

**TWELFTH JUDICIAL DISTRICT ATTORNEY'S  
PRE-PROSECUTION DIVERSION PROGRAM  
APPLICATION PACKET**

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Defense Attorney: \_\_\_\_\_

Current Charge(s): \_\_\_\_\_

\_\_\_\_\_

Case identifier:

D \_\_\_\_\_ CR \_\_\_\_\_

DIV. \_\_\_\_\_

M- \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

DIV: \_\_\_\_\_

Prosecutor Who Approved PPD Offer: \_\_\_\_\_

To avoid complications or delays, it is very important that the following referral procedure be followed and that all the necessary documents and signatures are completed at the time the packet is submitted.

1) Defense may request the Prosecutor to exam the case for Pre-Prosecution Diversion (PPD). The Prosecutor **may accept** and offer the PPD after careful examination of the case. The Prosecutor may offer PPD at any time during review or examination of the case. **There are no guarantees that a PPD offer will be accepted or offered by the prosecutor.**

2) The case must meet the minimum requirements according to the Statute and any other criteria set forth by the District Attorney.

3) Once a PPD offer is made to the defendant, the PPD Director shall send an Application and an Application Deadline Request Letter to defendant's defense counsel.

4) Upon receipt of request letter, the Defense Attorney shall meet with the defendant and assist defendant with completing the application. Application must be **submitted within 30 calendar days.**

5) The Defense Attorney shall meet with the defendant and have the defendant waive defendant's right to Preliminary Hearing (Form attached with application) and file the form with the respective courts.

6) The Defense Attorney shall meet with the defendant and have the defendant complete a statement that implies the defendant's involvement with the case and his guilt to the elements. The Defense Attorney shall inform the defendant about his constitutional rights and what is affected by submitting his statement.

7) Defendants Statement shall be approved by the Prosecuting Attorney prior to being placed into PPD. The defendant may be allowed to revise the statement if it does not meet the Prosecutors approval.

8) Victims and Law Enforcement Agencies involved in the case will be contacted for input prior to being placed into PPD.

9) Once statement is approved, the PPD Director shall interview the defendant to determine if the defendant meets the qualifications of PPD.

10) The defendant may or may not be placed into after the interview. The defendant's bad attitude and/or submissions not consistent with the program guidelines during the interview may be cause of denial into the program.

11) Once accepted into PPD, the PPD Director shall file the following forms with its respective courts:

- 1) Waiver of Speedy Trial
- 2) Notice of Pre-Prosecution Diversion and Suspension of Criminal Proceedings



**MILITARY SERVICE**

Have you ever served in the Armed Forces? \_\_\_NO \_\_\_YES Branch: \_\_\_\_\_

Dates of Service: \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_ Occupation: \_\_\_\_\_

Type of Discharge: Honorable Dishonorable Bad Conduct Medical

General - If General, under what conditions? \_\_\_\_\_

**CURRENT CHARGE(S)**

Date of Offense/Arrest: \_\_\_/\_\_\_/\_\_\_ Arresting Agency: \_\_\_\_\_

Co-Defendant(s): \_\_\_\_\_

Type of Release: \_\_\_ Own Recognizance \_\_\_ 3<sup>rd</sup> Party - - Name: \_\_\_\_\_

\_\_\_ Bond - - Amount: \$\_\_\_\_\_ Bondsman: \_\_\_\_\_

**PRIOR RECORD**

Indicate below all contacts with law enforcement agencies. Include any time you have been arrested, questioned, detained, or cited.

***You must disclose all prior law enforcement encounters whether or not you were convicted. Any failure to disclose prior involvement with law enforcement agencies will result in your immediate dismissal from this program.***

<u>DATE</u>	<u>CHARGE</u>	<u>AGENCY</u>	<u>DISPOSITION</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Have you ever been the victim of a crime? NO YES if so, explain: \_\_\_\_\_

Have you ever been called as a witness in a criminal proceeding? NO YES If so,

Explain: \_\_\_\_\_

**GANG ACTIVITY**

Are you presently affiliated with a gang? NO YES Gang: \_\_\_\_\_

Have you ever been a member of a gang? NO YES Gang: \_\_\_\_\_

**HEALTH**

(Circle One)

