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June 21, 2019

Thomas R. Cahill
Magistrate Supervisor, Region 7

Amanda J. Winchester
Chief Magistrate, District 4

150 St. Paul's Blvd
Norfolk, VA 23510

VIA ELECTRONIC MAIL

RE: Concurrence in the Setting of Unsecured Bonds under Virginia Code § 19.2-123

Dear Mr. Cahill and Ms. Winchester:

Virginia Code § 19.2-123 provides that a person arrested for a felony (1) who has previously been convicted of a felony, (2) is presently on bond for an unrelated arrest, or (3) is on probation or parole may only be released on a secured bond unless that requirement is waived "with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth."

Having considered the aims of Code § 19.2-123 and our Office's decision to cease seeking secured bonds in the Norfolk courts, this letter constitutes the Norfolk Commonwealth Attorney's concurrence in the setting of an unsecured bond by a magistrate for any person arrested on a felony charge returnable to a Norfolk court if (1) there is no presumption against release on bail under Code § 19.2-120 and (2) a magistrate determines, based on the facts and circumstances of the case, that the secured-bond requirement applies but should be waived.

Under these circumstances, it will no longer be necessary for a magistrate to contact this Office to seek our concurrence for an unsecured bond in an individual case; this letter serves as our

concurrence. The aim of providing this concurrence to you is to remove a logistical step in setting an unsecured bond where the circumstances warrant it. Our concurrence supersedes any secured-bond recommendation by this Office listed on a capias issued prior to the date of this letter.

Our concurrence is not meant to affect your magistrates' statutorily-granted discretion to deny bail or to set whatever bail or bail conditions they feel are appropriate. It is simply meant to afford your magistrates broader authority to exercise that discretion.

Our concurrence does not change our procedures in cases where Code § 19.2-120 creates a presumption against release on bail. In those cases, please continue to contact this Office to request our concurrence on whether the presumption against bail has been rebutted.

We appreciate your Office's diligent service to the citizens of Norfolk and the Commonwealth. Please feel free to share this letter with other magisterial officials as you see fit, and please contact us if we may be of any other assistance.

Very truly yours,

Gregory D. Underwood
Commonwealth's Attorney
City of Norfolk