

Arlington Public Schools' School Board/

Arlington Public Schools (APS)

and

The County Board of Arlington County, Virginia, By Its
Police Department (ACPD)

Memorandum of Understanding

May 16, 2018

MEMORANDUM OF UNDERSTANDING

between

THE ARLINGTON COUNTY PUBLIC SCHOOL BOARD/SCHOOL DIVISION

and

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, BY ITS POLICE DEPARTMENT (ACPD)

May 16, 2018

PREAMBLE

The Arlington Public School Board/School Division (APS) and Arlington County Police Department (ACPD) hereby enter into the School-Law Enforcement Partnership (SLEP) to foster relations of mutual respect and understanding in order to build a positive and safe school environment. The parties agree the vast majority of student misconduct can be best addressed through classroom and in-school strategies. The parties acknowledge that students are generally less mature and responsible than adults; they often lack the maturity, experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them; and they are more susceptible to outside pressures than adults.

All responses to school misconduct should be reasonable, consistent, and fair, with appropriate consideration of mitigating factors and of the nature and severity of the incident. Students may receive redirection and support from in-school and community resources prior to the consideration of suspension, expulsion, involvement of law enforcement, or referral to court, if appropriate.

PURPOSE

The partnership is intended to facilitate effective, timely communication and coordination of efforts for both parties – APS and ACPD. The purpose of this Memorandum of Understanding (MOU) is to establish a mutually beneficial framework that both schools and law enforcement can work within to achieve shared goals.

GOALS

The primary goals of the SLEP are 1) to promote positive and supportive school climates and 2) to create and maintain safe and secure school environments.

To promote positive and supportive school climates, the partnership will collaborate to increase law-related education, expand school safety and crime prevention efforts, reduce conflict, and support effective interventions for students.

To create and maintain safe and secure school environments, the partnership will collaborate to reduce and prevent crime, violence, victimization, and fear in and around schools, and minimize student involvement with the juvenile and criminal justice systems.

EVALUATION OF THE SCHOOL-LAW ENFORCEMENT PARTNERSHIP

Measurable objectives of the SLEP should be developed jointly using school discipline, crime, and violence data, school climate survey data, and other data deemed to be relevant. Progress towards achieving objectives shall be jointly reviewed at least annually by APS and ACPD designees and shared with the public.

ROLES AND RESPONSIBILITIES OF PARTNER ORGANIZATIONS

Police Department's Responsibilities

The ACPD will designate a direct point of contact between the ACPD and the APS. The point of contact will address any operational and administrative issues regarding the School Resource Officer ("SRO") Unit. The point of contact or any SRO may provide guidance to staff on school safety and security issues including assessments and critical

incident response planning when requested and appropriate to their assignment. The designee will maintain a working knowledge of school rules, regulations, and laws regarding student safety and conduct. The designee will establish and maintain effective relationships with school personnel at the division and school levels.

Selection, assignment, scheduling, training, supervision, and evaluation of School Resource Officers (SROs) will be the responsibility of the ACPD. However, each of these actions, to the extent feasible, will take into account the input of school personnel and identified needs and conditions of schools. The SRO shall remain at all times under the control, through the chain of command, of the law enforcement agency.

In developing and implementing law enforcement policies and practices that may affect schools, the ACPD will consult with and take into consideration the views of APS and the school community.

The ACPD will ensure the SRO receives relevant training as determined by ACPD prior to or within 60 days of assignment in a school and ongoing joint training with school administrators. The training should be aligned with the SLEP and Virginia Department of Criminal Services (DCJS) curriculum and in consultation with the APS.

ACPD will assign a full-time SRO to each APS public high school and middle school. SROs assigned to elementary schools may be assigned to more than one school. SROs assigned to more than one school shall coordinate their time based on the demonstrated needs of the school.

ACPD will provide staffing for extracurricular events where security has been requested by APS administrators.

APS Responsibilities

APS will designate a primary division-level point of contact to implement the partnership and to maintain ongoing communications with ACPD officials.

It is the responsibility of school administrators to facilitate effective communication between the SRO and school staff and to support the goals of the partnership. APS will cooperate with ACPD-initiated investigations and actions, with respect to criminal investigations where the criminal activity took place in school, without hindering or interfering with law enforcement duties.

Each school with an assigned SRO will provide a private work area(s) for the SRO that allows access to technologies, private interviewing of several persons, and locking storage space for securing physical evidence.

APS will handle discipline within the school disciplinary process without involving SROs unless requested by a school administrator. APS policies, administrative guidance, training, and ongoing oversight will clearly communicate that school administrators and teachers are responsible for school discipline and that law enforcement is not to be involved with disciplinary action unless requested by a school administrator. APS is responsible for communicating the goals and role of the SRO to all school administration, staff, and students.

