**.
2. Defendant and attorney for defendant will execute but NOT FILE the magistrate court document: **“Waiver of Preliminary Hearing”**. *This document will be retained by the DA’s Office. If defendant is rejected from PPD, this document will be filed in magistrate court causing the case to be bound over to district court where the prosecution process will continue.*
3. Defendant and attorney for defendant will execute but NOT FILE the district court document: **“Waiver of Preliminary Hearing and Presentation to a Grand Jury/Waiver of Time Limit for Filing Criminal Information or Indictment/ Waiver of Time Limit for Arraignment/Waiver of Time Limit for Speedy Trial”** (district court waiver of rights). Prosecutor will sign this document indicating agreement for defendant to apply to PPD. *This document will be retained by the DA’s Office. If you are rejected from participating in PPD or are accepted into and then terminated from PPD, this document will be filed in district court where the prosecution process will continue.*
4. A background investigation will be conducted by the PPD staff to determine your suitability for PPD.
5. Within TWO weeks following the signing of the **“Waiver of Time Limit for Preliminary Hearing,”** your attorney must submit the Application Packet and Statement of Admission to the prosecutor using the forms provided by the Office of the District Attorney.

The PPD application packet includes these documents:

- A. Application
- B. Statement of Admission
- C. Terms & Conditions
- D. Releases of Information

All forms must be completed and signed in blue ink by you and your attorney. Incomplete applications or documents will delay a decision regarding your participation in the PPD program. **Failure to submit application within this time limit may result in defendant's rejection from PPD.**

6. If your application is acceptable, you will be scheduled to attend a PPD orientation meeting. Your attorney will also be notified of the date and time of the meeting. **Attendance at the orientation meeting is mandatory.**
7. Following orientation, you will be interviewed by a member of the PPD team. This interview may or may not occur on the same date as orientation. It is important that you are as open and honest as possible so that your treatment plan can be tailored to address your unique needs. The goal is to address the root causes of your criminal behavior to prevent you from continuing down this path.

WRITTEN STATEMENT OF ADMISSION

1. You must have your fifth amendment rights explained to you by your attorney and state in writing that you understand and specifically waive your fifth amendment right against self-incrimination.
2. This program is intended for defendants who accept complete responsibility for their actions. PPD will not accept a case where culpability is not clear. Therefore, an admission statement, as further explained herein, is required.
3. This program requires a specific kind of admission to the offense. Even though some form of statement may have been given previously, a statement meeting Pre-Prosecution Diversion Program requirements is necessary.
4. The admission statement must be true, complete, and voluntary. Facts should not be altered by the defendant in order to qualify for the Pre-Prosecution Diversion Program.
5. If more than one crime is involved, then each crime must be set forth separately within the admission statement. For each crime, the admission statement must include a detailed and factual admission of each essential element of the crime including, but not limited to the following:
 - Date, time and place city, county, and state
 - Intent
 - How the crime was committed
 - Damage done
 - Property taken or returned
 - Participation of other individuals
 - Acknowledgement of agreed restitution amount owed
6. The defendant must sign the admission statement on each page.
7. Extenuating circumstances and defenses are not appropriate for this admission statement and defendants who are unwilling to accept and take responsibility for their actions will not be accepted into the program.
8. Admission statements shall be signed in front of a notary and dated by the applicant.
9. If the applicant is not accepted into the program, the admission statement will be returned upon the request of the applicant and/or their attorney and will not be used as evidence against the Defendant. However, if the Defendant is admitted into PPD and subsequently discharged, then the admission statement will be used as evidence against the Defendant.



REMEMBER:

Participation in the Pre-Prosecution Program (PPD) is your choice. If you, through consultation with your attorney, determine that PPD will be of benefit to you, it is expected that you will actively engage in and successfully complete all programming requirements without resistance.

ACCEPTANCE INTO PPD

1. Law enforcement (case agent) and the victim(s) will be contacted for their input regarding your desire to participate in PPD prior to your acceptance into the program.
2. If you are deemed suitable for PPD, the PPD CONTRACT will be sent to your attorney.

You and your attorney must each sign the PPD CONTRACT and return it to the PPD Director within 2 weeks from the date your attorney receives it.

Failure to return the PPD CONTRACT within the required timeframe will result in you being rejected from PPD.

3. Upon acceptance into PPD, you, your attorney, the District Attorney, law enforcement, and the victim(s) will be notified.
4. After acceptance into PPD, your criminal case will be dismissed without prejudice, except in unusual circumstances.

REJECTION FROM PPD

1. If you are rejected from PPD, a Notice of Rejection will be provided to you, your attorney, law enforcement, the victim (s) and the District Attorney.
2. If you are rejected from PPD, you will not be able to participate in the program and may not be able to reapply to the program in the future.
3. The District Attorney's Office will proceed with prosecution.

SUCCESSFUL COMPLETION OF PPD

1. To successfully complete PPD, you must demonstrate positive behavior change and you must satisfactorily participate in and complete all program requirements as specified in your treatment plan and the PPD CONTRACT.
2. Upon successful completion of PPD, you, your attorney, law enforcement, the victim (s), and the District Attorney will be notified in writing of your date of completion.
3. Upon successful completion of PPD, there will be no further criminal proceedings against you by the District Attorney's Office on the charges for which you participated in PPD.

