

JUDGE KATHRYN SPEICHER POLICIES AND PROCEDURES
CRIMINAL DIVISION G, VIERA
Effective as of 7/01/2024

All counsel shall be familiar with and are expected to abide by the Rules Regulating the Florida Bar and the Guidelines for Professional Conduct. Moreover, all parties shall be familiar with and follow all Administrative Orders of the Florida Supreme Court and the 18th Judicial Circuit. This Court is held to the additional standards set forth in Code of Judicial Conduct and the Principles of Professionalism for Judges.

Judicial Assistant: Email is the most effective way to communicate with the Court. Please note that it is never appropriate to include legal argument or substantive discussion regarding facts of any case in emails to a Judicial Assistant. Always include both parties in email communications with the Judicial Assistant.

Lisa Baumhover - lisa.baumhover@flcourts18.org

Virtual Courtrooms: Judge Speicher has established a Virtual Courtroom using Microsoft Teams. The virtual courtroom is accessible via the link or QR code below, or by typing the link below into Microsoft Edge or Google Chrome web browser. Parties, counsel or witnesses may only appear via the Virtual Courtroom if given written permission by the judge prior to the hearing, or as otherwise noted in these policies and procedures.

<https://fl18.org/judgespeicher>



NOTE: Teams works best if you download the free application. The dedicated link listed above leads you to a “waiting room” where you are to remain until the Court “lets you in” to the hearing. Any public hearings that would normally be conducted in the Courtroom are still public hearings when conducted virtually.

At the designated time that your case is noticed for hearing, you will enter the virtual lobby by clicking the link or scanning the code. Please understand that multiple hearings may be set for the same time. You will be called to enter the virtual courtroom once the Judge is ready for your hearing. For additional information or assistance, please email the judicial assistant.

I. DEFENDANT'S APPEARANCE REQUIRED

The Defendant is required to be physically present for the following hearings. Any individual appearing *pro se* must attend ALL court events for that case. The Defendant's presence cannot be waived by counsel for the hearings listed below:

- a. The first day of the trial period where the Defendant's case has been scheduled for trial.
- b. Mini Calendar Call (F3 & Speedy Cases)
- c. At trial, as set forth in Fla. R. Crim. P. 3.180
- d. Evidentiary hearings
- e. Violation of Probation hearings
- f. Violation of Probation Calendar Call
- g. Calendar Call when the Defendant is not in custody (inmates will be brought to court only upon advance request of counsel made to the Sheriff's Office).
- h. VOP arraignments when the Defendant is not in custody (inmates will be brought to court only upon advance request of counsel made to the Sheriff's Office).
- i. Hearings on Motions to Revoke or Modify Bond
- j. Hearings on Motions for Fingerprints or DNA buccal swabs
- k. Any other matter for which the court has issued an order to appear.

II. TRANSPORTATION OF INMATES

For the following court events, the inmates will be transported from the Brevard County Jail to Court. It is counsel's responsibility to confirm that the inmate will be scheduled to be transported for the requested date.

- a. The first day of the trial period where the case has been scheduled for trial, and each successive day of trial thereafter.
- b. Mini Calendar Call (F3 & Speedy Cases)
- c. Evidentiary Hearings
- d. VOP Calendar Call
- e. VOP Hearings
- f. Hearings on Motions to Revoke or Modify Bond
- g. Hearings on Motions for Fingerprints or DNA buccal swabs
- h. Any other matter where counsel specifically requests the Sheriff's Office to transport an inmate.

III. PLEAS

- a. **When accepted.** The Court will take pleas at the following events:
 - i. Calendar Call, after all cases have been addressed, time permitting
 - ii. VOP Arraignments
 - iii. VOP Hearings
 - iv. Evidentiary Hearings
 - v. Times specifically set aside for pleas
 - vi. First day of the trial period
 - vii. Mini Calendar Call (F3 & Speedy Cases)
 - viii. When time allows, per the Court's discretion.

- b. **Plea form required.** The Court will not accept any plea (felony or misdemeanor) without a written plea form signed by the Defendant, defense counsel and counsel for the State. If the Defendant will enter an open plea to the Court, counsel for the State is not required to sign. Plea forms in digital form are available on the Court's website. Plea forms in written form are attached to these procedures as Attachment #1 (Felony Plea Agreement Form) and Attachment #2 (Violation of Probation / Community Control Form). Plea forms may no longer be available in the courtrooms, so they should be filled out prior to coming to court, when possible.
- c. **Lesser Included Offenses.** If a Defendant is entering a plea to a lesser included offense, the **statute number** and **name** of the lesser included offense MUST be written on the plea form and scoresheet (if applicable).
- d. **Special Plea Conditions.** If the Defendant is entering a plea which will have any of the following conditions, the Defendant shall attach a copy of the appropriate condition form, discussed below, and sign the applicable condition form(s).
 - i. **Drug Conditions or Drug Offender Probation.** The Drug Conditions form. A copy can be found in digital form on the Court's website or in these procedures as Attachment #3.
 - ii. **Community Control Conditions.** The Community Control Conditions form. A copy can be found in digital form on the Court's website or in these procedures as Attachment #4.