APS will notify SROs of any extracurricular school activities requiring police security. It is requested that the SRO receive at least one week notice prior to an event where police security is needed. Staffing levels shall be determined by the size of the event and the amount of security necessary to ensure safety.

As a general practice, unless there is an articulable, clear and imminent threat to safety, requests from school staff for SRO or other law enforcement assistance are to be channeled through a school administrator.

APS will ensure that school administrators with an assigned SRO will receive relevant training prior to or within 90 days of the SRO's assignment in a school and ongoing joint training with SROs. The training should be aligned with the SLEP and DCJS curriculum and in consultation with the ACPD.

APS will provide feedback to the SRO Supervisor for evaluations.

SRO Roles and Responsibilities

SROs will be considered active members of their assigned schools. The SRO facilitates the effective delivery of law enforcement services and assists with matters related to safety, security, and the exchange of information.

As a general practice, unless there is an articulable, clear and imminent threat to safety, requests from school staff for SRO or other law enforcement assistance are to be channeled through a school administrator.

SROs' duty schedules should be organized to provide coverage throughout the school day, which may vary by school. SROs provide a visible deterrent to crime and shall be visible patrolling the exterior and interior grounds. The SRO should wear the regulation uniform and operate a marked police vehicle while on duty unless otherwise authorized by the SRO's supervisor for a specific purpose.

Additionally, SROs should assist school administrators in developing school crisis, emergency management, and response plans.

They will work with administrators in problem-solving to prevent crime and promote safety in the school environment. SROs are expected to collaborate with school administrators and other school personnel to support positive school climates that focus on resolving conflicts, reducing student engagement with the juvenile and criminal justice systems, and diverting youth from courts when possible.

SROs serve multiple roles in schools. The roles are interrelated but all are carried out with the aim to contribute to school safety and security and to promote positive and supportive school climates. Key roles are:

Law enforcement officer

As sworn law enforcement officers, SROs' primary role in schools is as a law enforcement officer. SROs assume primary responsibility for responding to requests for assistance from administrators and coordinating the response of other law enforcement resources to the school. SROs should work with school administrators in problem-solving to prevent crime and promote safety in the school environment. SROs should also collaborate with school personnel to reduce student engagement with the juvenile justice systems and divert students from the courts when possible.

Law-related educator

As resources permit, SROs should strive to assist with presentations for school personnel on law-related topics such as law enforcement practices, changes in relevant laws, crime trends, crime prevention, school safety strategies, and crisis response procedures. SROs may also deliver law-related education with students using lessons/curricula approved in advance by the SRO Supervisor. In all cases, responding to incidents or conducting investigations will take precedence over delivery of presentations.

Informal mentor and role model

Students often seek approval, direction, and guidance from adults in the school setting about various problems. Through formal and informal interaction with students, SROs serve as informal mentors and role models. SROs are expected to communicate clearly to students about acceptable and unacceptable behavior, to set a positive example in handling stressful situations and resolving conflicts, to show respect and consideration of others, and to express high expectations for student behavior. Students who may need additional assistance shall be referred to a school-based resource.

School Administrator Roles and Responsibilities

Consistent with Virginia Standards of Accreditation (2000), Section 8 VAC 20-131-210, "the school administrator is recognized as the instructional leader of the school and is responsible for effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources." (Section A). "The school administrator also ensures that the school division's student code of conduct is enforced and seeks to maintain a safe and secure school environment. "(Section B.2) Additionally, consistent with

Section 8 VAC 20-131-260. C.3., the school administration ensures “a written procedure, in accordance with guidelines established by the local board, for responding to violent, disruptive or illegal activities by students on school property or during a school-sponsored activity.”

School administrators should review the SLEP MOU with SROs and establish school-specific operational and communications procedures to support goals of the SLEP.

OPERATIONAL PROCEDURES

Differentiating Disciplinary Misconduct from Criminal Offenses

School administrators and teachers are responsible for school discipline. SROs are expected to be familiar with the school division code of student conduct, the rules of individual schools, and their application in day-to-day practice. SROs should not be involved with the enforcement of school rules or disciplinary infractions that are not violations of law. However, SROs may remind students of school rules or disciplinary infractions with prior approval from school administrators.

Consequences of student misconduct should be effective, developmentally appropriate, and fair. Interventions and school sanctions should help students learn from their mistakes and address root causes of misconduct. School administrators will consider alternatives to suspensions and law enforcement officials may consider alternatives to referrals to juvenile court services and arrests for student violations of law.

The SLEP shall operate in a manner to ensure children with disabilities receive appropriate behavioral interventions and supports.

