

**COUNTY OF DURHAM  
INVOLUNTARY COMMITMENT  
TRANSPORTATION AGREEMENT**

**WHEREAS** Chapter 122C of the North Carolina General Statutes provides extensive guidance and requirements concerning the involuntary commitment process, to include assigning responsibilities for transportation of respondents and setting standards regarding such transports; and,

**WHEREAS**, by Session Law 2018-33, the General Statutes in this area were revised and include certain new obligations, among them a requirement for local governments to adopt written Transportation Agreements providing for the custody and transportation of persons subject to involuntary commitment proceedings; and,

**WHEREAS** Durham County has assembled a working group of relevant stakeholders to review the statutory requirements and prepare the necessary Transportation Agreement; and,

**WHEREAS** the Board of County Commissioners wishes to make clear the policies of Durham County with regard to upholding the dignity of, and minimizing the physical and emotional stress on, persons going through the involuntary commitment process, while still maintaining their safety, as well as that of the persons transporting them, and the public.

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH ORDAIN:**

1. The following plan for the custody and transportation of persons subject to involuntary commitment proceedings

**A. SCOPE OF AGREEMENT**

It is the policy of the County of Durham to transport persons subject to involuntary mental commitments (“Respondents”) in conformity with the requirements set forth in Chapter 122C of the North Carolina General Statutes. This agreement regarding transportation of Respondents applies when law enforcement officers (which term includes Detention Officers) are affecting the transportation instead of friends or family members of the Respondent. Transportation of Respondents which are the responsibility of the County of Durham shall be accomplished by the Sheriff of Durham County.

**B. SERVICE OF INVOLUNTARY COMMITMENT ORDERS ON RESPONDENTS**

The initial service of the Involuntary Commitment Order upon a Respondent and the initial custody of the Respondent shall be accomplished by a law enforcement officer pursuant to N.C.G.S. § 122C-261 (e), except when the Respondent is already present at the 24 hour facility they are being committed to, in which case the facility shall effect service using the procedures set forth in N.C.G.S. § 122C-261 (d)(5).

### **C. PROCEDURES FOR TRANSPORTATION OF RESPONDENTS**

Law enforcement officers transporting Respondents, (hereinafter referred to as “transporting officers”), shall, to the extent feasible, dress in plain clothes, travel in unmarked vehicles, and advise Respondents when either taking them into custody or performing transport, that the Respondent is not under arrest, has not committed a crime, but is being transported to receive treatment for their own safety and that of others. To the extent feasible, when transporting a Respondent, there shall be a driver or attendant who is the same gender as the Respondent, unless a friend or family member of the Respondent is allowed to accompany the Respondent in lieu of an attendant of the same gender as the Respondent. A decision to permit a friend or family member of the Respondent to accompany them shall be in the sole discretion of the transporting officer and upon the execution of an appropriate release approved by the County’s Risk Manager.

In providing transportation pursuant to this policy, transporting officers, may use reasonable force to restrain the Respondent if it appears necessary to protect themselves, the Respondent, or others, based on the circumstances and information known to them. Any use of restraints shall be as reasonably determined by the transporting officer to be necessary under the circumstances for the safety of the Respondent, the transporting officer, and other persons. Notwithstanding the foregoing, every effort to avoid restraint of a child under the age of 10 shall be made by the transporting officer unless the child’s behavior, or other circumstances, dictate that restraint is necessary. Transporting officers should respond to all inquiries from the committing facility concerning the Respondent’s behavior and the use of any restraints related to the custody and transportation of the Respondent, except in circumstances where providing that information is confidential or would otherwise compromise a law enforcement investigation.

All transporting officers transporting Respondents shall be subject to the terms of this agreement. Persons so designated or otherwise required to provide all or parts of the custody and transportation required by involuntary commitment proceedings shall be trained using appropriate lesson plans for interacting with the mentally ill, emotionally disturbed, and other special populations as set forth in N.C.G.S. §122C-202.2(a)(3). Those lesson plans shall assure adequate safety and protections for both the public and the Respondent.

Transporting officers transporting Respondents shall provide the transportation and follow the procedures in this policy and appropriate statutes in Article 5, Chapter 122C of the North Carolina General Statutes.

Any private person accompanying the Respondent shall agree to indemnify and hold harmless the law enforcement agency, as well as the governmental entities involved using a form approved by the Risk Manager before participating in the transportation.

### **D. AMENDMENT OF THIS AGREEMENT**

Should Durham County deem it appropriate to modify this transportation agreement, it will submit the modified agreement to the magistrates in its judicial district, county clerks of court, the LME/MCO that serves the County of Durham, and the Division of Mental Health, Developmental Disabilities and Substance Abuse Services at least 10 days prior to the effective date of the new agreement.

Approved and adopted by the Durham County Board of Commissioners this \_\_\_\_\_ day of September, 2019.

SIGNED: \_\_\_\_\_  
Wendy Jacobs, Chairperson  
Durham County Board of Commissioners

The foregoing is agreed to and will be adhered to by myself, and my Agency, for all transports of persons involved in the involuntary commitment process. I will have all persons performing these duties trained on the provisions of this agreement and receive the training identified pursuant to N.C.G.S. §122C-202.2(a)(3).

This the \_\_\_\_\_ day of September, 2019.

\_\_\_\_\_  
Clarence F. Birkhead  
Sheriff of Durham County