

MEMORANDUM OF UNDERSTANDING

Between

Department of Health Services

and

**Sonoma County District Attorney's Office, Sonoma County Public Defender's Office,
Sonoma County Probation Department, and Sonoma Superior Court**

This Memorandum of Understanding (hereinafter "MOU"), dated as of _____, _____ (hereinafter "Effective Date"), is by and between the Department of Health Services (hereinafter "DHS") and Sonoma County District Attorney's Office (District Attorney), Sonoma County Public Defender's Office (Public Defender), Sonoma County Probation Department (Probation), and Sonoma Superior Court (Superior Court).

WHEREAS, Health Services has received funding from California Department of State Hospitals to serve individuals who have been charged with a felony and have been found to be incompetent to stand trial are eligible for diversion under Penal Code Section 1001.35, et Seq., Diversion of Individuals with Mental Disorders;

WHEREAS, a portion of those funds are set aside for Justice Partners who will use the funds to advance collective efforts to divert felony offenders prior to commitment at the State Hospital as a result of being found incompetent to stand trial or entering the Justice System; and

WHEREAS, Health Services, District Attorney, Public Defender, Probation, and Superior Court desire to work together toward the mutual goal of diverting qualified offenders away from the justice system by providing long-term community mental health treatment and avoiding criminal charges and institutionalization; and

WHEREAS, the District Attorney, Public Defender, and Probation, and Superior Court desire to designate specially trained staff, familiar with community mental health treatment options, to oversee cases where felony offenders have been diagnosed with certain mental illnesses and are not a significant safety risk to the community, and work in partnership with Health Services to divert these individuals to long-term mental health treatment and avoid criminal charges; and

WHEREAS, Health Services through its contract with the Department of State Hospitals for Felony Mental Health Diversion has resources available to fund Justice Partner positions and associated expenses to handle cases for offenders who have been found incompetent to stand trial; and

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants set forth herein, Health Services, District Attorney, Public Defender, Probation, and Superior Court agree as follows:

1. Definitions

- a. Mental Health Diversion (MHD): Pursuant to Penal Code (PC) section 1001.36 and Welfare and Institutions Code (WIC) 4361, allows felony IST defendants to participate in intensive community mental health treatment in lieu of inpatient DSH competency restoration treatment.
- b. Felony Mental Health Diversion (MHD) Program: DHS-BHD operates a Specialty Mental Health Services (SMHS) outpatient treatment program for individuals participating in Mental Health Diversion Court. The program provides SMHS through using Assertive Community Treatment (ACT) model of care.
- c. Incompetent to Stand Trial (IST): Legal term that denotes a defendant lacks the capacity to participate in legal proceedings or aid in their own legal defense.

2. Department of Health Services Roles and Responsibilities

- a. DHS-BHD will facilitate no less than an annual meeting with representatives of each Department to review how positions are contributing to increases in admissions for mental health diversion for individuals charged with felony crimes and have been found incompetent to stand trial. Meeting to also include a review of:
 - i. Any potential impact on reduction of County Felony IST Growth Cap commitments
 - ii. Any fiscal change that would affect services provided under this funding.
 - iii. Any operational change that would require funding to be reallocated.
 - iv. Any request from DSH to present findings or meet to review scope of services.
- b. DHS- BHD will incorporate this project into existing quarterly for Sonoma Stepping Up Subcommittee for review of service utilization, and potential impact.
- c. DHS to invoice Department of State Hospitals within a reasonable time but, no later than twelve (12) months from the date that services were provided as described in the DSH Mental Health Diversion Permanent Contract
- d. Provide funding to Justice Partners for Fiscal Years 2024/25, 2025/26, 2026/27, 2027/28, and 2028/29 in an amount not to exceed \$5,000,000. Funding is contingent upon availability of funds provided by California Department of State Hospitals.