IV. EVIDENTIARY HEARINGS AND MOTIONS; TIMING

- a. **Motions to Suppress.** Any Motion to Suppress must be filed and noticed for a hearing at least seven (7) days prior to calendar call. Motions filed after this time, or not duly noticed for a hearing, will be denied as untimely without a hearing. *Powell v. State*, 717 So.2d 1050 (Fla. 5th DCA 1998).

V. SETTING HEARINGS

- a. **Short Matter Hearings.** The Court will set short (less than 15 minutes) hearings on most days from 9am until 9:30am and from 1:15pm until 1:30pm. Matters which can be heard during those time periods include Motions to Withdraw – Counsel, Bond Hearings, Motions to Continue Hearings or Trial, Fingerprint or DNA motions, Motions for Early Termination of Probation, Calendar Calls on Demands for Speedy Trial or Notices of Expiration of Speedy Trial, or other similar matters.
- b. **Setting Short Matter Hearings.** The party filing the motion is required to set the short matter hearing using the JACS system. Detailed explanations of JACS and requirements of use are explained later in these policies and procedures. Counsel for both parties shall coordinate BOTH the date / time of the hearing, as well as the length of the hearing. Any disputes regarding the length of time allotted shall be submitted to the judge for a determination of how long the Court will allow for the hearing.

- c. **Evidentiary Hearings (other than Short Matter Hearings).** To obtain hearing time of **less than two hours**, please follow the instructions for JACS (see Attachment #5). To obtain hearing time of **two hours or more**, email the following to the judicial assistant:

- a. A copy of the motion.
- b. The total amount of time requested by all parties. The parties **MUST** coordinate with opposing counsel to determine the total amount of time needed **PRIOR** to the initial email to the judicial assistant.

For evidentiary hearings **two hours or more in length**, the Court will provide available dates and times for the hearing. ***The moving party will confer with the opposing party, on a separate email thread that DOES NOT include the judicial assistant, to agree on a date and time for the hearing. If the parties are unable to agree on a date and time, the moving party shall so notify the Court and may request additional dates.***

- d. **Motions to Return Property.** All filed Motions to Return Property shall be first submitted to the Judicial Assistant for the court's determination as to whether the Court requires the State to respond, if a hearing shall be set, or if the motion shall be summarily denied.
- e. **Notice of Hearing.** The party who filed the motion is responsible for filing the Notice of Hearing, which shall contain a certification that the State and Defense agree on **the amount of time the hearing will take** and that **the hearing was coordinated**. If this information is not included on the Notice of Hearing, the hearing may be cancelled at the sole discretion of the judge. Additionally, as soon as the hearing is set on JACS, the party setting the hearing must **IMMEDIATELY** email the judicial assistant a copy of the Notice of Hearing, so that the hearing may be placed on the Court's calendar. Failure to immediately email the judicial assistant may result in the Court unilaterally cancelling the hearing.
- f. **Requirements of Notice of Hearing.** The notice of hearing must include the complete title of the motion to be heard, the date of filing of the motion, and the docket number. If the docket number has not yet been added to the clerk's file at the time the motion is set on JACS or the Notice of Hearing is filed, the docket number should be indicated as "pending." The docket number is found on BECA under document number.

VI. PLEA OFFERS

- a. **Timing.** If the State or Defense intends to make a plea offer, the Court expects a plea offer to be made prior to calendar call or the second time the case appears on a docket sounding date, whichever comes first.
- b. **Record.** The Court may request the State to place on the record the current plea offer, if any, including any enhancements sought by the State or required upon an as charged conviction, either through pleadings or plea offer (ex: Prison Releasee Reoffender sanctions, Firearm minimum / mandatory).

VII. PRIORITY OF TRIALS; ORDER OF TRIALS

- a. **Priority.** The Court will organize its jury trials and give priority, subject to direction of the Court, in a general fashion as listed below:
 - i. Cases where a Demand for Speedy Trial has been filed, Defendant in-custody.
 - ii. Cases where a Demand for Speedy Trial has been filed, Defendant out-of-custody.
 - iii. Cases where Speedy Trial has not yet been waived, Defendant in-custody.
 - iv. Cases where Speedy Trial has not yet been waived, Defendant out-of-custody.
 - v. Cases where the Defendant has been in custody for more than one (1) year.
 - vi. Cases where the Defendant has been in custody for less than one (1) year.
 - vii. Cases where Defendant is currently out-of-custody and the case has been pending for more than one (1) year.
 - viii. Cases where the Defendant is currently out-of-custody and the case has been pending for less than one (1) year.
- b. **Order Setting Trials.** The Court will request, prior to each calendar call, that the State provide an Order Setting Trials with the cases on the docket listed in the priority listed above. If more than one case qualifies for a category, the oldest case should be listed first. The starting date of any pending case, for purposes of the Order Setting Trials, is the arrest date of the defendant.
- c. **Trial Weeks.** The Court has set three-week trial periods. The first week of trials the Court will attempt to hear any Demand or Non-Waiver Speedy Trial cases. The Court will set the remaining cases to be heard according to the Assistant State Attorney assigned to the case. For the second trial week, the Court will set the cases assigned to the Career Criminal / Firearm and Sex Crimes / Child Abuse ASAs. For the third trial week, the Court will set the cases assigned to the Division Chief and felony line attorney for the State Attorney's Office in this division. However, if all the cases set on a trial week resolve, the Court reserves the right to call up the next cases set on the docket, regardless of which trial week the case was originally set. Additionally, there may be times when the Court allows a trial to be specially set.

