

Professional Services – Pretrial Supervision Memorandum of Understanding (MOU)

Dated as of the _____ day of _____ 20____ by and between Yellowstone County, Montana (hereinafter called County or Pretrial Services (PTS)), and _____ of Billings, MT (hereinafter called Provider).

Scope of Work

County has authorized a Memorandum of Understanding (MOU) to harmonize the application of supervision of criminal defendants with pending cases in the Thirteenth Judicial District and PTS to address conditions of release as needed to assist and address capacity issues with the Yellowstone County Detention Facility (hereinafter “Facility”), known as Pretrial Supervision.

In addition to this MOU, Yellowstone County authorizes Pretrial Services to adopt threshold requirements of Providers – technologies, procedures, personnel – to ensure proper compliance with the goals of this MOU. All mandates provided by Pretrial Services shall be in writing and will be offered to all Providers.

1. Pretrial Supervision (Commonly known as *Check-ins*)

The Provider shall be responsible for providing the following services (i.e., Pretrial Supervision):

- Enroll defendant in order to participate in pretrial supervision, including completing any application for subsidy to be paid by County/PTS;
- Within five (5) business days of intake, notify PTS via email of completion of enrollment for Pretrial Supervision, to include defendant’s full name, case numbers/courts, copy of the release order requiring Pretrial Supervision, current contact information (e.g., phone/text/voice message number, email, social media platform), current address, frequency with which

Provider will be requiring defendant to establish contact (e.g., once per month in-person, once per month via app), and confirmation of payment of fees as provided in Attachment A;

- Provider shall notify defendant of all responsibilities, applicable procedures, and costs related to Pretrial Supervision to ensure compliance with the conditions of release;
- Provider is responsible for maintaining all current and appropriate means of contact/ communication with the Facility to ensure proper notification of designated defendant's pending release;
- Providers shall administer Pretrial Supervision of the defendant in-person and/or through live, remote appearance with frequency as required by the conditions of release (e.g., monthly check-ins) and shall confirm the defendant's identity and current location, and obtain information from the defendant regarding current contact information (as noted above), current residence, employment, and compliance with all conditions of release, wherein the Provider will utilize technology approved by PTS [See Attachment A];
- Provider shall notify PTS via email each week of the following information: defendants who failed to check-in the previous week, to include full name and case number, (scheduled/actual) check-in date/time and whether in-person or remote, and any changes to defendants' residence, email, or other contact information;
- Providers shall confirm any violations of conditions of release and report the matter as noted separately in the Violations and Reporting section of this MOU;
- Providers shall take steps to ensure compliance with all court appearances for all courts in the Thirteenth Judicial District, and be able to contact defendant upon confirmation that the defendant failed to appear for any scheduled court proceeding;

- Provider shall make available personnel if required by PTS for any scheduled court proceeding including the ability to provide testimony regarding the defendant's compliance with the conditions of release;
- Provider will submit a monthly report to PTS detailing all defendants who are two (2) months in arrears with regards to payments for pretrial supervision.
- Provider will comply with all procedures implemented by PTS.

2. Violations and Reporting

Absence from Court Proceeding: Upon confirmation in open court or from the court/clerk that the defendant failed to appear for a court proceeding, the Provider shall use all reasonable efforts to make contact with the defendant and seek their physical appearance (in court or remotely as required by the presiding judge) within three (3) judicial days unless specifically designated by the presiding judge for another date and time; Upon the defendant's failure to appear within three (3) judicial days of the initial missed appearance the Provider shall file a report of violation with all involved parties.

Absence from Reporting: Upon confirmation that the defendant failed to appear for a check-in the Provider shall use all reasonable efforts to make contact with the defendant and seek their physical appearance or other specified means of contact within 24 hours. Upon the defendant's failure to appear within 24 hours the Provider shall file a report of violation with all involved parties

3. Other Services:

Provider also shall perform the following services:

- On a monthly basis, invoice all "self-pay" defendants or provide an invoice to PTS for all defendants confirmed to receive a County subsidy, to include defendant's full name, case number, time period in month that defendant was

supervised (Start, End). Provider shall submit a monthly invoice due on the ten (10th) of each month detailing the prior month's Pretrial Supervision services in accordance with the monthly charge as provided in Attachment A;

- Provider cannot be paid more than the approved amount per designated defendant per month as provided in Attachment A even if the designated defendant has more than one pending criminal case with respective release orders requiring Pretrial Supervision. Provider is only allowed payment for monthly Supervision up and to month that the condition of release or case was discharged or modified in open court on the record, or by written order dated and signed by the presiding, acting or substitute judge.
- Provider shall cease Pretrial Supervision only if all the presiding judges order discharge or modification of the respective conditions of release, or alternatively, the respective cases are dismissed or abrogated/substituted by an imposed sentences.