3. District Attorney Roles and Responsibilities

- a. The District Attorney will assign one Deputy III level attorney to evaluate, advise, and/or handle those felony cases in which a doubt is declared as to competency and the offense(s) are statutorily eligible for diversion.
- b. The assigned Deputy District Attorney will handle or coordinate the handling of the matter from the declaration of doubt, through the competency hearing (if applicable), involuntary medication hearing (if applicable) and any subsequent hearings on interests of justice, diversion (including suitability, eligibility, and review), placement (as appropriate), and restoration (if applicable).
- c. This Deputy District Attorney will work collaboratively with the justice partners and members of the felony prosecution team to identify those individuals who are incompetent to stand trial, but who can be safely treated in the community, and will aide

in streamlining the process for those individuals to ensure timely and adequate delivery of services.

- d. (S)he will represent the District Attorney in MHD Court and will be the primary point of contact for MHD Court and FACT. (S)he will provide in-house training on topics related to competency, community-based restoration options, and mental health diversion, and will regularly participate in county wide mental health partnership meetings.

4. Public Defender Roles and Responsibilities

- a. The Public Defender's Office will assign one Deputy III level attorney to the vertical representation of clients charged with a felony or felonies which are statutorily eligible for diversion and for whom a doubt has been declared regarding the client's competency to stand trial under Penal Code 1368, et. Seq.

That attorney will represent clients at the following stages of the proceedings:

- i. The declaration of the doubt pursuant to Penal Code 1368(a) or (b), or immediately thereafter if the doubt has been declared by another attorney in the office.
- ii. The suspension of criminal proceedings and determination of competency under Penal Code 1369, including trial on the issue of competency.
- iii. The preparation and filing of Mental Health Diversion motions under Penal Code 1001.36 and during subsequent hearings on eligibility and suitability for Mental Health Diversion.
- iv. The determination of whether restoration is in the interests of justice pursuant to Penal Code 1370(B).
- v. The restoration of competency pursuant to Penal Code 1372.
- vi. Any involuntary medication hearings before or after a finding of incompetence under Penal Code Section 1370.
- vii. This attorney will be part of the Holistic Team and work collaboratively with two other Deputy Public Defenders representing clients in CARE, FACT, LPS, and MHD Courts under the continuum of representation for those with Mental Health needs.

5. Probation Roles and Responsibilities

- a. Probation's role in this MOU applies only to clients in this population place on Pre-Trial monitoring.

Probation Officers will monitor this population in this same manner as with all Pre-Trial clients. Once a client is released on Pretrial Services, Deputy Probation Officers perform case management functions including meeting regularly with defendants, assessing their needs and making referrals to appropriate programs. Defendants are ordinarily monitored by Pretrial Services until sentencing. If a person being monitored on Pretrial fails to appear for court, receives a new criminal referral or violates conditions of release, the Pretrial Probation Officer makes a recommendation to the Court to continue, modify or terminate their pretrial grant.

Pre-Trial Monitoring Activities include:

Pretrial Release Monitoring Activities and Conditions For Level 3 Clients

- Mandatory Statutory Conditions, and Obey All Laws and Be of Good Conduct
- Report to Pretrial Services as Directed or Upon Release

Court Reminders: Text messages and automated phone call reminders during the week before the scheduled Court date

- Periodic Criminal History Checks
- Monthly phone check in
- Monthly face-to-face check in
- Other Case-Specific Conditions if court ordered

Description of Release Activities and Conditions

Mandatory Statutory Conditions: Pursuant to PC Sec. 1318(a),

- The defendant promises to appear at all times and places, as ordered by the court or magistrate and as ordered by any court in which, or any magistrate before whom the charge is subsequently pending.
- The defendant promises to obey all reasonable conditions imposed by the court or magistrate.
- The defendant promises not to depart this state without leave of the court.
- The defendant agrees to waive extradition if the defendant fails to appear as required and is apprehended outside of the State of California.
- The defendant acknowledges that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release.

Obey All Laws and Be of Good Conduct: The released person is required to obey all laws and be of good conduct.