VIII. VIOLATION OF PROBATION RELATED HEARINGS

- a. **Violation of Probation Arraignments.** The Court expects the State and Defense to provide the opposing counsel with a plea offer – if one is to be given – and a scoresheet prior to the Violation of Probation arraignment. If a case is likely to result in a plea or is not ready for a Violation of Probation Hearing, the case should be continued to a Violation of Probation Calendar Call date, or another Violation of Probation Arraignment, when appropriate. On Violation of Probation Arraignment dates, the Court will address private attorneys first, then *pro se* defendants to inquire as to counsel, then attorneys with the Office of the Public Defender. If both parties are ready to set the case for a Violation of Probation Hearing, the case may be set directly to a Violation of Probation Hearing date.

- b. **Violation of Probation Calendar Call.** This is an interim court date between a Violation of Probation Arraignment and Violation of Probation Hearing. This date will act as an additional Violation of Probation arraignment date for attorneys to confirm they are ready for a hearing or for the defendant to enter an agreed upon or open plea to the court.
- c. **Violation of Probation Hearings.** Unless either the State or Defense files a written objection, all witnesses other than defendants, are allowed to attend the hearing remotely via the Court's Virtual Courtroom. Continuances are discouraged. The Court will review all request for continuances, including agreed-upon continuances, to determine if the request will be granted or a hearing needs to be held to address the continuance. No necessary witnesses should be released prior to the Court ruling on a continuance. If a witness for the State or Defense will be appearing from out-of-county, the hearing should be scheduled for the afternoon, if possible.
- d. **Anti-Murder Act qualifying cases.** If a Defendant either enters a plea or is found in violation of probation / community control and qualifies as a Violent Felony Offender of Special Concern, the Court will order either the State or Defense to provide a proposed order to the Court memorializing the Court's applicable statutory findings in written form. The Court will pronounce the statutory findings to be included in the proposed order.
- e. **High Potency Narcotics evidence.** If either the State or Defense intends to introduce evidence that contains, or may contain, a High Potency Narcotic in any court proceeding, the party intending to introduce the evidence must file a notice of its possession of a High Potency Narcotic at least ten (10) days prior to a hearing on a violation of probation, pursuant to the Eighteenth Judicial Circuit Administrative Order No.: 24-09.
 - i. The copy of the Notice of Possession of a High Potency Narcotic shall be emailed to the Judicial Assistant in conjunction with the filing of the Notice. The email to the Judicial Assistant should also request a hearing be set to discuss the presentation of such evidence, pursuant to the administrative order.
 - 1. NO High Potency Narcotics, such as Fentanyl, shall be brought to the courthouse for this hearing.
 - 2. The hearing shall be held at a date PRIOR to the Violation of Probation Hearing.
- f. **Motions for Early Termination of Probation or Community Control.** If a Motion for Early Termination is set for a hearing, the Court expects the State to provide the following information:
 - i. The position of the current supervision probation / community control officer, if any.
 - ii. A status as to any court costs or restitution due and owing.
 - iii. A status as to the amount of probation costs outstanding.

IX. COMPETENCY HEARINGS

- a. **Initial Request for an Evaluation.** Proposed orders regarding competency evaluations shall be sent either through ICMS with the applicable codes or emailed to the Judicial Assistant. If autism or intellectual disability is suspected, please provide the appropriate proposed order to have the defendant evaluated by the Agency for Persons with Disabilities.

X. DOCKET SOUNDING AND CALENDAR CALL

- a. **Docket Sounding.** Defendants who have privately hired attorneys will be heard at 9am on Docket Sounding days. Attorneys may appear in person or via the Court's Virtual Courtroom, without the need to file a motion. The Court will address the private attorneys present first, then address the attorneys appearing via Teams one-by-one, in the order the attorney shows up in the Court's Virtual Courtroom waiting room (which may or may not be in order of arrival into the waiting room). If an attorney wishes to be present virtually for cases OTHER than those to which they are assigned, the attorney needs to inform the Court's Judicial Assistant so the Court knows to allow that attorney to enter the Virtual Courtroom. The Court will address the Public Defender clients beginning at 10am or as soon thereafter as possible. The Court intends to address the Public Defender cases alphabetically, regardless of the Assistant Public Defender or Assistant State Attorney assigned. The Court expects both the Assistant Public Defenders and Assistant State Attorneys to be present in the courtroom, unless previously excused by the Court.
- i. **Motions to Continue.** The Court will accept *ore tenus* motions to continue at Docket Sounding. If making an *ore tenus* motion to continue, please state the grounds for the continuance and the position of the opposing party.
- ii. **Court Inquiry.** The Court may inquire into the status of the case. The attorney assigned to the case, or the attorney who is covering the case for the assigned attorney, should be prepared to address the following issues:
1. **Has a Plea Offer been provided to the opposing party?** – The Court may inquire as to the general details of any current plea offer.
 2. **Are there any enhancements or minimum mandatory sentences that apply to the case?** For example, does the defendant qualify as PRR or HFO, are there any drug or firearm minimum mandatory sentences that apply if convicted as charged?
 3. **The Court may set discovery or motion filing deadlines.** The attorney handling the case is expected to be able to fully address the status of any motions filed or expected to be filed, depositions that are set or need to be set, and their client's position on when the discovery cut-off deadline should be.