MOU Period

MOU will be at will and applicable for each designated defendant while the defendant is required to be monitored during the pendency of the criminal case(s). If approved for subsidy, County is required to make payment at designated rate as noted in Attachment A for all services rendered for month of Supervision for each designated defendant until the presiding court imposes sentence, dismisses pending court case, or modifies the condition of release (including discharge of Pretrial Supervision condition or change of Provider).

MOU Compensation for Subsidized Defendants

When applicable, if a criminal defendant deemed eligible by PTS for subsidy for Pretrial Supervision, PTS may allow payment of fees as approved by the County. The program utilizes private (for profit and nonprofit) and government Providers to supervise the defendant after imposition of the condition of release at the sole discretion of the presiding judge. Unless returned for review, County/PTS shall pay the Provider within 60 days the amount due on the monthly submitted invoice as approved by the County and memorialized in Attachment A. The Yellowstone County Justice Court, Pretrial Risk Assessment Coordinator, and/or the Board of County Commissioners may return and seek review of any invoice with appropriate explanation by the Provider prior to payment being due in accordance with this provision.

MOU Documents

The MOU Documents, which comprise the entire agreement between Owner consist of the following:

- *This Agreement*
- *Attachment A – as adopted by Board of County Commissioners*
- *Attachment B – Pretrial Service Forms for Service*
- *Providers' current Certificate of Insurance and Workers' Compensation or Exemption Certificate*

Miscellaneous

Assignment:

No assignment by a party hereto of any rights under or interests in the MOU will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without written consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically

stated to the contrary in any written consent to an assignment no assignment will discharge the assignor from any duty or responsibility under the MOU.

Hold Harmless:

Provider hereby agrees to hold harmless and indemnify the Owner from and against all claims, losses, damages or legal liability arising from the MOU negligence or that of his or her employees or agents. County/PTS hereby agrees to hold harmless and indemnify Provider from and against all claims, losses, damages, or liability arising from County's negligence or that of its employees or agents.

MOU for Services: Independent MOU or and Applicable Parties:

The Provider agrees to perform the labor and terms of this MOU as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status. Nothing in this MOU shall be in any way construed to constitute the Provider, or any of his (or her, or its) agents or employees as the agent, employee or representative of County for any purpose, or to be recipients of any compensation, benefits, pensions, insurance plans, payroll taxes, worker's compensation or State or Federal withholding taxes, or *associates under color of law* unless further adopted by the County.

Choice of Law:

The parties agree that the laws of the State of Montana shall govern this MOU, and that venue shall be in the Thirteenth Judicial District Court, Yellowstone County, Montana.

Costs and Fees – Litigation:

In the event of litigation, the prevailing party shall be entitled to reimbursement of court costs and Attorney fees by the non-prevailing party.

IN WITNESS WHEREOF, OWNER and MOUOR have signed this Agreement in duplicate. One counterpart each will be delivered to

OWNER and MOU. All portions of the MOU Documents have been signed, initialed, or identified by OWNER and MOU.

This Agreement will be effective _____, 2022.

County: _____ Provider: _____

Yellowstone County
Billings, MT 59101

Commissioner , Chairman

(Seal)
Attest:

Jeff Martin, Clerk and Recorder

Attachment A

- Provider shall utilize the following technologies to ensure the defendant's compliance with the conditions of release for Pretrial Supervision: _____

- Provider shall charge self-pay defendants, or any party thereof, for Pretrial Supervision at the following rate - \$75.00 per calendar month with no additional fees, including enrollment fees.

If a defendant is confirmed to receive a County subsidy for Pretrial Supervision, Provider will charge the County the following rate - \$75.00 per calendar month with no additional fees, including enrollment fees.

[Note that rates are 'per month' only and the rates shall not be prorated within the month.]

- Provider will notify all involved parties (e.g., PTS, courts, prosecution, defense counsel, P&P) of the following parties of any change:
 - Change in defendant's name;
 - Change in contact information (e.g., email, phone number, type of contact [e.g., voicemail vs. text message]);
 - Change in residence;
 - Change in employment;
 - Known new law enforcement contact/arrest or physical detention (including temporary [i.e., Detainee ("pic 'n' print")]).