Report to Pretrial Services as Directed or Immediately Upon Release:

- The released person is required to report to Pretrial Services as directed.
- Upon judicial order of Pretrial Release, the released person will report to Pretrial Services for an initial sign up.
- For individuals released pre-arraignment, the initial sign up with pretrial services staff will take place prior to the individual being released from custody.
- Individuals released at or after arraignment, will report to Pretrial Services after release.

Court Date Notifications:

- The released person receives all court date notifications and replies, if applicable.
- The released person is responsible for providing up-to-date contact information (e.g., phone, email, residential address) to Pretrial Services.

Criminal History Checks:

The released person's criminal history is checked for new criminal charges at a regular interval. Release level 3: criminal history checks will include California and out of state criminal record checks through CLETS

Check-Ins:

As agreed upon between the released person and pretrial services staff, check-ins with pretrial staff will occur as follows:

- Each month the released person will check-in once by phone or videoconference, or any other approved communication method, and once in-person, face-to-face, with pretrial services staff.

Other Case-Specific Conditions:

Additional case-specific conditions may be ordered if deemed necessary to support the defendant in successful completion of pretrial release.

6. Court Responsibilities Roles and Responsibilities

- a. The Court will retain the services of a qualified alienist for the purpose of reducing the number of full forensic examinations, increasing the diversion of both competent and incompetent defendants, and decreasing wait-times for assessments and services in competency and diversion processes.
- b. The alienist position may be filled by a licensed psychologist or psychiatrist and may be retained as a contractor or an employee, depending on the needs of the Court and the availability of qualified alienists. The Court may contract the services of multiple alienists within available funding to meet the workload and scheduling needs of the Court.
- c. The alienist will conduct short-form competency evaluations to provide an opinion on whether a full forensic examination is recommended or if current symptomology may be attributable to other shorter-term indicators such as, but not limited to, drug-induced psychosis.
- d. The alienist may also conduct full forensic examinations for competency or other psychological evaluations as deemed necessary and/or appropriate in the course of their duties.
- e. The alienist may also serve in an advisory or consulting capacity for the Court's mental health programs and other collaborative mental health initiatives, such as mental health diversion court or the establishment of a clinical practicum for the provision of mental health services to program participants.
- f. The Court may provide Spanish language interpretation services to facilitate the evaluations conducted by the alienist and other evaluations that are part of the competency process, diversion process, and/or other mental health programs, including but not limited to, short-form competency screenings, full forensic examinations, mental health diversion evaluations, JMHCP evaluations, and FACT evaluations. The provision of interpreter services is subject to the availability of interpreters and the availability of funds under this MOU.
- g. Spanish language interpretation services will be provided through the use of certified court interpreters or other qualified interpreters.

7. Department Communication

Contacts for each Department are as follows:

- a. Department of Health Services: David Evans David.Evans@sonoma-county.org Acute & Forensic Services Section Manager
- b. District Attorney: Shane Lewis Shane.Lewis@sonoma-county.org, Administrative Services Officer II
- c. Public Defender: Jeremy Scannell Jeremy.Scannell@sonoma-county.org, Administrative Services Officer I and Lisa Bruce Lisa.Bruce@sonoma-county.org, Department Analyst
- d. Probation: Natalie Brunamonte Natalie.Brunamonte@sonoma-county.org, Department Administrative Services Director
- e. Court: Matthew Lyons mlyons@sonomacourt.org, Management Analyst

8. Payment

Sonoma County District Attorney's Office, Sonoma County Public Defender's Office, Sonoma County Probation Department, and Sonoma Superior Court shall be paid in accordance with the budget set forth in 7.1 Budget Table, attached hereto and incorporated herein by this reference, and as set forth in the billing authorization for the fiscal year in which the services are provided. In no event shall DHS be obligated to pay Sonoma County District Attorney's Office, Sonoma County Public Defender's Office, Sonoma County Probation Department, and Sonoma Superior Court more than the total sum of \$1,000,000 per fiscal year 24/25, 25/26, 26/27, 27/28 & 28/29 under the terms and conditions of this MOU.