- b. **Calendar Call.** The Court may inquire into the status of the case. The attorney assigned to the case, or the attorney who is covering the case for the assigned attorney, should be prepared to address the following issues:
- i. **Plea offer.** If either party has extended a plea offer, the Court will inquire into the details of the plea offer and whether the Defendant (or State, if applicable) accepts or rejects the plea offer.
 - ii. **Motions to Continue.** The Court will NOT accept *ore tenus* motions to continue at Calendar Call. All Motions to Continue must be filed prior to Calendar Call and must comply with the “**Requests for Continuance**” listed in the Miscellaneous procedures at the end of these procedures.
 - iii. **Other Motions.** All motions should be both filed and heard prior to Calendar Call. Motions not yet filed by Calendar Call may be summarily denied. Motions filed by Calendar Call but not set may be summarily denied. Motions filed and noticed by Calendar Call, according to these procedures, may provide good cause to continue the case until the Calendar Call after the motion is set, on a case-by-case basis.
 - iv. **Meet & Confer.** The Court expects the assigned attorneys for the State and Defense, prior to Calendar Call, to meet & confer about each case set on the Calendar Call docket. This requirement is waived if the Defendant is proceeding *pro se*. The term "confer" requires a substantive conversation in person or by telephone or video conference in a good faith effort to resolve the trial or narrow the issues prior to trial and does not envision an exchange of ultimatums by fax, e-mail, or letter. Counsel must discuss the following issues: plea offers, outstanding motions, motions in limine, witness issues, and discovery – **including a confirmation that each party has received all of the discovery disclosed by the opposing party.** Counsel who merely attempt to confer have not conferred. Counsel must respond promptly to inquiries and communications from opposing counsel who is attempting to schedule the conference.
 - v. **High Potency Narcotics evidence.** If either the State or Defense intends to introduce evidence that contains, or may contain, a High Potency Narcotic in any court proceeding, the party intending to introduce the evidence must file a notice of its possession of a High Potency Narcotic at least five (5) days prior to the pretrial conference in a trial case, pursuant to the Eighteenth Judicial Circuit Administrative Order No.: 24-09.
 1. The copy of the Notice of Possession of a High Potency Narcotic shall be emailed to the Judicial Assistant in conjunction with the filing of the Notice. The email to the Judicial Assistant should also request a hearing be set to discuss the presentation of such evidence, pursuant to the administrative order.
 2. NO High Potency Narcotics, such as Fentanyl, shall be brought to the courthouse for this hearing.

CONDUCT OF ALL REMOTE APPEARANCES: All hearings where appearances will be allowed remotely will be conducted using Microsoft Teams. All participants are expected to download the app/program in advance of the hearing and become sufficiently proficient to permit the hearing to proceed. Each participant shall ensure that he or she has sufficient bandwidth to permit the hearing to proceed. Each participant shall ensure that he or she has the proper equipment to properly participate in the proceeding. Any individual that will be presenting testimony to the Court must be identifiable by a form of government-issued photographic ID and must have working video capabilities. Absent a stipulation by the parties, the Court will not receive the testimony of a witness who is not visible to the Court.

1. It will be the responsibility of counsel and/or the parties to forward the link to the Virtual Courtroom to any witnesses or other interested persons.
2. Identification of witnesses and the administration of an oath shall be governed by the most current Administrative Order or applicable rule or statute.
3. All counsel, parties and witnesses shall follow the Remote Hearing / Courtroom Decorum and Behavior Rules listed in Attachment 6.

PERTAINING TO ALL MATTERS:

Proposed Orders. Once the Court has deliberated, the Court will direct one party to prepare an order (typically the moving party), unless the court clerk is able to produce a short order. All such proposed orders shall be submitted for review to the opposing party **before** being submitted to the Court.

1. If the parties agree to the language of an order, the order may be submitted to the Court by email or through the Eportal with a cover letter certifying that all parties agree to the entry of the order as proposed. **The Eportal may only be used for unopposed orders.** See Attachment 7 for instructions on how to properly format proposed orders for the Eportal.
2. If the parties cannot agree to the language of the order, each party may submit a proposed order in Microsoft Word format via email to the appropriate judicial assistant for the Court's consideration along with a certification that attempts were made to agree upon the language of the order. If the opposing party has any objections or additions to the party who was directed to prepare the order, the opposing party shall use the directed party's proposed order as a foundation to list their objections or additions.
3. **The Court will reject any order sent via the e-portal or emailed to the Judicial Assistant that is not accompanied by a cover letter certifying that the order is agreed or opposed.** Any cover letter stating that the opposing party is invited to agree or oppose the order, or which simply states the opposing party has been provided a copy of the order, will result in the summary rejection of the proposed order. If a party has made reasonable efforts to obtain the agreement or opposition of the opposing party but received no response, then the cover letter shall state the dates that such communication was attempted and that the opposing party has not replied.

