

DANE COUNTY COMMUNITY RESTORATIVE COURT
MEMORANDUM OF UNDERSTANDING
Effective Date: 3/1/2018

This Memorandum of Understanding (MOU) is entered into between the Dane County District Attorney's Office (DA), the Dane County Department of Human Services (DCDHS), the undersigned police departments, and undersigned city attorneys for the purposes of forming a collaborative between agencies for participation in the Dane County Community Restorative Court (CRC) program. The goal for this developing program is to cover the entirety of Dane County, open to eligible individuals beyond the initial geographic areas, continuing to expand into additional jurisdictions throughout the county.

1. Purpose: The purpose of the MOU is to establish procedures that will be followed by the parties to identify participants for the CRC operated by DCDHS. The CRC is a program to address misdemeanor and ordinance violations for youthful offenders ages 17-25 in a restorative justice model as an alternative to the formal criminal justice system, ideally prior to a formal charging decision. The goals of the CRC, as laid out in the CRC Program Overview, are to: provide victims with a voice in the restorative process while holding the respondent accountable for his or her actions; promote community-driven solutions to crime and repair the harm done to the extent possible; reduce the burden on the criminal and municipal courts through efficient case resolution; reduce discriminatory barriers and future recidivism; and reduce crime and racial disparity in the criminal justice process.
2. Authority: Each party enters into this MOU based on the powers and discretion inherent in each office to determine the operations of the office. Parties retain all powers and authority granted them by applicable laws and governing bodies.
3. CRC Coordinator/Operation: DCDHS will employ a CRC Coordinator who will be responsible for facilitating the CRC process. The CRC Coordinator is skilled and trained in community based, restorative justice principles. The CRC Coordinator will be available to assist participants referred to the CRC (e.g. respondents) who otherwise would be charged with a misdemeanor crime or an ordinance violation. The CRC Coordinator will also provide assistance to victims where necessary and applicable.

Data will be collected on a continual basis regarding participants and outcomes to evaluate the effectiveness of the CRC and impact on the community.

4. Renewal: The parties agree to engage in this ongoing CRC program from the date of this MOU. The program will automatically renew with the undersigned parties on an annual basis. A program partner may end its participation as provided herein.
5. Withdrawal: Any party to this MOU may decide, at any time and by providing written notice to the other parties, that they will no longer participate in the CRC program. Any cases currently

active with the CRC related to the specific partner agency at the time of withdrawal will remain with the CRC through respondent's completion or termination from the program.

6. **Adding Additional Jurisdictions/Program Partners:** Additional jurisdictions and law enforcement agencies may join this agreement at any time without having to re-execute this document or seeking permission of the other CRC partners. Addendums with appropriate signature lines are self-executing and automatically incorporate the applicable agency or jurisdiction into this agreement as a program partner. Additional agencies and jurisdictions that join the CRC program as partners are also invited to designate an individual to be present at the regularly scheduled advisory board meetings.

7. **Law Enforcement Referral Process:** When a law enforcement officer investigating a case determines that probable cause exists for a misdemeanor arrest or an ordinance citation and an arrest or citation is going to occur, the officer (giving consideration to the crime victim) may serve young adults within program parameters with a misdemeanor or ordinance citation directing them to the CRC. In instances where it is not possible or practical for a misdemeanor or ordinance citation to be issued, officers may still refer young adults directly to the CRC Coordinator or direct the matter to applicable command staff for referral consideration. Partner law enforcement agencies are responsible for developing a review process with the assistance of the CRC Coordinator for determining eligible respondents and cases related to misdemeanor and ordinance offenses. Partner agency arrests may also be regularly reviewed by the CRC Coordinator and law enforcement agency designee to determine additional possible eligible respondents not initially referred or considered. Qualifying respondents who are eligible and accept responsibility for their actions may be offered the opportunity to participate in the CRC and appear before a group made up of community members/peacemakers. Some eligible respondents may not receive an offer to participate in the CRC due to capacity issues.