TERMINATION FROM PPD

You may be terminated from PPD if you violate any of the terms and conditions of the program. If you are terminated from PPD, the District Attorney's Office will Proceed with prosecution.

FREQUENTLY ASKED QUESTIONS

How do I report?

In person.

By telephone (only if approved by your PPD Officer due to extenuating circumstances.)

Where do I report?

201 N. Cooper St, Silver City
1110 Florida St, Deming
300 Shakespeare St, Suite 1, Lordsburg

When do I report?

You must meet with your PPD officer each month at the time of your scheduled appointment. If you can't keep your appointment, you must call and speak directly to your PPD officer to reschedule.

What happens if I don't report?

You will receive a violation letter, and you will remain in the supervised portion of the program for an additional three (3) months for each violation.

If you receive two (2) violations back-to-back, you will be terminated from the program.

Can I bring someone with me to report?

You may bring a friend or family member; however, your visitor may be asked to wait in the outer office.

Any friend or family member permitted to sit in during the meeting will not be subject to confidentiality.

How long is my appointment?

Appointments generally last 30 minutes, however, depending on the circumstances, can last up to 1 hour.

Do **NOT** arrive for your appointment in a rush to be somewhere else.

How do I make my payments?

Money orders and cashier's checks are the **only acceptable** forms of payment.

PPD fees are made payable to AODA.

When are PPD Fees due?

Payments may be mailed, or hand delivered to the District Attorney's Office in Silver City.

Mailing Address: PPD Program
C/O 6th Judicial District Attorney's Office
P.O. Box 1025
Silver City, NM 88062

What happens if I don't make my payments?

You will receive a violation letter.

If you can't afford your payment, it is important that you communicate with your PPD officer. Community service hours may be substituted for payment with PPD officer approval.

FREQUENTLY ASKED QUESTIONS

Where can I purchase a money order or cashier's check?

Money orders can be purchased at Banks, grocery stores, convenience stores, or the U.S. Postal Service.

Cashier's checks are available at your bank or financial institution.

How do I make my payments of restitution?

Money orders and cashier's checks are the *only* acceptable forms of payment.

Payments are made payable to the victim.

When are my restitution payments due?

Payments are due by the 30th of each month.

Restitution payments must be paid in full.

Where do I make my restitution payments?

Payments may be mailed, or hand delivered to the District Attorney's Office in Silver City.

Mailing Address: Vanessa Cardenas, CFO

C\O 6th Judicial District Attorney's Office

P.O. Box 1025

Silver City, NM 88062

What happens if I don't make my payments?

You will be terminated from PPD if you don't make your restitution payments.

What is community service?

Community Service work is volunteer work that you do without pay for a non-profit organization in the community.

How many community service hours do I have to complete?

The Prosecuting Attorney and the PPD Officer will evaluate your case and determine the appropriate number of community services hours you must complete, and it will be included in your PPD CONTRACT.

Where do I complete my community service hours?

Community service hours may be completed at any local non-profit agency. You will find a list of agencies in the appendix of this packet. You may complete your hours in a single location or in a combination of places. All that matters is that you get them done.

How are my community service hours tracked?

You will be given a community service time sheet that requires the signature and phone number of the person supervising your community service work.

Timesheets are to be turned in during your monthly meeting with your PPD Officer.

How long do I have to complete my community service hours?

Community Service hours must be completed before you are provided with your certificate of completion.

If you fail to complete your community service hours, you will be terminated from PPD.

It is recommended that you complete your community service hours within the first six months that you're in the program.

FREQUENTLY ASKED QUESTIONS

Can I make a charitable contribution in lieu of completing community service hours?

No. The act of performing community service is part of your rehabilitative programming and is designed to provide you with the opportunity to be held accountable for your actions while doing something positive for your community.

Can I travel outside of the State of New Mexico or City of El Paso Texas?

You must receive permission from the PPD Officer to leave the state of NM or city of El Paso Texas.

Contact your PPD Officer two (2) days in advance of your travel plans.

You will have to provide the following information:

- Your Destination
- Your date of departure
- Your date of return
- Where you will be staying (Hotel, RV and/or Campground, Friend, or Relatives)

If under a Bond or court order, you must also have permission from your attorney, the judge, or bondsman to leave the County in which you reside.

What about traveling for my job?

You must notify the PPD Officer about your job-related travel conditions as soon as you become aware of the need to travel.

You will have to provide the following information:

- Your Destination
- Your date of departure
- Your date of return
- Where you will be staying (Hotel, RV and/or Campground, Friend, or Relatives)

What about emergency travel?

Emergencies do arise. If you have an emergency, notify the PPD Officer as soon as possible, but in no case later than 24 hours from the time your travel began. If your emergency related travel is after hours, call and leave a message for your PPD Officer.

Will I have to submit to drug testing?

Depending on the issues in your case, you may be asked to submit to random drug testing.

When do I test?

If you are required to submit to random drug testing, you will be given a number to call daily to see if you need to test. You will have until 4:00pm to show up for testing on the dates you are scheduled to test.

What happens if I don't show up for testing?

You will be presumed to be positive, and you may be removed from the program for failure to comply.

Participation in the Pre-Prosecution Program (PPD) is your choice. If you, through consultation with your attorney, determine that PPD will be of benefit to you, it is expected that you will actively engage in and successfully complete all programming requirements without resistance.