MISCELLANEOUS PROCEDURES:

Requests for Continuance. In addition to complying with the applicable rules of procedure, including Florida Rules of General Practice and Judicial Administration Rule 2.545(e), a party seeking a continuance shall certify in writing that the party has conferred with opposing counsel/party concerning the request and that the opposing party/counsel agrees or objects. A request for continuance **must** be signed by the requesting party. Absent a showing of extraordinary good cause, failure to comply with this requirement shall be deemed adequate grounds to summarily deny the request.

ATTACHMENTS

#1 – FELONY PLEA AGREEMENT FORM

#2 – VIOLATION OF PROBATION / COMMUNITY CONTROL FORM

#3 – DRUG CONDITIONS FORM

#4 – COMMUNITY CONTROL CONDITIONS FORM

#5 – JACS INSTRUCTIONS

#6 – REMOTE HEARING / COURTROOM DECORUM AND BEHAVIOR

#7 – EPORTAL CODES

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

Case No: 05- _____ - CF _____ - _____ XXX-XX

STATE OF FLORIDA

vs.

Defendant.

PLEA AGREEMENT
(Fla. R. Crim. P. 3.172)

The undersigned defendant withdraws the previously entered plea(s) of not guilty and tenders a plea of
() guilty, () no contest as follows:

Case Number	Offense	Maximum Sentence	Mandatory Minimum

If my plea is guilty, I hereby acknowledge that I am in fact guilty of the foregoing offense(s). When asked by the Judge, I will provide a factual basis to support my plea. If my plea is no contest, I believe such plea is in my best interest and recognize that the Judge will find me guilty after being provided a factual basis.

The State of Florida and I have agreed upon the following sentence to be imposed as a condition of this plea:

I understand that if probation is part of my sentence that the court may impose any conditions of probation authorized by law, including payment of restitution and public service, and unless conditions are specifically attached hereto, those conditions are by this agreement left to the discretion of the court.

I understand that statutory costs, costs of investigation and/or restitution may be imposed as part of my sentence.

I have the right to plead not guilty, or to persist in that plea if it has already been made, and to be tried by a jury with the assistance of a lawyer, the right to compel attendance of witnesses on my behalf, the right to confront and

cross examine witnesses against me, the right to present defenses to the jury, and the right to take the witness stand and testify on my own behalf. I also have the right not to take the witness stand and cannot be compelled to incriminate myself. I give up these rights by entering this plea.

I understand that if I enter a plea without reserving the right to appeal, I will give up my right to appeal all matters relating to the judgment, including the issue of guilt or innocence except for the limited review available by collateral attack. I also give up my right to appellate review on any pretrial rulings made by the court unless such right is specifically reserved in this agreement.

I understand that I may be asked questions by the Judge under oath about this plea and that my answers, if untruthful, may be used against me later in a prosecution for perjury.

I enter this plea freely and voluntarily. No person has forced, threatened or coerced me into entering this plea. No person has made any promises to me that induced me to enter this plea, except those matters specifically set forth in this plea agreement.

My lawyer has reviewed all evidence disclosed through discovery and has discussed the nature of that evidence with me, including the existence of any physical evidence for which DNA testing might exonerate me. I am satisfied with the representation my lawyer has given me and I have fully discussed my case and the contents of this agreement with my lawyer.

I understand that if I enter a plea to a felony offense or a sex offense I must register as a convicted felon or as a sex offender as required by law.

I understand that if I am pleading guilty or no contest to a sexually violent offense or a sexually motivated offense, or if I have previously been convicted of such an offense, I may be subject to involuntary civil commitment as a sexually violent predator upon completion of any prison or jail sentence imposed.

I hereby give up my right to a speedy trial. I understand that if I am not a United States Citizen, entry of this plea may subject me to deportation by the United States Immigration and Naturalization Service.

I do not suffer from any physical or mental disabilities to the degree that I am incapable of understanding this agreement, the nature of the proceeding against me, or assisting my lawyer in my behalf. I am not under the influence of alcohol or any drug at this time.

I realize that this agreement is subject to being finally accepted or rejected by the Judge at the time of sentencing and if it is rejected for any reason other than for a breach of this agreement, I may withdraw my plea and go to trial.

I understand and agree that if I fail to comply with any of the conditions set forth above I will have breached my plea agreement. In that event, I will not be allowed to withdraw my plea and the Judge may sentence me to any sentence authorized by law for the offense(s) to which I have pled.

CERTIFICATE OF DEFENSE ATTORNEY

I certify that I have fully discussed this case and this plea agreement with the defendant including the nature of the charges, their elements, the evidence of which I am aware, including physical evidence for which DNA testing may exonerate the defendant, any possible defenses, the maximum and minimum penalties which may be imposed, the probable guideline range and the defendant's right to appeal.

COUNSEL FOR DEFENDANT

CERTIFICATE OF PROSECUTION

The State accepts the terms of this agreement.

ASSISTANT STATE ATTORNEY

DEFENDANT

Date of Birth: _____ Age: _____

SWORN TO BY THE DEFENDANT, SIGNED AND FILED IN OPEN COURT, IN MY PRESENCE, THIS _____ DAY OF _____, 20_____.

