

NORTH CAROLINA

MECKLENBURG COUNTY

THIS MASTER MEMORANDUM OF AGREEMENT (MOA) is made and entered into, as of the date of the last signature below (the “Effective Date”) by and between **Mecklenburg County** (hereinafter the “County”), and the **North Carolina 26th Judicial District** (hereafter the “Judicial District”).

WITNESSETH

THAT WHEREAS, pursuant to G.S. §15A-532(a), the Judicial District may determine conditions for release of persons brought before them;

WHEREAS, pursuant to G.S. §15A-533(b), a defendant charged with a noncapital offense must have conditions of pretrial release determined;

WHEREAS, pursuant to G.S. §15A-534(a), the Judicial District, in determining conditions of pretrial release, must impose at least one of the following conditions: 1) release on a written promise to appear, 2) release upon execution of an unsecured appearance bond, 3) place the custody of a designated person or organization agreeing to supervise him, 4) require the execution of an appearance bond in a specified amount secured by a cash amount secured by a cash deposit of the full amount by at least one solvent surety; and/or 5) house arrest with electronic monitoring;

WHEREAS, pursuant to §15A-534(b), the Judicial District shall reasonably assure that a defendant will appear as required, will pose no danger of injury to any other person, or is unlikely to destroy evidence, suborn perjury, or intimidate potential witnesses;

WHEREAS, pursuant to §15A-534(c), the Judicial District must, on the basis of information, take into account the nature and circumstances of the offense charged, his record of convictions, his history of flight to avoid prosecution or failure to appear at court proceedings, and any other evidence relevant to the issue of pretrial release;

WHEREAS, the County operates a Pretrial Services Program (hereafter the “Program”) that gathers information on defendants and performs an objective risk assessment for the Judicial District to assist Judicial Officers in determining conditions of release;

WHEREAS, pursuant to §15A-535(b), the Judicial District consents to the Program providing supervision of defendants for the purpose of ensuring appearance in court, preventing new criminal behavior, and upholding conditions of pretrial release;

WHEREAS, the County’s Board of County Commissioners established eligibility criteria for defendants referred to the Program by the Judicial District; and

WHEREAS, the parties hereto have mutually agreed to the terms of this MOA as hereinafter set out.

NOW THEREFORE, in consideration of the terms and conditions hereafter set forth, the County does hereby agree to provide services of the Program and the Judicial District agrees to utilize the Program’s services in accordance to the terms and conditions of this MOA.

THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE AS FOLLOWS:

1. The term of this Master MOA shall be for a period of five years, beginning on January 1, 2015 and terminating on December 31, 2019.
2. The Program shall gather information on accused defendants to assist the Judicial District in determining conditions of release. The Program shall attempt to verify the provided information through multiple electronic record management systems. Information presented is subject to the accuracy of the original data sources and processing errors. The Program shall monitor, on a daily basis, material prepared for the Judicial District to minimize the presentation of inaccurate information.
3. The Program shall conduct a risk assessment on defendants using an objective risk assessment tool. Results from the assessment shall be used to generate a recommended release condition based on the Decision Making Framework (DMF) established by the Judicial District. Recommendations provided through the risk assessment tool and the DMF are for informational purposes only and Judicial Officers shall maintain their discretion when setting conditions of release.
4. The risk assessment tool shall be validated by the County every two years and the results shall be disseminated to the Judicial District. Results from the validation effort should be used by the Judicial District to modify the DMF accordingly.
5. The Judicial District may authorize the custody release of eligible defendants to the Program. The County, through its Program, has the right to accept or decline supervision of Court-referred defendants pursuant to §15A-535(b). The County or the Program shall not be ordered by a Judicial Officer from the Judicial District to supervise any defendant without the consent of the County or Program.
6. The County shall establish eligibility criteria for supervision of defendants by the Program. The eligibility criteria for the program are contained in Attachments A and B.
7. If the Program determines that a defendant has violated the Judicial District's conditions of release order and/or the Program's rules of participation, as contained in Attachment B, the Program shall submit to the court of jurisdiction a Notice to Revoke Agreement to Supervise, unless it is further determined that the defendant presents a danger to the community or a risk of flight. If the Program has determined that a defendant presents a danger to the community or a risk of flight, the Program shall take it to the court of jurisdiction during normal court business hours or, if the courts are closed, the Program shall submit a Notice to Revoke Agreement to Supervise to the Magistrate and request the issuance of an OFA.
8. If a defendant is rearrested and present at the Mecklenburg County Jail, the Program may submit before the Magistrate a Notice to Revoke Agreement to Supervise.
9. Employees of the Program are County employees and they are obligated to follow the policies set forth by the Board of County Commissioners for the Program, which includes the Mecklenburg County Human Resources Policy and Procedures.
10. This MOA may be terminated by the County or the Judicial District upon giving sixty (60) days' notice in writing or mutual consent of the parties.
11. This MOA may be amended by written agreement executed by the parties.