Current Health:      Excellent      Good      Fair      Poor

Do you currently suffer from any illness, disease or disability? NO YES

If so, explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you currently suffer from any mental illness or psychiatric disorder? NO YES

If so, explain: \_\_\_\_\_

Have you ever received counseling/treatment for an emotional, psychological, or psychiatric problem? NO YES If so, explain: \_\_\_\_\_

\_\_\_\_\_

Are you currently under a physician's care? NO YES if so, explain: \_\_\_\_\_

\_\_\_\_\_

Are you currently taking medication? NO YES If so, please list the medication and

the corresponding condition: MEDICATION

CONDITION

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Is there any physical or health-related reason why you are unable to work? NO YES

If so, explain: \_\_\_\_\_

Are you legally disabled? NO YES If so, explain: \_\_\_\_\_

**DRUG USE HISTORY**

Is the current charge against you related to the use of drugs? NO YES

Do you currently, or have you ever, used any of the following drugs?

Marijuana NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Peyote NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Barbiturates NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Amphetamines NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Methamphetamine NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Methaqualone NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

LSD NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

PCP NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Cocaine NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Heroin NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Inhalants: NO YES Age: \_\_\_\_\_ Duration: \_\_\_\_\_

Are you addicted to any illegal drug? NO YES if so, explain: \_\_\_\_\_

Have you ever abused, or are you now addicted to, any prescription medication? NO YES

If so, explain: \_\_\_\_\_

Have you ever received treatment for drug abuse? NONE OUT-PATIENT IN-PATIENT

If so, where and when? \_\_\_\_\_

**ALCOHOL USE HISTORY**

Is the current charge against you related to the use of alcohol? NO YES

Do you drink alcohol? NO YES If so, how often and how much? \_\_\_\_\_

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Have you ever received treatment for alcohol abuse? NONE OUT-PATIENT IN-PATIENT

If so, where and when? \_\_\_\_\_

**RESIDENTIAL HISTORY**

How long have you been at your current resident? \_\_\_\_\_

Type of Residence: \_\_\_House \_\_\_Mobile Home \_\_\_Apartment \_\_\_Other \_\_\_\_\_

Previous Addresses over the past ten (3) years (Street, City, State):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Who lives with you?

Name

Relationship

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**MARITAL STATUS**

Single Married Divorced Engaged Separated Common Law Widow(er)

Spouse/Partner Full Name: \_\_\_\_\_

Date of Marriage: \_\_\_\_\_ Number of previous marriages: \_\_\_\_\_

**CHILDREN**

List all natural, step, and adopted children:

<u>Name</u>	<u>Age</u>	<u>Child Support</u>	<u>Amount</u>
_____	_____	Paying <i>or</i> Receiving	\$_____
_____	_____	Paying <i>or</i> Receiving	\$_____
_____	_____	Paying <i>or</i> Receiving	\$_____
_____	_____	Paying <i>or</i> Receiving	\$_____
_____	_____	Paying <i>or</i> Receiving	\$_____

**EXTENDED FAMILY**

List parents and siblings (natural, step, or adopted):

<u>Name</u>	<u>Age</u>	<u>Address</u>	<u>Occupation</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Does any member of your family have an arrest record or felony conviction? NO YES

If so, who and for what? \_\_\_\_\_

\_\_\_\_\_

Is any member of your family currently in jail, prison, or on probation or parole? NO YES

If so, who and for what? \_\_\_\_\_

\_\_\_\_\_



**EDUCATION**

\_\_\_ Less than High School If so, highest grade completed: \_\_\_\_\_

\_\_\_ High School Graduate \_\_\_ GED \_\_\_ Vocational/Technical Training

\_\_\_ Some College \_\_\_ College Graduate ASSOC B.A./B.S M.A./M.S. Doctorate

<u>School/Institution</u>	<u>Graduation Date</u>	<u>Degree Conferred</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Do you have plans to obtain further education? NO YES If so, explain: \_\_\_\_\_

**EMPLOYMENT HISTORY**

Employer's Address: \_\_\_\_\_

Job Title/Duties: \_\_\_\_\_ Supervisor: \_\_\_\_\_

How long have you been at this job? \_\_\_\_\_

Does your employer know that you are facing criminal charges? NO YES

List all employers for the past five (3) years:

