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### ARD GUIDELINES

- I. ARD is not available in cases which are Tier II DUIs, Tier III DUIs or Refusal DUIs. ARD will be considered for Tier I, non-refusal cases. See below for further DUI ARD guidelines.
- II. ARD is not available in cases involving the following:
  1. Offenses involving violence/threats of violence
    - \*M3 – Mutual Combat cases will be considered
    - \*M2 – Simple Assault cases will be considered if the victim consents and there was no significant bodily injury and there is not a significant amount of restitution due. The defendant must have no prior convictions regarding crimes of violence. The victim must not be less than 18 years of age.
      - \* Charges relating to domestic violence cases will not be approved for ARD. The District Attorney's Office will make the determination as to whether a case is classified as a domestic violence case.
  2. Cases where the defendant has a prior misdemeanor conviction within the last 10 years. Cases where the defendant has been granted ARD in the last 10 years. Generally, any prior felony conviction will disqualify a candidate for ARD consideration. However, the age and nature of the prior conviction will be considered.
  3. All felony cases.
  4. All sexual offenses.
  5. Cases involving extensive destruction of real or personal property.
  6. Property taken was valued in excess of \$1,000.00.
  7. Offense is part of a moneymaking scheme/fraud.

8. Offense involved a planned course of criminal conduct over time.
9. Employee theft cases, welfare fraud cases and other cases involving a breach of an important public or private trust.
10. A lengthy record of summary convictions or police contacts will disqualify an applicant.
11. A negative recommendation from the arresting officer, adult probation, or a victim may disqualify a candidate for ARD.
12. A juvenile record containing felonies and/or a juvenile record containing repeated adjudications will disqualify a candidate for ARD.

\* ARD will be considered in cases involving the simple possession of a controlled substance 35 P.S. §780-113(a)(16), the possession of a small amount of marijuana §780-113(a)(31), and the possession of drug paraphernalia §780-113(a)(32), where there are no aggravating circumstances present. In order to be considered, the defendant must consent to random drug testing through the Adult Probation Office while he/she is on supervision.

\* ARD will be considered in cases involving Retail Theft and Bad Checks as long as there are no aggravating factors present.

## II. DUI cases generally regardless of BAC.

1. Pursuant to 75 Pa. C.S.A. §3807(a)(ii) ARD is not available to defendants who are involved in an accident in which someone was killed or suffered serious bodily injury as a result of the accident.
2. Pursuant to 75 Pa. C.S.A. §3807(a)(iii), ARD is not available in cases where there was a passenger under 14 years of age in the vehicle.
3. In evaluating DUI cases for ARD consideration the Commonwealth will not accept a report from a toxicologist who claims the defendant's BAC was lower at the time of driving than the BAC charged in the Information. The Commonwealth will utilize the BAC alleged in the Information as long as the sample was taken within three hours after the applicant drove, operated, or was in actual physical control of a vehicle.
4. A DUI processed through ARD within ten years of the current offense will not be approved for ARD consideration.
5. A DUI conviction within the last ten years will disqualify an ARD applicant.

6. Applicants who have had a total of two prior DUI dispositions (ARD or conviction) in their lifetime will not be considered for ARD.
  7. DUI cases where the defendant was involved in a two-car accident (regardless of fault) that resulted in excessive damage will not be considered for ARD.
  8. Cases in which the defendant seriously endangered passengers in his car, pedestrians or other occupants of automobiles will not be granted ARD.
  9. DUI defendants who have assaulted a police officer, or acted abusively to the police, or hospital staff will not be granted ARD.
  10. The defendant's failure to attend CRN testing will be taken into account in considering the defendant for ARD.
  11. A DUI charge accompanied by a charge of Fleeing or Attempting to Elude may disqualify a candidate for ARD consideration.
  12. Applicants who have a poor driving record will not qualify for ARD.
  13. A DUI charge accompanied by a charge of simple possession of a controlled substance, 75 P.S. §780-113(a)(16), possession of a small amount of marijuana, 780-113(a)(31), or possession of drug paraphernalia, §780-113(a)(32), will be considered for ARD in cases where there are no aggravating circumstances present.
  14. A DUI charge accompanied with a license, registration or insurance violation may disqualify a candidate for ARD consideration.
- III. Cases in which the defendant has a BAC of .20% or higher combined with any other aggravating circumstances will eliminate the defendant from ARD consideration.**

Aggravating circumstances (include but are not limited to);

1. Defendant involved in a two-car accident (regardless of fault).
2. Defendant involved in an accident resulting in excessive property damage.
3. License, registration or insurance violation.

Please keep in mind that these guidelines cannot possibly cover every factual situation that may arise. Therefore, there will be occasions where an applicant who otherwise would qualify for ARD pursuant to the guidelines will be excluded on a very narrow set of facts unique to his or her case. Additionally, there may be occasions where an individual, who would not qualify for ARD pursuant to the guidelines, may be approved based on the unique facts of his or her case.

#### **IV. Preparation of the Application.**

Applications for ARD must be on a form prescribed by the Office of District Attorney. Please keep in mind that a defendant must indicate any and all arrests and/or convictions, which have occurred while applicant was a juvenile or adult. There are no time limitations with regard to this requirement and all summary traffic and non-traffic violations must be included. Willful violations of 18 Pa. C. S. A. Section 4903 False Swearing will be prosecuted. A failure to report prior convictions, ARD dispositions, arrests and summary violations will disqualify a candidate for ARD consideration.