8.1 Budget Table

Department	Fiscal Year Budget
Public Defender	\$304,175.00
District Attorney	\$304,175.00
Probation (position & monitoring)	\$150,000.00
Courts (licensed psychologist)	\$200,000.00
Courts (interpreting)	\$41,650.00
Totals	\$1,000,000.00

- a. As compensation for services contemplated by this MOU, District Attorney shall receive a maximum of \$304,175; Public Defender shall receive a maximum of \$304,175, Probation shall receive a maximum of \$150,000, and Court shall receive a maximum of \$241,650 during the fiscal year term of the agreement.
- b. District Attorney, Public Defender, and Probation shall each initiate a cost applied expenditure transfer of funds and submit quarterly to Health Services for approval.

- c. Superior Court shall submit a quarterly invoice to Health Services for all associated costs to dhs.fiscal@sonoma-county.org within 30 days of quarter end.
- d. District Attorney, Public Defender, Probation, and Superior Court shall not claim reimbursement under this MOU for expenditures reimbursed by any other funding source.

9. Performance Standards

Justice Partner funding program is provided through the Department of State Hospitals (DSH) Mental Health Diversion contract #24-79015-000 from DSH. This contract is attached hereto as Exhibit A and incorporated herein by this reference. The requirements of the contract apply to the provision of services under this MOU.

a. Data:

At the request of DHS-BHD, Sonoma County District Attorney's Office, Sonoma County Public Defender's Office, Sonoma County Probation Department, and Sonoma Superior Court will provide at the request of DHS-BHD any available data associated with the work being performed under the MOU for program evaluation, monitoring, reporting and research.

b. Presentation:

Upon request, DHS-BHD shall meet with the DSH to present any findings, conclusions, and recommendations required by the Agreement for approval. If set forth in the Agreement, Contractor shall submit a comprehensive final report for approval. Both the final meeting and the final report shall be completed on or before the date indicated in this Agreement.

10. Term of MOU

- a. The term of this MOU shall be from July 1, 2024 through June 30, 2029.
- b. Any Department may terminate this MOU for convenience and without cause upon 30 days' advance written notice. In the event of such termination by DHS, Sonoma County District Attorney's Office, Sonoma County Public Defender's Office, Sonoma County Probation Department, and Sonoma Superior Court shall receive compensation for any services performed through the effective date of termination, unless a shorter notice period is agreed upon.
- c. This MOU may be canceled immediately by any party upon written mutual consent.
- d. All parties understand and agree that any party may terminate this MOU immediately upon written notice to the other parties in the event that any State and/or Federal agency and/or other funder(s) reduce, withhold, or terminate funding which the parties anticipated using for services provided under this MOU.
- e. This Agreement may be modified or amended at any time by the mutual written agreement of the Health Services Director, District Attorney, Public Defender, and Chief Probation Officer, or their designees.

11. Confidentiality

All parties agree to maintain the confidentiality of information in accordance with all applicable State and Federal laws and regulations.

12. Dispute Resolution

If any conflicts or disputes arise between the parties, involved staff shall meet in a timely manner to resolve the conflict or dispute. It is acknowledged by all parties that the purpose of such meeting is to come to a resolution that is in the best interest of all parties.

13. Merger

This writing is intended both as the final expression of the MOU between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the MOU. No modification of this MOU shall be effective unless and until such modification is evidenced by a writing signed by all parties.

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IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the Effective Date.

District Attorney:

Carla Rodriguez, District Attorney
District Attorney

Dated

Public Defender:

Brian Morris, Public Defender
Public Defender

Dated

Probation:

Vanessa Fuchs, Chief Probation Officer
Probation

Dated

Superior Court:

Robert Oliver, Court Executive Officer
Superior Court

Dated

Department of Health Services:

Nolan Sullivan, Director
Department of Health Services

Dated

Approved as to Substance:

Division Director or Designee

Dated