<u>Employer</u>	<u>Position</u>	<u>Location</u>	<u>Dates</u>	<u>Reason for Leaving</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**FINANCIAL**

List monthly income below. *Be sure to include job earnings, spouse earnings, child support, AFDC, WIC, food stamps, housing, retirement, SSI, Disability, parents, etc.*

<u>Source</u>	<u>Amount</u>	<u>Source</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

List monthly expenses below. *Be sure to include rent/mortgage, vehicle payments, utilities, groceries, child care, loans, credit cards, and other outstanding debt.*

<u>Payee</u>	<u>Services Rendered</u>	<u>Amount</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

**COMMUNITY ACTIVITIES**

Are you involved in any community activities? NO YES If so, list affiliations: \_\_\_\_\_

\_\_\_\_\_

Are you affiliated with any clubs or professional organizations? NO YES If so, list: \_\_\_\_\_

\_\_\_\_\_

What do you do in your spare time (hobbies, interests)? \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**RESTITUTION**

As a condition of the Pre-Prosecution Diversion Program, you are required to make Restitution for any damages or losses resulting from your criminal activity. You may be required to pay at least half of the entire amount due in restitution prior to being accepted into the program. All Restitution must be paid in full within 12 months with the exception of the Prosecuting Attorney and Program Director’s approval.

How much do you owe in restitution? \$ \_\_\_\_\_

To whom is the restitution due? \_\_\_\_\_

How much have you paid to date? \$ \_\_\_\_\_

How will you get the money to pay your restitution? \_\_\_\_\_

**PPD FEE**

Although the Statute does not mention anything regarding fees, it is a criterion in which each District Attorney may require in each District. The 12<sup>th</sup> Judicial District Attorney deems it necessary that every participant in the PPD program is required to pay to the Office of the District Attorney costs related to the Defendant's participation in the program. This fee is to be paid monthly in the amount of **not less than \$85.00 dollars** for a maximum time of 12 months.

Are you willing to pay the assigned fee each month? NO YES

**COMMUNITY SERVICE**

As a condition of the PPD Program, all participants are required to perform community service hours ranging from 80 to 120 hours. This number is assigned by the PPD Director based upon type of charge and other criteria.

Are you willing to perform the assigned number of community service hours? NO YES

**LENGTH OF PROGRAM**

The defendant must sign a 24 month (2 year) contract with the understanding that he/she may be eligible for an earlier release with prosecutor's approval. The defendant must complete a minimum of six (6) months supervised and six (6) months unsupervised and all requirements with No Violations before being considered for an earlier release from the program.

I am willing to sign a contract for 24 months with the understanding that I may possibly be released in 12 months as long as I do not have any violations during the 12 months and complete all my requirements within the time frame allotted:

**USE OF MEDICAL MARIJUANA**

The defendant shall not use Medical Marijuana during the time in which they are placed into PPD. At this time, the 12<sup>th</sup> Judicial District Attorney does not allow the use of any drugs deemed illegal by both State and Federal Law. The defendant is subject to random drug tests at their own expense.

## DEFENDANT'S WRITTEN STATEMENT AND APPLICATION FORMS

### STATEMENT GUIDELINES:

An **ACCEPTABLE STATEMENT** must meet the following criteria:

- ▶ The statement must be true, complete, and voluntary. The facts should not be altered by the Defendant in order to qualify for the PPD Program.
- ▶ The statement must acknowledge that the Defendant has had his/her Fifth Amendment rights explained to him/her by Defense Counsel and that Defendant understands and specifically waives his/her Fifth Amendment rights against self-incrimination.
- ▶ The statement must contain the Defendant's **admission to each essential element of the crime(s)** as applicable including *intent, date, time, place, venue, how the crime was committed, damage done, property taken, and participation of other individuals*. This admission must be in the **Defendant's own words** and NOT a legalistic recitation of the elements as contained in the statute or jury instructions.
- ▶ Defendant must sign the statement on *each page* if a multiple page statement is submitted. **Each page must also be notarized.**
- ▶ Attorney for the Defendant must sign the statement acknowledging that his/her client has been advised of and understands the purpose and consequences of giving the statement.
- ▶ Statement must be provided to the PPD Program Director along with the entire completed packet.
- ▶ Failure to provide an acceptable Statement will be grounds for rejection of Defendant's application to the PPD Program.