CIRCUIT JUDGE

STATE OF FLORIDA,

vs

ADMISSION OF VIOLATION OF PROBATION/COMMUNITY CONTROL

1. I, the above-named defendant, hereby withdraw my plea(s) of Not Guilty, and admit violating condition(s) _____ of my probation/community control order(s). I understand that I am on probation/community control for the following charge(s): _____ which carries a total maximum penalty of _____ days/years in the county jail/state prison.

2. I understand the following concerning my violation of probation/community control hearing rights:

- a. That if the Court accepts my admission(s), I give up my right to a violation of probation/community control hearing, at which I would have the following rights:
 - (i) to have a hearing, without a jury, before the Judge;
 - (ii) to see and hear the witnesses testify, and to have my lawyer question them for me;
 - (iii) to subpoena and present witnesses and items of evidence in my defense, and to present any defense I might have to the Judge;
 - (iv) to testify or to remain silent at the hearing concerning any new criminal law violations; and I also understand that I can be called to testify at the hearing concerning allegations of any non-criminal violations; and
 - (v) to require the prosecution to prove a willful and substantial violation of the conditions of probation/community control by the greater weight of the evidence.
- b. That I give up my right to appeal all matters except the legality of my sentence or this Court’s authority to hear this case. My lawyer has explained to me what an appeal is.
- c. That I understand that if the Court accepts my admission(s) of violating my probation/community control, there will be NO HEARING and the Judge will impose sentence(s) based upon my admission(s); that the Judge can either place me back on probation/community control with the previous conditions or new conditions, or the Judge can revoke my probation/community control and sentence me to the maximum penalty for the charge(s) listed above.
- d. I have read the violation affidavit in my case and I understand the violation(s) to which I am admitting. My lawyer has explained any possible defenses to the violation(s) to me.
- e. I understand that if the underlying offense for which I am on probation or community control is a sexually violent offense or a sexually motivated offense, or if I have previously been convicted of such an offense, I may be subject to the involuntary civil commitment as a sexually violent predator upon completion of any prison sentence imposed.

3. Neither my lawyer nor anyone else has told me or promised me that the Judge would restore me to probation/community control or give me a particular sentence, nor has my lawyer or anyone else told me or promised me anything to get me to enter my admission(s) except as set forth below or said in open Court.

- a. No promise has been made by my lawyer or anyone else.
- b. The prosecutor has agreed to _____

- c. The prosecutor has agreed to _____

4. I understand that if I am on probation/community control for a felony and my admission is accepted by the Judge, the Judge will then sentence me.
5. I understand and agree that if the Judge permits me to stay out of jail pending sentencing, I must notify my lawyer and bondsman or pretrial release officer of any change in my address or phone number, and if the Judge orders a Pre-Sentence Investigation (PSI) and I willfully fail to appear for an appointment with the probation officer for the PSI interview, the Judge can place me in jail for the PSI interview, or until my sentencing.
6. My education consists of _____. I am not under the influence of any drug, medication or alcohol at the time I sign this admission. I am not suffering from any mental problems at this time which affect my understanding of this admission.
7. Neither my lawyer nor anyone else has pressured me or forced me to enter my admission and I am entering my admission voluntarily of my own free will and because
 - I believe that I am guilty.
 - I believe it is in my own best interest.
8. I have read every word in this written admission. I have discussed this written admission with my lawyer and I fully understand everything contained in it. I have discussed the maximum penalties for the charge(s) for which I am on probation/community control and the sentencing guidelines with my lawyer and I fully understand them. I have told my lawyer everything I know about this case and these violations. I am fully satisfied with the way my lawyer has handled my violation case for me and I have no complaints.

SWORN TO AND FILED in Open Court in the presence of defense counsel and the Judge this ____ day of _____, 20____.

Defendant's signature: _____

Address and Phone: _____

SWORN TO AND ACCEPTED BY:

 JUDGE

CERTIFICATE OF DEFENSE COUNSEL

I, Defendant's Counsel of Record, certify that I have discussed this case with the defendant, including his/her rights, the nature of the violation(s), the evidence against him/her of which I am aware, the possible defenses he/she has, the maximum penalty for the charge(s) for which he/she is on probation/community control, the sentencing guidelines, and his/her right to appeal. No promises have been made to the defendant other than as set forth in this form or on the record. I believe he/she fully understands this written admission, the consequence of entering it, and that the defendant does so of his/her own free will.

Counsel for the Defendant: _____

CERTIFICATE OF PROSECUTOR

- I consent to the conditions admitted above
- I confirm the promises in 3(b) have been made.

Assistant State Attorney: _____

Copies furnished to: Court File, Defense Counsel, State Attorney, Probation, Defendant

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

CASE NO. 05-_____-CF-_____-__XXX

VS.

Defendant.

DRUG CONDITIONS

_____ You must undergo a Drug and Alcohol evaluation and, if treatment is deemed necessary, you must successfully complete the treatment and be responsible for the payment of any costs incurred while receiving said evaluation and treatment, unless waived by the Court.

_____ You are required to pay for drug testing unless exempt by the Court.

_____ You will abstain entirely from the use of alcohol and/or illegal drugs, and you will not associate with anyone who is consuming alcohol or illegally using drugs.

_____ You will submit to urinalysis testing on a monthly basis to determine the presence of alcohol or illegal drugs. You will be required to pay for these tests unless exempt by the Court.