Partner law enforcement agencies reserve the right to refer cases to the DA's office for a formal charging decision at a later date should the participant fail to successfully complete the CRC program.

8. **Exclusions:** Criminal traffic violations and misdemeanor crimes against vulnerable adults or resulting from domestic violence, child abuse, child neglect, and sexual assault offenses will not be considered for referral to the CRC by investigating officers. Violent or assaultive physical resisting a police officer cases can be reviewed on a case-by-case basis within the Law Enforcement Agency for interested officers to determine whether the CRC would best serve all parties including the community. However, the DA's Office, after review of the case, and in consultation with the crime victim may deem referral to the CRC appropriate at a later date.

9. DA's Office Referral & Review Process: The DA's Office may elect to refer persons to the CRC prior to charging for any offense (misdemeanor or felony) it believes to be suitable for the CRC. The DA's Office retains the right to review any misdemeanor respondent referrals at its discretion and find a respondent ineligible for the CRC on those misdemeanor offenses.
10. CRC Referral Review: The Dane County Department of Human Services, through the CRC Coordinator, will assess referrals on a case-by-case basis in consideration of crime victims and reserves the option to decline a referral if it is outside of the eligibility parameters of the Community Restorative Court. The CRC Coordinator has the authority to determine appropriateness of referrals and to find respondents or a specific case ineligible for the CRC and refer them back to originating law enforcement agency for disposition. The CRC Coordinator is also able to decline a referral to the CRC due to capacity issues.
11. Policies and Procedures: This MOU establishes the policies and procedures adopted by Dane County as part of the Dane County Community Restorative Court to supplement the existing CRC program policies and procedures documents.
12. Expectations and Understandings:
 - a. Case Review, Selection, and Referral: In order to achieve the goals of the CRC, it is integral that every partner is dedicated to identifying possible candidates for referral. Each partner agency is expected to be regularly reviewing and referring applicable cases to the CRC.
 - b. Communication and Collaboration: Law enforcement partners and the District Attorney's Office are expected to provide police case detail report, police reports, summary reports, and any other relevant information regarding the incident and the respondent, in a timely manner, to the CRC to aid in the initial assessment of respondent for appropriateness for the CRC process. The CRC Coordinator is to provide respondent identification information and process data to the DA's Office. The CRC Coordinator is expected to communicate with law enforcement and the DA's Office (for misdemeanor cases) regarding respondents who do not successfully complete their repair harm agreements or choose to opt out of the CRC program. The CRC Coordinator shall provide completion data and a copy of the standard reporting form regarding the agreement to the appropriate agency for those respondents who successfully complete their repair harm agreements.
 - c. Confidentiality: Maintaining confidentiality regarding the contents of any meetings or statements made in the restorative circles and conferences is paramount to the integrity of the program. This applies to all parties involved and will by necessity limit the amount and type of information that may be shared about a particular person's participation in the process. Therefore, the parties agree that CRC staff, facilitators, and volunteers may not be subpoenaed to provide information about the details of particular meetings or statements made by individuals. Statements made by a respondent during a circle or

conference are deemed inadmissible by prosecuting agencies in any further criminal action that results from a respondent's non-completion or termination from the program in the referred matter. An exception exists for communications that trigger mandatory reporter standards or threats of harm or future crimes.

- d. Voluntary Participation: Participation in the CRC program is strictly voluntary for both victims and respondents, and either party can end their participation at any time. Respondents who either choose to withdraw from the process or are found inappropriate by the CRC Coordinator are referred back to the originating agency and returned to their previous position in the traditional criminal justice system, retaining the original misdemeanor or ordinance violation status. Respondents who choose to withdraw from the CRC program do not forfeit any of their due process rights.
13. Counterpart: This MOU may be executed in counterparts, each of which when executed by the parties will be deemed to be a complete original of the MOU. An electronic (PDF) or facsimile copy of the executed MOU or counterpart will have the same legal force and effect as an original document.