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**STATEMENT  
PRE-PROSECUTION DIVERSION**

I, \_\_\_\_\_, in giving this statement, understand that I am giving up my Fifth Amendment right against self-incrimination, that is, the right to not be a witness against myself. I waive this right intentionally, voluntarily and intelligently.

I understand further that this statement may be used against me in court if I am terminated from the Pre-Prosecution Diversion Program (PPD). This statement may also be used to impeach me if I testify in any case of a co-defendant.

If not accepted into the PPD, this statement shall be used against me only for purposes of impeachment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**STATEMENT  
PRE-PROSECUTION DIVERSION**

I, \_\_\_\_\_, the Defendant in the above-referenced  
matter, being first duly sworn upon my oath, hereby state: \_\_\_\_\_

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney







STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**STATEMENT CONTINUED  
PRE-PROSECUTION DIVERSION**

I, \_\_\_\_\_, the Defendant in the above-referenced  
matter, being first duly sworn upon my oath, hereby state: \_\_\_\_\_

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**STATEMENT CONTINUED  
PRE-PROSECUTION DIVERSION**

I, \_\_\_\_\_, the Defendant in the above-referenced  
matter, being first duly sworn upon my oath, hereby state: \_\_\_\_\_

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**STATEMENT CONTINUED  
PRE-PROSECUTION DIVERSION**

I, \_\_\_\_\_, the Defendant in the above-referenced  
matter, being first duly sworn upon my oath, hereby state: \_\_\_\_\_

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**MEDICAL MARIJUANA WAIVER**

I, \_\_\_\_\_, agree to the following special condition of PPD:

Any drug use that is not prescribed by a physician is strictly prohibited while participating in the Pre-Prosecution Diversion Program (PPD). Medical Marijuana, regardless of my legal ability to possess it, is prohibited under Federal Law and shall be prohibited from use while participating in PPD. I understand that the use of any controlled substance not prescribed by a physician and the use of any illegal substance, after acceptance into the PPD program, shall cause my termination from the PPD program.

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Counsel Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
*SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.*

*My Commission Expires:* \_\_\_\_\_

\_\_\_\_\_  
*Printed Name / Notary Public*

\_\_\_\_\_  
*Signature / Notary Public*

\_\_\_\_\_  
*Date*

**SEAL:**

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**AUTHORIZATION TO RELEASE INFORMATION**

I, the undersigned Defendant, hereby authorize the Office of the District Attorney to release to the public all information submitted by me in my application to the Pre-Prosecution Diversion Program. I understand that certain information, which might be released by the Office of the District Attorney may otherwise be confidential, after having been advised by my attorney of my rights, I hereby waive any rights I may have to privacy concerning documents I have submitted to the Pre-Prosecution Diversion Director.

I understand that the Pre-Prosecution Diversion Program will not release to the public the statement I made admitting guilt nor any notes of the various Programs Officers, or other employees of the Pre-Prosecution Diversion Program made with regard to my admission or performance on the Pre-Prosecution Diversion Program.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney

**TWELFTH JUDICIAL DISTRICT ATTORNEY'S OFFICE**  
1000 NY Ave, Room 101, Alamogordo NM 88310

**PRE-PROSECUTION DIVERSION PROGRAM  
AUTHORIZATION FOR RELEASE OF INFORMATION**

I, \_\_\_\_\_, do hereby grant any financial/credit institution, doctor, medical facility, psychiatric/psychological facility, school, past or present employer, law enforcement agency, probation department, insurance agency, social welfare department, and alcohol or drug abuse counselor or agency permission to release any and all information personally known by them to any authorized representative of the Twelfth Judicial District Attorney's Office in and for Otero and Lincoln Counties, New Mexico. I acknowledge that this information is to be used by the District Attorney's Office in investigating and evaluating my background to determine my progress while under supervision in this office.

Photocopies of the original of this release are to serve as a substitute for the original. This release will expire two (2) years from the date of my signature below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_,  
Defendant,

**WAIVER OF PRELIMINARY HEARING**

The Complaint having been read to me, and having been advised of my rights, I, by and through my counsel, hereby waive to a Preliminary Hearing and elect to proceed without having such a hearing.