_____ You will not visit any establishment where the primary business is the sale and dispensing of alcoholic beverages.

_____ You shall submit your person, property, place of residence, vehicle, or personal effects to a warrantless search at any time, by any probation or community control officer.

Signature of Defendant

Print Name of Defendant

Date

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO. 05-_____-CF-_____-__XXX

Plaintiff,

vs.

Defendant.

COMMUNITY CONTROL

_____ You will maintain an hourly accounting of all your activities in a daily log which you will submit to your community control officer upon request.

_____ You will remain confined to your approved residence under house arrest except for the 1 HOUR before and 1 HOUR after any approved employment, public service work, or other special activities approved in advance by your community control officer.

_____ Your residence means:

- (a) If a house, the boundaries of your yard. You cannot go across the street or to a house next door to visit;
- (b) If a mobile home, the boundaries of the lot;
- (c) If an apartment, the boundary of the apartment walls of your apartment and any porch, portico or balcony. You may not use the amenities (swimming pool, tennis courts etc.) in the complex without getting prior consent of your community control officer.

_____ Approval to be away from your residence will be given only for things involving the necessities of life such as work, doctor and dental appointments, grocery shopping, laundry, church, etc. You will not be allowed to leave for any recreational or pleasure activities.

_____ Approval to be away from your residence must be obtained prior to leaving. If you leave without permission and then report your absence, it is still a violation.

_____ Any authorization given to go to work, to the doctor, etc., means that you must travel directly there and directly back to your residence. You may not make any stops along the way unless approved in advance by your community control officer.

Print Name of Defendant

Signature of Defendant

ATTACHMENT #5 – JACS INSTRUCTIONS

PROCEDURES FOR SCHEDULING HEARINGS ON JACS:

1. All motions must be e-filed and docketed prior to setting a hearing.
2. You must coordinate the date and time with opposing counsel.
3. You can search for all available time slots at www.flcourts18.org. Click on “Resources,” then “Attorneys Resources” then “JACS Dockets and Calendars” and then “Available Hearing Time.” From that screen, you will then have to select the appropriate Family Division Judge. Leave the minimum duration slot blank and it will bring up ALL of the available hearing timeslots, so you can coordinate with opposing counsel.
4. After you have coordinated a date with opposing side, to schedule a hearing on JACS, go back to the home screen on www.flcourts18.org:
Click on “Resources”
 - Then click on “JACS Login”
 - Enter login information AND from drop down screen select the appropriate Family Division Judge and then click on log in.
 - On the next screen, select Schedule an In-Person Hearing (even if you will be requesting to appear remotely).
 - On the next screen you will select the type of motion from the drop-down screen that best fits the motion you are scheduling for hearing. For specific motions not listed, use “other motion.”
 - Leave the amount of time you are requesting at the lowest amount of time. This will pull up ALL of the available timeslots. If you need additional time for your hearing, you can reserve multiple consecutive times slots to amount to the time needed for your hearing. **You will need to reserve all timeslots you are requesting so they are not taken.**

If you do not reserve the timeslot on JACS and it is taken by someone else, you will need to reschedule the hearing on a different day.

- Do not select courtroom, leave that blank.
5. Please use the first available time slot in the morning or the first available time slot in the afternoon rather than leaving big blanks in the schedule.
 6. Please fill in ALL the information for the hearing in the time slot, including attorneys' information. This will insure both attorneys receive JACS confirmations.
 7. If there is a pro se party, type "pro" into the attorney slot and click "find." This will give you the number to use for pro se parties, or you can type in "99999" and it will find "pro se."
 8. In cases where there are multiple attorneys attending the hearing beyond the fields provided, please list those attorneys' names and who they represent in the "Notes" section.
 9. Please enter the attorney's name who is setting the hearing in the "Set By (Name)" box and your DIRECT PHONE NUMBER in the "Phone #" box. This information will be used if the Court needs to contact you regarding the hearing. (i.e.: "Set By: John Smith" "Phone #: 321-617-7260")
 10. After reserving your timeslot(s) on JACS, please immediately file your notice of hearing and email a copy of the motions being heard and the notice of hearing listing all motions and their Doc ID #(s) to the appropriate Family Division Judicial Assistant.
 11. **If the Judicial Assistant is not emailed immediately as described in paragraph 10, the hearing is subject to being cancelled by the Court.**

CANCELLING HEARINGS:

If you are cancelling a hearing, you MUST immediately cancel the hearing on JACS and then immediately file a Notice of Cancellation **and email the JA the Notice of Cancellation**. If you are cancelling a hearing within 5 days from the date of the hearing, please contact the JA because dockets will already be printed and worked up for the Judge.

HEARINGS MAY BE CANCELLED BY THE COURT IF INSTRUCTIONS ARE NOT FOLLOWED. IF YOU HAVE ANY QUESTIONS ABOUT SCHEDULING YOUR HEARING, PLEASE CONTACT THE JUDICIAL ASSISTANT, PREFERABLY BY EMAIL.

