



Interagency Governance Agreement for the Misdemeanor Diversion Program

I. Introduction

The courts, county, city and law enforcement all share responsibility for community safety and must collaborate to formulate and align criminal justice policies and procedures to ensure a safe environment for everyone. North Carolina is the last state in the United States that continues to prosecute all 16 and 17 year olds charged with criminal offenses in the adult criminal justice system. These criminal records can have severe collateral consequences, especially for youthful offenders of color, while also having a grave fiscal impact on individuals, families and communities. Specifically, this can lead to denial of employment for our youthful offenders as they are at a significant disadvantage compared to all other states. This document expresses the agreement of the parties in responding to first time offenders with nonviolent offenses by referral to the Misdemeanor Diversion Program. We strive to ensure a consistent response to first time youthful offenders, clarify the significant role of law enforcement to this program, and effectively utilize alternative resources to reduce involvement of law enforcement and court agencies for misdemeanor offenses.

The parties agree to the following principles upon which this Agreement is founded:

- A. The New Hanover County Chief District Court Judge proposes the Misdemeanor Diversion Program (MDP) modeled after Durham County's innovative and successful MDP program as a change in how 16 and 17 year old, first time nonviolent offenders committing misdemeanors are processed. In lieu of formal court processing, an incident report (IR) program will be initiated. This 90 day diversion program seeks to avoid a first arrest for many low risk young adults in New Hanover County, keeping these youthful offenders out of the adult criminal justice system.
- B. MDP will be operated by the New Hanover County, Community Justice Services (CJS) Department in partnership with the Courts (Chief District Court Judge, District Attorney's Office, and Public Defender's Office), Law Enforcement (Sheriff and Police Departments), County and City leaders, as well as County and City community partners.
- C. All youthful offenders enrolled in the MDP must complete one (1) MDP Court session and a minimum of ten (10) hours of a community service diversion program. The MDP Court will be led by New Hanover Chief District Court Judge J. Corpening, II, with assistance from the District Attorney's Office, Public Defender's Office and local law enforcement. Court sessions host a mock trial for the youthful offender and family to observe what could transpire in an adult court setting, as well as an educational component regarding the collateral consequences of an adult arrest and/or criminal conviction. The community based service program(s) is chosen based on incident referral reason and needs expressed during the comprehensive intake assessment. Any additional identified areas of need at intake, as well as throughout the provided service period will be referred and tracked.

Referrals are recommended by the MDP Coordinator and made in agreement with the youthful offender/family. The youthful offender has ninety (90) days to complete the MDP program requirements of the MDP Court session and community service. Failure to complete the program will result in the original charges being filed; however, longer term wrap around services can continue for as long as needed and/or therapeutically recommended without penalty.

- D. Funding for the MDP is currently from New Hanover County for a full time coordinator and program operational costs. The MDP Coordinator is housed at the Community Justice Services Department and will work closely with all aspects of our County/City partners, law enforcement, schools, and community partners.
- E. We see the New Hanover County Misdemeanor Diversion Program as a beacon for showing how agencies working together for our youthful offender's best interest truly can make a long term difference in the life of a young adult. Additionally, we are pleased to see other districts in NC beginning to replicate the Durham County MDP model and Durham is passionately helping with these replication efforts for all our NC teens. Having the support of key stakeholders within the County and City Government, law enforcement, public schools, and the community will make this endeavor possible. As we all know, prevention and diversion is the key to lessening violence; what better way to have a youthful offender remain successful than to keep his/her adult criminal record clean while helping them get back on the right track.
- F. It is important to note that the vast majority of youthful offender's misconduct can be best addressed through classroom, school, family and community strategies while maintaining a positive climate within our community and schools rather than by involvement of the criminal justice system.
- G. Terms of the Agreement

- a. Summary of Key Points

The parties agree to:

1. Share this Agreement with a copy to all law enforcement personnel in New Hanover County;
2. Provide necessary and continued staff training on the implementation of the Agreement;
3. Increase the options for law enforcement in our community;
4. Increase the options for SROs in schools;
5. Collect and report data, assess the effectiveness of the MDP, the Interagency Agreement, and provide on a quarterly basis CJS' findings to the Chief District Court Judge;
6. Monitor implementation of the Agreement;
7. Modify the Agreement as appropriate and review at least annually;

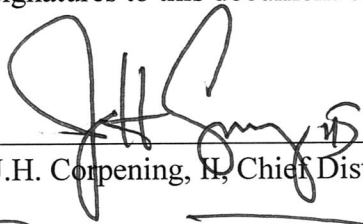
- b. Role of Law Enforcement and School Resource Officer (SRO)

The mission of law enforcement is to provide superior public safety. It is the shared philosophy that diversion is the preferred outcome where appropriate for any 16-17 year old first time, nonviolent misdemeanor offender. The officer shall always maintain discretion as to who he or she will refer for diversion. The mission of the SRO is to improve school safety and the educational climate at the school and not to enforce school discipline or punish students. The SRO's presence on school campus is a necessity to prevent weapons, drugs, and persons with the intent to commit harm from entering upon the campus or disable persons with intent to harm and confiscate weapons and drugs that enter campus premises. Our Law Enforcement and SROs now have an additional diversion option.

c. Duration and Modification of Agreement

This Agreement shall become effective September 1, 2016 and shall remain in full force and effect until such time as the Agreement is modified by the consent of the parties. The agreement may be modified at any time by amendment to the agreement.

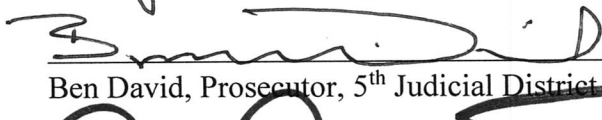
In witness whereof, the parties hereto, intending to cooperate with one another, have set their signatures to this document on this day.



J.H. Corpening, II, Chief District Court Judge

9.6.16

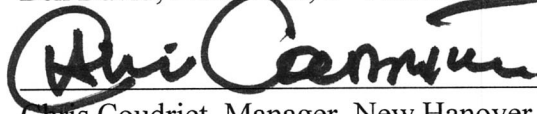
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Ben David, Prosecutor, 5th Judicial District

9.6.16

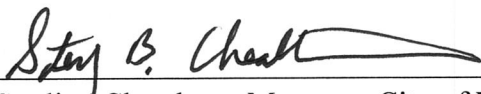
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Chris Coudriet, Manager, New Hanover County

9.6.16

Date



Sterling Cheatham, Manager, City of Wilmington

9-6-16

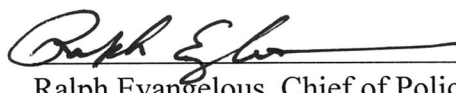
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Ed McMahon, Sheriff, New Hanover County

9.6.16

Date



Ralph Evangelous, Chief of Police, City of Wilmington

9-8-16

Date



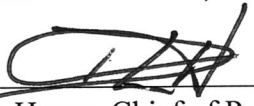
Chris Spivey, Chief of Police, Carolina Beach

9-9-2016
Date



Michael P. Bowden, Chief of Police, Kure Beach

9-7-16
Date



Dan House, Chief of Police, Wrightsville Beach

9-8-16
Date

Appendix A: Glossary of Terms

As used in this Agreement, the term:

- a. "Youthful Offender" is a person 16-17 years of age or older.
- b. "Comprehensive Intake Assessment" is a document completed by the Misdemeanor Diversion Program Coordinator with the youthful offender and family member to determine the youthful offender's identified needs and appropriate services.
- c. "Misdemeanor" is defined by the North Carolina General Statute 14.1.
- d. "Diversion" is the conditional channeling of youth in conflict with the law away from judicial proceedings through the development and implementation of procedures and programs that enable many, possibly most to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record.