A copy of this Waiver has been furnished to me, and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Defense Attorney

I hereby certify that a copy of the foregoing Waiver was forwarded to the Office of the District Attorney this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Attorney for the Defendant

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_  
Defendant,

**WAIVER OF SPEEDY TRIAL AND  
TRIAL WITHIN SIX MONTHS – RULE 5-604(B)**

I, \_\_\_\_\_, being duly sworn upon my oath state: I have been informed of the criminal charges against me in the above-captioned matter charging the offense of \_\_\_\_\_

\_\_\_\_\_, and of my right to have both a speedy trial and a trial within six (6) months, pursuant to Rule 5-604(B), upon the offense charged against me. Being fully advised by my attorney of all my legal rights regarding these charges and with the knowledge that I am being placed upon Pre-Prosecution Diversion Supervision and as a condition of that Pre-Prosecution Diversion Supervision, I do hereby fully and voluntarily waive my right to both a speedy trial and a trial within six (6) months pursuant to Rule 5-604(B). I further understand that this Waiver shall be in effect if my participation in the Pre-Prosecution Diversion Program is terminated for any reason.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

REVIEWED BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Attorney



STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CAUSE NO. \_\_\_\_\_  
DIVISION \_\_\_\_\_

STATE OF NEW MEXICO,  
Plaintiff,

vs.

\_\_\_\_\_  
Defendant,

### **PRE-PROSECUTION DIVERSION PROGRAM APPLICATION AGREEMENT**

On the authority of the District Attorney for the Twelfth Judicial District, Lincoln and Otero Counties, State of New Mexico, the Defendant has been certified eligible for participation in the Pre-Prosecution Diversion (PPD) Program. This Pre-Prosecution Diversion Program Agreement, entered into between the State of New Mexico, Office of the District Attorney, Twelfth Judicial District, and the Defendant, represents the understanding that the Defendant will comply.

This agreement extends only to and includes the charges in the above captioned matter which are presently pending against the Defendant, and to no other charges or causes not specifically mentioned herein. This agreement shall not operate as a contract for immunity from prosecution for the charge(s) referred to herein. Further, should the Defendant fail to meet the terms and conditions of this agreement, the agreement shall be void at the option of the District Attorney, without notice or hearing, and prosecution may be instituted.

1. Defendant represents that participation in the Pre-Prosecution Diversion (PPD) Program is voluntary. Defendant is willing to participate in the Program and to submit to all Program requirements.
2. If Defendant's application to the PPD Program is rejected or withdrawn, such rejection or withdrawal may result in the initiation of prosecution for the underlying offense. After rejection or withdrawal, Defendant may not again apply to the Program.
3. If Defendant is terminated from the PPD Program for cause, the Court may issue a warrant for arrest or summons to compel Defendant's appearance before the Court.
4. It is agreed that Defendant meets the eligibility criteria for acceptance into the PPD Program and Defendant's Attorney, having investigated the case and having advised the Defendant of applicable law, believes it to be in Defendant's best interest to enter into this agreement.
5. Defendant represents that he/she has no prior felony conviction or significant criminal record, and has never been unsatisfactorily discharged from probation or any diversion program.