IN WITNESS WHEREOF, the parties, acting through their duly authorized representatives have executed this MOA, in duplicate originals, as of the Effective Date.

This the ____ day of _____, 2014.

MECKLENBURG COUNTY

BY: _____
Dena Diorio, County Manager

NORTH CAROLINA 26TH JUDICIAL DISTRICT

BY: _____
Richard D. Boner, Senior Resident Superior Court Judge

BY: _____
Regan Miller, Chief District Court Judge

Approved as to Form:

County Attorney

Attachment A

Mecklenburg County Pretrial Services Eligibility Policy

I. Program Eligibility

A. General

- The defendant must be recommended for supervision by a judicial officer and meet the program's eligibility requirements.
- The defendant must be 16 years old or older.
- The defendant must be legally residing in the U.S. (e.g., U.S. citizen, permanent resident).
- The defendant must not have any warrants or detainers.
- The defendant must not have an unsecured or cash bond.
- The defendant must not be released through a bail agent.

B. Residential

- The defendant must reside in the State of North Carolina. If a defendant is not a resident of Mecklenburg County or a bedroom community (Union, Cabarrus, Iredell, Gaston, or Lincoln Counties), then courtesy supervision must be arranged for standard or intensive level cases. Courtesy supervision is not required for administrative level cases.
- If the defendant lives with the prosecuting witness (PW), the witness must approve that the defendant can return to the residence.
- If the victim is a child and resides with defendant, DSS caseworker must approve release if, and only if, there is a victim protection plan already in effect.

C. Automatic Exclusions

- The defendant is "high risk" based on the objective risk assessment tool utilized by Pretrial Services.
- The victim is hospitalized as a result of the offense and their medical status is unknown, critical, or serious.
- The defendant refuses to abide by the terms of the Pretrial Services supervision contract or judicial conditions of release.
- The defendant is a registered sex offender and their new offense is related to their status as a sex offender.
- The defendant does not have a co-signer available when under the age of 18. (Note: co-signer must meet program eligibility requirements.)

II. Ineligible Offenses

- The following charges are ineligible for supervision by Pretrial Services:

2nd Degree Sexual Exploitation Of Minor [E]
 3rd Degree Sexual Exploitation Of Minor [H]
 Abduction Of Children [F]
 Abduction Of Children – Conspiracy [G]
 Abduction Of Children - Induce To Leave [F]
 Aid And Abet Armed Robbery [D]
 Assault W/Deadly Weapon On Govt. Officer/Emp.-Gun [F]
 Attempt 1st Deg. Sex Off.-Victim Over 13-Aid Another [B2]
 Attempt 1st Deg. Sex Off.-Victim Over 13-D. Weapon [B2]
 Attempt 1st Deg. Sex Off.-Victim Over 13-Serious Injury [B2]
 Attempt 1st Deg. Sex Off.-Victim Under 13 [B2]
 Attempt 1st Deg. Sex Off.-Victim Under 13-Other [B2]
 Attempt 1st Degree Rape-Victim 13 Or More-Aid Another [B2]
 Attempt 1st Degree Rape-Victim 13 Or More-D. Weapon [B2]
 Attempt 1st Degree Rape-Victim 13 Or More-Serious Injury [B2]
 Attempt 1st Degree Rape-Victim Under 13 [B2]
 Attempt 1st Degree Rape-Victim Under 13-Other [B2]
 Attempt 2nd Degree Rape-By Force [D]
 Attempt 2nd Degree Rape-Victim Helpless(Mental/ Physical) [D]
 Attempt Sex Offense - Parental Role [F]
 Attempt Sex Offense - Parental Role – Other [F]
 Attempted Robbery With A Dangerous Weapon [E]
 Attempted Sexual Exploitation Of Minor [D]
 Babysit By/Home Sex Offender - By Sex Offender [F]
 Babysit By/Home Sex Offender 2+ - By Sex Offender [F]
 Babysit By/Home Sex Offender 2+ Home Of Sex Offender [F]
 Common Law Attempted Murder
 Common Law Attempted First Degree Murder [B2]
 Common Law Attempted Second Degree Murder
 Common Law Conspiracy Robbery Dangerous Weapon [D]
 Common Law Conspiracy Robbery Dangerous Weapon [D]
 Death By Vehicle – Felony [E]
 Escape By Hired Prisoner
 Escape From Local Jail - After Conviction [1M] (H Felony if convicted of a felony)
 Escape From Local Jail - After Conviction [1M] (H Felony if convicted of a felony)
 Escape From Local Jail - Awaiting Trial [1M]
 Escape From Local Jail Personnel - Awaiting Trial [1M]
 Escape From Local Jail Personnel -After Conviction [1M] (H Felony if convicted of a felony)
 Escape From Local Jail Personnel -After Conviction [1M] (H Felony if convicted of a felony)
 Escape From State Prison System – Felony [H]
 Escape From State Prison System – Misdemeanor [1M]
 Escapee Private Correctional Facility [H]
 Fail Register Sex Offender [F]