Attachment B
Pretrial Service Forms for Service

JUSTICE COURT OF RECORD
YELLOWSTONE COUNTY



P.O. Box 35032
Billings, MT 59107-5032

(406) 256-2895
(406) 256-2898 (FAX)

Pretrial Check-ins -- Report of Violation
Failure to Appear for Hearing
[Provider's Name]

[Defendant's Full Legal Name]

Court(s)/Case Number(s) for FTA: _____

Hearing Date & Time: _____ **Judge:** _____

Hearing Type:

- | | | |
|---|---|--------------------------|
| <input type="checkbox"/> Omnibus
Pretrial Conference | <input type="checkbox"/> Status Hearing | <input type="checkbox"/> |
| <input type="checkbox"/> Jury Trial
Sentencing | <input type="checkbox"/> Petition to Revoke | <input type="checkbox"/> |
| <input type="checkbox"/> Calendar Call | <input type="checkbox"/> Other: _____ | |

Attempts made to contact defendant after failed to appear:

Date of Violation (i.e., three judicial days after missed hearing):

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Pretrial Check-ins – Check-in Onboarding
[Provider's Name]

[Defendant's Full Legal Name]

AKAs (e.g., maiden name, married name(s), etc.):

Courts/Case Numbers of All Current Pretrial Cases:

Court/Case Number for Check-ins:

Release Order/Mittimus Memorandum Date:

Court-Ordered Frequency: 1x/month 2x/month 1x/week

Other: _____

Legal Representation:

Private Counsel (Name) _____ **Public Defender** (App
Submitted? Y / N)

Contact Information:

Residential Address:

Mailing Address:

Phone Number: (____)_____ Cell Home Other:

_____ Court Reminders via Text Voicemail

Email: _____ Court

Reminders? Y / No

Employment: _____

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Pretrial Check-ins -- Report of Violation
Failure to Report
[Provider's Name]

[Defendant's Full Legal Name]

Court(s)/Case Number(s) for Check-ins:

Release Order/Mittimus Memorandum Date:

Court-Ordered Frequency: 1x/month 2x/month 1x/week
Other: _____

Fail to Check-in Date & Time:

Type of Check-in Missed: In-Person App Telephone
Kiosk

Additional Information:

JUSTICE COURT OF RECORD

YELLOWSTONE COUNTY



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**Pretrial Check-ins -- Report of Violation
Failure to Appear for Hearing**

[Provider's Name]

[Defendant's Full Legal Name]

Court(s)/Case Number(s) for FTA:

Hearing Date & Time: _____ **Judge** _____

Hearing Type:

- | | | |
|---|---|--------------------------|
| <input type="checkbox"/> Omnibus
Pretrial Conference | <input type="checkbox"/> Status Hearing | <input type="checkbox"/> |
| <input type="checkbox"/> Jury Trial
Sentencing | <input type="checkbox"/> Petition to Revoke | <input type="checkbox"/> |
| <input type="checkbox"/> Calendar Call | <input type="checkbox"/> Other: _____ | |

Attempts made to contact defendant after failed to appear:

Date of Violation (i.e., three judicial days after missed hearing):

Procedure for Assignment of Provider by Courts

The presiding judge shall utilize the following procedures to ensure equal application of all providers and minimize any capacity issues regarding the workload of any Provider:

- **Standard Rotation**: With two exceptions noted below, each defendant assigned to a provider will be on a rotating basis as provided in the example below:
 - Defendant 1 - Alternatives;
 - Defendant 2 - Clean Start
 - Defendant 3 - Friedel, LLC
 - Defendant 4 – Other (Jail, etc.)
 - Defendant 5 - Alternatives
 - Defendant 6 - Clean Start
 - Defendant 7 - Friedel, LLC
 - Defendant 8 - Other
 - . . .Continue
- **Exception 1**: if the defendant is being supervised on another matter with a Provider, the defendant shall be assigned to same provider to ensure consistency, and the court shall continue the rotating basis after that assignment as provided in the example below:
 - Defendant 1 - Alternatives;
 - Defendant 2 - Clean Start;
 - Defendant 3 - Friedel, LLC;
 - Defendant 4 – pending case with Alternatives, LLC, also assigned to Alternatives;
 - Defendant 5 – Other
 - Defendant 6- Alternatives
 - Defendant 7 – Clean Start;
 - Defendant 8 – Friedel, LLC
 - . . .Continue
- **Exception 2**: Defendant is order to a participate in another

form of monitoring (GPS, Alcohol Monitoring, etc) that is supervised by the same provider as noted in the example below:

- Defendant 1 - Alternatives;
- Defendant 2 - Clean Start;
- Defendant 3 - Friedel, LLC;
- Defendant 4 – assigned GPS monitoring with Alternatives, LLC, check-in also assigned to Alternatives;
- Defendant 5 – Other
- Defendant 6- Alternatives
- Defendant 7 – Clean Start;
- Defendant 8 – Friedel, LLC
- . . . Continue

There is no exception to the primary rotation for Provider assignment for a defendant that was *previously* supervised by a Provider with a case that is not pending at the time a Pretrial Supervision condition is ordered.