6. Defendant agrees to give a written statement detailing Defendant's participation in and guilt of the crime(s) for which Defendant is charged. Defendant acknowledges that if terminated for failure to complete the PPD Program, this statement may be used against the Defendant in Court. Defendant also understands that if not accepted into the Program, this statement of guilt shall be used against Defendant only for purposes of impeachment. Defendant agrees to provide the Program Director the appropriate waivers required by statute.
7. Defendant shall participate in the PPD Program for a period of not less than twelve (12) months but not more than twenty-four (24) months, the period of time to be determined by the PPD Program Director and Prosecuting Attorney. This time period shall be subject to extension at the discretion of the PPD Program Director and District Attorney, provided that the extension coupled with the original period does not exceed twenty-four (24) months.
8. Defendant must have or attempt to obtain a valid driver's license or photo-identification card. Defendant will show this photo ID to the Program Director upon acceptance.
9. Defendant agrees to be completely law abiding during the term of this agreement. If arrested for any reason on any charge, Defendant shall be terminated.
10. Defendant agrees to keep the PPD Program Director advised of Defendant's current whereabouts throughout the entire PPD Program and will report immediately any change of employment, residence, telephone, marital status, income or financial status, etc. Defendant agrees not to leave the State of New Mexico, Otero County, without prior approval from the PPD Program Director.
11. Defendant agrees to enroll in a GED program if Defendant does not have a high school diploma, GED, or is not attending school; provided that such enrollment does not interfere with Defendant's employment.
12. Defendant agrees to truthfully answer all inquiries and carry out all instructions of the Program Director.
13. Defendant grants permission for the Program Director, or authorized agent of the Program Director, to visit Defendant's home, place of employment, school or other location for the purpose of carrying out adequate supervision.
14. Defendant agrees to make every effort to gain and retain employment. If unemployed, Defendant will cooperate with any effort made to obtain employment for the Defendant. If Defendant loses his or her job for any reason, Defendant shall immediately report this fact to the Program Director.
15. During the term of Defendant's participation in the PPD Program, Defendant shall not consume alcoholic beverages and shall not use any controlled substance unless prescribed by a physician. Defendant shall not own, possess, use, buy, sell, distribute, or have under his/her control: (1) controlled substances, illegal drugs (including marijuana), in any form, without a medical prescription; or (2) firearms or other deadly weapons.

16. Defendant agrees to submit to any psychological, drug/alcohol, Vocational Rehabilitation or any other tests, examinations or evaluations and treatment procedures if so instructed by the Program Director. Defendant agrees that the cost of such examinations, evaluations, and any resulting treatment procedures or counseling shall be Defendant's Responsibility. Defendant shall provide written verification of any and all such tests, Examinations, evaluations, treatment procedures, and/or counseling. Written verification shall be submitted along with Defendant's Monthly Reports the first week of each month. Defendant shall voluntarily submit to urinalysis testing, at his/her own expense, at the discretion of the Program Director or authorized representative of the Program Director.
17. Defendant shall report to the PPD Program Director at the Office of the District Attorney in person once each month, or as otherwise instructed, during the probationary term. Defendant agrees that any failure to appear for appointments with the Program Director will be sufficient grounds for termination from the PPD Program.
18. Defendant shall pay costs related to participation in the PPD Program in an amount of **\$85 per month** for 12 months. Payment is due at each monthly visit unless specified by PPD Program Director. **Monthly costs will not be waived** except under special conditions in which the PPD Director and the District Attorney deems necessary to waive. Said costs are only to be accepted in the form of **money orders or cashier's checks (personal checks and cash will not be accepted)**, made payable to the DA's Office.
19. Defendant shall, if applicable, pay restitution to the victim(s) for any damages or losses resulting from any criminal act in which Defendant participated as a principal, accessory or co-conspirator. Defendant must pay approximately one-half of the amount of restitution before being accepted into the PPD Program. The balance of the restitution is to be paid in monthly installments. The Program Director and the District Attorney must approve any exception or waiver of this term.
20. Defendant will be required to reimburse the county for any costs of extradition incurred.
21. Defendant shall perform 80 – 120 hours of community service work and shall provide written documentation of the work performed. Participants **must complete the community service within the first six (6) months of their program**. Hours will be *increased* for those who do not comply with the deadline. The number of community service hours is assigned by the Program Director.
22. Defendant shall at all times conduct himself/herself in an honorable manner as a law abiding member of the community and shall not endanger, in any way, the person, property, rights, dignity, or morals of others or himself/herself.
23. Defendant shall comply with all Municipal, County, State, and Federal laws, ordinances, or orders. Defendant agrees that being charged with any subsequent offense will constitute sufficient grounds for termination from the PDP Program.
24. Defendant shall promptly reply to any communication from the Program Director or the District Attorney's Office.
25. Defendant shall submit written reports each and every month during the Defendant's period of supervision. Defendant shall submit written reports in accordance with instructions from the Program Director. Defendant shall be responsible for the truthfulness of these reports and understands that any false report submitted by the Defendant, written or oral, to any official of the Office of the District Attorney will be

grounds for an unsatisfactory termination of the Defendant's Diversion status and a revival of criminal charges.