ATTACHMENT #6

REMOTE HEARING/COURTROOM DECORUM AND BEHAVIOR

1. All parties and counsel shall exercise proper courtroom decorum, including dressing in appropriate courthouse attire, while in the Court in person or by remote appearance. See Administrative Order 09-06 for more details.
2. All parties and counsel shall address all remarks to the Court, not opposing counsel or the opposing party.
3. Maintain composure and proper tone of voice throughout the proceedings. Attorneys should not raise their voice toward court, counsel, witnesses or jurors.
4. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
5. Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names unless the permission of the Court is sought in advance.
6. Only one attorney for each party shall examine, or cross examine each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination.
7. In making objections, counsel should state only the legal grounds for the objection and shall withhold all further comment or argument unless elaboration is requested by the Court. If elaboration is requested, each party will have opportunity to provide argument. The party making the objection shall provide argument first, then the opposing party will have the opportunity to respond and the court will rule.
8. When referencing case law to court and counsel, attorneys are required to provide the full cite of the case for court and counsel.
9. All parties and counsel shall refrain from gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time.
10. All parties, counsel and witnesses must be stationary when appearing. The person appearing may NOT be driving a vehicle. The person appearing must be in a location that is quiet, private and without distractions.

ATTACHMENT #7 – EPORTAL CODES

FILING REQUIREMENTS

1. All proposed orders should be filed with a cover letter. If the proposed order approves and adopts a stipulation, then the signed stipulation may be used in lieu of a formal cover letter unless further explanation is required.

Stipulations and cover letters should be uploaded in .pdf (Adobe) format. Proposed orders should be uploaded in .docx – the latest Microsoft Word format.

2. (Word) format. Due to these requirements, it may not be possible to upload a stipulated order for the Court’s approval, i.e. an order separate from the stipulation may need to be uploaded. In that case, please forward the signed stipulated order to the Court’s judicial assistant via email using the “normal” certificate of service, WITHOUT the codes.
3. Please note a few changes in the formatting of proposed orders:
 - a. The use of the word “ordered” will no longer cause the program to “strip out” any language that follows.
 - b. So that orders may be dated properly, please use the following language, “Done and Ordered at Viera, Brevard County, Florida on DDDD.” The program will insert a properly formatted date code during the signing process. It is ok and recommended to include a period after DDDD.
 - c. For the Judge’s signature, please use the code “JJJJ”. The program will insert a properly formatted signature during the signing process. Do NOT include a signature line, the Judge’s printed name or position. Please make sure that this code appears on a line separate from any other text and is not preceded or followed by any other characters. Do NOT place “JJJJ” at the end of a row, as this will cause the Judge’s signature to improperly display. Do NOT format this code using the “justified” or “align right” option.
 - d. For the Certificate of Service, please use the code “MMMM” for the date of service of the signed order. The program will insert a properly formatted service date in the certificate of service. Please precede the code with the appropriate language of a certificate of service that ends, “on MMMM.” It is ok and recommended to include a period after DDDD.

- e. For the Judicial Assistant's signature, please use the code "AAAA." As with the Judge's signature, do NOT include signature lines, printed names or titles. Please make sure that this code appears on a line separate from any other text and is not preceded or followed by any other characters.
 - f. The code "CCCC" will insert a properly formatted service list during the signing process. Do NOT include a printed list of party recipients.
 - g. All codes should appear on a separate line. Two codes per line confuses the supercomputers.
 - h. Please do not format any line that a code appears on using the "justified" or "align right" setting. Please use the "left" formatting setting.
 - i. Please note that quotation marks should not be included.
4. If a proposed order is unopposed, please so state in the cover letter. If a proposed order is opposed, please do NOT submit via the e-portal. Follow the procedure listed in the Uniform Procedures for opposed proposed orders.
5. It is the Court's intent to "clear" all proposed orders submitted each day. Due to variations in schedules, the peculiarities of the electronic filing process and other factors, a signed and filed document may not appear online for some period of time after it has been filed. Your patience is appreciated.

SAMPLE PROPOSED ORDER

****If the parties are all in the e-portal****

**IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA**

**State of Florida,
Plaintiff,**

CASE: 05-2020-CF-XXXXXX-XXCF-BR

vs.

**Name,
Defendant.**

SAMPLE ORDER

THIS CAUSE having come before the Court on April 25, 2022, having considered the exhibits, reviewed the file, and otherwise being fully advised in the premises, finds as follows:

The State / Defendant's Motion is hereby GRANTED.

DONE and ORDERED in Viera, Brevard County, Florida on DDDD.

JJJJ

Copies have been furnished via the Florida Courts E-filing portal to the following:

CCCC

SAMPLE PROPOSED ORDER

****If the parties are NOT all in the e-portal,
or some parties are currently *pro se*****

**IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA**

**State of Florida,
Plaintiff,**

CASE: 05-2020-CF-XXXXXX-XXCF-BR

vs.

**Name,
Defendant.**

SAMPLE ORDER

THIS CAUSE having come before the Court on April 25, 2022, having considered the exhibits, reviewed the file, and otherwise being fully advised in the premises, finds as follows:

The State / Defendant's Motion is hereby GRANTED.

DONE and ORDERED in Viera, Brevard County, Florida on DDDD.

JJJJ

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies have been furnished by U.S. Mail or via filing with the Florida Courts E-filing Portal to the below listed parties on MMMM.

CCCC

AAAA