Fail Register Sex Offender [F]
Fail Register Sex Offender [F]
Fail Register Sex Offender [F]
Federal Prisoner
Felonious Hit/Run Serious Injury/Death [F]
First Degree Sexual Exploitation Of A Minor [C]
Fugitive/Extradition Other State
Interstate Compact -Probation/Parole
Manslaughter – Voluntary [D]
Manslaughter-Involuntary [F]
Manslaughter-Involuntary - Motor Vehicle [E]
Murder
Murder - First Degree [A]
Murder - Second Degree [B2]
Parole Violation
Parole Violation
Probation Violation
Probation Violation
Probation Violation
Probation Violation - Out Of County
Probation Violation - Out Of County
Rape Of A Child
Rape-1st Degree-Victim 13 Years Or More-Aid By Another [C]
Rape-1st Degree-Victim 13 Years Or More- Weapon [C]
Rape-1st Degree-Victim Under 13 [B1]
Rape-1st Degree-Victim Under 13-Other [B1]
Rape-2nd Degree By Force Against Will Of Victim [C]
Rape-2nd Degree-Victim Mentally/Physically Helpless [C]
Registered Sex Offender - Fail To Change Address
Robbery With Dangerous Weapon-Business/Other Place [D]
Robbery With Dangerous Weapon--Individual (Felony) [D]
Second Degree Sexual Exploitation Of Minor [E]
Sex Offender Emp. Violation – Childcare [F]
Sex Offender/Child Premises [H]
Sex Offense - Institution – Other
Sex Offense - 1st Degree Victim 13 Or Older-Serious Injury [C]
Sex Offense - 1st Degree Victim 13 Or Older-Serious Injury [C]
Sex Offense - 2nd Degree By Force Against Will Of Victim [C]
Sex Offense – Institution
Sex Offense - Parental Role [E]
Sex Offense -1st Degree Victim 13 Or Older-Aided By Another [C]
Sex Offense -1st Degree Victim 13 Or Older-Aided By Another [C]
Sex Offense Student (F) [G]

Sex Offense Student (M) [A1]
Sex Offense-1st Degree-Victim 13 Or Older- Weapon [C]
Sex Offense-1st Degree-Victim 13 Or Older- Weapon [C]
Sex Offense-1st Degree-Victim Under 13[B1]
Sex Offense-1st Degree-Victim Under 13-Other [B1]
Sex Offense-2nd Degree-Victim Mentally/Physically Helpless [C]
Sex Offender Use Social Website [I]
Sexual Battery - By Force/Against Will [A1]
Sexual Battery - Disabled/Incapacitated; Helpless [A1]
Sexual Exploitation Of Minor
Sexual Offense With A Child
Solicit By Computer/Appeal [G]
Solicit Child By Computer – Child [H]
Solicit Child By Computer - Defendant Believes To Be Child [H]
Solicit Electronic Mon. Device – Felony
Solicitation Of Child By Computer To Commit Unlawful Act [H]
Solicitation Of Child By Computer To Commit Unlawful Act [H]
Stat Rape/Sex Offense >=6yr [B1]
Stat Rape/Sex Offense >4<6yr [C]
Third Degree Sexual Exploitation Of A Minor [H]

Attachment B

Mecklenburg County Pretrial Services Rules of Supervision

1. Program participants must abide by all civil and criminal laws.
2. Program participants must abide by all conditions of release set by the Court.
3. Program participants will appear for every scheduled court appearances until all cases for which he or she is under supervision are closed.
4. Program participants will check-in at the Post Judgment Services Center after each court appearance.
5. Program participants will reside at the address provided to their Case Manager and provide a working phone number. Program participants will not change their place of residence or phone number without notifying their Case Manager first.
6. Program participants must report to their assigned Case Manager's office the next business day after release from jail.
7. Program participants will report to their Case Manager as instructed by the Court and/or the Case Manager.
8. Program participants will report using the Interactive Voice Response (IVR) system as instructed by their Case Manager.
9. Program participants will not leave the State of North Carolina without prior approval from their Case Manager.
10. Program participants will not use drugs unless they are prescribed by a physician.
11. Program participants will submit to randomized drug testing.
12. Program participants must comply with any assessments or program referrals deemed necessary by their Case Manager.
13. Program participants may be re-arrested for violation of Court-imposed conditions of release and/or the Rules of Supervision.
14. Program participants may be terminated from the program at the discretion of Pretrial Services at any time.