26. Defendant shall voluntarily submit to warrantless searches of his/her person, property, residence, and/or automobile at the discretion of the Program Director or authorized agent of the Program Director.
27. Defendant shall not communicate either directly or through any other person, with inmates of any prison, jail, reformatory, or other correctional institution, or visit such person unless Defendant has permission of the PPD Program Director.
28. Defendant will not associate with any person having a criminal record or who is otherwise of bad repute. Defendant will not associate with any person with whom the Program Director forbids association.
29. Defendant will support all dependants and assume toward them all moral and legal obligations.
30. Defendant agrees that the Program Director and the District Attorney's Office may, during the period of supervision, terminate, extend, or modify the terms and conditions of probation. Defendant agrees to abide by any additional agreement. A modification or waiver of any of the provisions herein shall be effective only if made in writing and executed with the same formality of this agreement. The failure to insist upon performance of any of the provisions of this agreement shall not be a waiver of any subsequent default of the same nature.
31. Defendant agrees that termination of this probationary status may occur if it is determined a prior criminal record exists which was not disclosed by the Defendant as required on the PPD Application.
32. Defendant swears that he/she has never been on probation where it was revoked or received an unsatisfactory discharge. Further Defendant swears that he/she has not been admitted to a program similar to Pre-Prosecution Diversion within the past 10 years.
33. If it is discovered that Defendant provided false information or omitted information on any documents relating to Defendant's application to the PPD Program, this will constitute sufficient grounds for rejection from the PPD Program. If it is discovered that Defendant provided false information or omitted information on any subsequent document after being accepted into the PPD Program, this will constitute sufficient grounds for termination from the PPD Program.
34. Defendant agrees that any violation or unsatisfactory performance of any of the terms, conditions, or requirements of this agreement will constitute sufficient grounds for termination from the PPD Program. Defendant agrees that this agreement may be terminated if the Defendant is not benefiting from the PPD Program. This determination will be decided by the Program Director and District Attorney.
35. This agreement between the Defendant and the District Attorney's Office for the Twelfth Judicial District represents the complete understanding between the parties. There are no representations, warranties, covenants, or undertakings other than those expressly set forth herein. This agreement shall be governed, construed and enforced in accordance with the laws of the State of New Mexico. If at any time, it is determined that

a portion of this agreement is invalid, the remainder shall not be affected thereby and shall continue in full force and effect.

36. The District Attorney shall appoint a Program Director for the Pre-Prosecution Diversion Program.

37. The Defendant may be required to undergo a psychological evaluation, at Defendant's expense, as part of the application procedure. Defendant shall disclose said evaluation to the Program Director for consideration prior to acceptance to or rejection from the Pre-Prosecution Diversion Program. Said evaluation is subject to the approval of the District Attorney and Program Director.

38. The District Attorney's decision to terminate a participant from the Pre-Prosecution Diversion program shall be final. This agreement may be reviewed by a Court of competent jurisdiction in accordance with the case of State v. Trammel, 100 N.M. 543, P.2d 827 (Ct. App. 1983) to ensure that this agreement has been upheld by both parties and that the statutory authority of the District Attorney has not been violated.

39. The defendant shall be required to testify truthfully and freely if called as a witness by the State regarding any and all matters related to being placed into PPD to include testifying against any and all parties involved.

40. Defendant shall voluntarily submit to any and all interviews required by the State if called upon as a witness regarding any and all matters related to being placed into PPD.

I, \_\_\_\_\_, the undersigned applicant, understand, agree and take the personal responsibility to comply with the terms and conditions of the Pre-Prosecution Diversion Program (PPD), by any changes therein, and by the specific conditions of supervision imposed by the Program Director.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
DATE

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

NOTARY: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

REVIEWED/ACCEPTED BY:

\_\_\_\_\_  
Defense Attorney

\_\_\_\_\_  
DATE

**ACKNOWLEDGEMENT OF APPLICATION REQUIREMENTS:**

I hereby certify that the information contained in this application is true and correct to the best of my knowledge. I understand that any omission or falsification of information may be grounds for rejection of my application to the Pre-Prosecution Diversion Program. I agree to the conditions and requirements of the PPD program.

\_\_\_\_\_ /\_\_\_\_\_/\_\_\_\_\_  
Applicant's Signature Date

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
Notary Public

\_\_\_\_\_ /\_\_\_\_\_/\_\_\_\_\_  
Defense Attorney's Signature Date