Information Sharing

The release of student records is governed by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g. “School officials” may access and disclose student records only as authorized by FERPA.

When appropriate, and to the extent the law allows, APS should notify SROs of any special needs of a student involved in a school-based infraction that is not routine discipline, in order to assist the SRO in recognizing and accommodating behaviors that may be manifestations of the student’s disability.

Consent access. An SRO or other law enforcement officer may have access to a student’s education records with written consent of the student’s parent or of the student if the student is aged 18 or older.

SRO access. For purposes of access to student records, SROs are considered “school officials” and may be provided student information as needed to carry out their duties related to the school environment. SROs may have access to directory information for all students in the school division. SROs may have access to information on students in their assigned schools that include directory information and additional items needed to carry out their duties, such as class schedules, as approved by the school administrator.

Health and Safety Emergency Exception. In the event of a significant and articulable threat to health or safety, school officials may disclose any information from student records to appropriate parties, including law enforcement officials, whose knowledge of the information is needed to protect the health and safety of a student or another individual.

SRO disclosure of law enforcement records. SROs may disclose law enforcement records maintained by ACPD for the purpose of ensuring the physical safety and security of people and property in schools and/or enforcement of laws. Because law enforcement records are not student records, they are not subject to the disclosure restrictions of FERPA.

Investigation and Questioning

Communication and contact between students and SROs can take several forms:

1. **Interactions** that are casual conversations between students and SRO may occur.
2. **Interviews** of students by SROs may occur to determine what, if anything, has occurred and if it is criminal in nature.
 - a. The student will be advised of the reason or nature of the conversation and given an opportunity to present informally his or her knowledge of the facts.
 - b. SROs will strictly adhere to preserving the constitutional rights afforded to all individuals. If the student wishes to remain silent and contact his/her parents, or to contact an attorney, or to end the interview, the questioning should cease and the student's request should be granted unless detaining the student is lawful and reasonable under the circumstances.
 - c. SROs have the authority to question a student who may have information about criminal activity. As sworn law enforcement officers, SROs have authority to stop, question, interview, and take law enforcement action without prior authorization of the school administrator or contacting parents.
 - d. In the event that an SRO must question a student during school hours the principal will be informed that the questioning is occurring and the principal will make every attempt to inform the parent of the student involved. If during the interview it is determined that a criminal incident probably occurred and the individual being interviewed is suspected of committing a crime and is not free to leave, prior to further questioning, the individual will be advised of their constitutional rights.
 - e. The interviewing of students – whether suspects, victims, or witnesses – should be conducted privately in an office setting. SROs will take steps to ensure minimal intrusion into the educational experience of students being questioned in the school setting.
3. **Investigations** where a student is identified as having been involved in a possible criminal incident, SROs will strictly adhere to the rights afforded to all people by the U.S. Constitution, the Constitution of Virginia and all applicable case law.
 - a. SROs will always consider the student's life experience, age, disability, intellect and emotional status prior to questioning.
 - b. The student will be informed generally of the purpose of the investigation and if the person is in custody (not free to leave), he or she will be advised of their constitutional rights in a developmentally appropriate manner, and given an opportunity to present his or her knowledge of the facts.
 - c. If the student wishes to remain silent and contact his/her parents, or to contact an attorney, or to end the interview, the questioning should cease and the student's request should be granted.
 - d. If an investigation and questioning of students must occur during school hours or at school events, it must be limited to situations where the investigation is related to suspected criminal activity.
 - e. Investigations and questioning of students for offenses not related to the operation of or occurring at the school should take place at school only when delay might result in danger to any person, destruction of evidence, or flight from the jurisdiction by the person suspected of a crime.

SROs are responsible to lead the investigation and questioning of students related to suspected violations of criminal law. In accordance with APS Policy 25-1.5, school administrators will make every effort to contact the parent prior to the questioning. SROs shall not be included in questioning students about student code of conduct violations that do

not involve any criminal activity or risk of harm to self or others unless requested by a school administrator. School administrators are responsible for the questioning of students about violations of the code of conduct.

Searches

All searches shall be conducted in accordance with federal and state laws, and applicable APS and ACPD policies and guidelines, including the principles embodied in this Memorandum Of Understanding.

School administrator searches. School officials may conduct searches of student's property and person under their jurisdiction when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. If requested by an administrator, SROs may be present during administrative searches for safety and security. The standard for search by a school official is reasonable suspicion.

If during an administrative search where an SRO is not present and an administrator locates contraband, the SRO should be notified immediately and take possession of the item(s) and take appropriate action.

SRO searches. Any search initiated by SROs or other law enforcement must be in compliance with all federal, state, and local laws in addition to ACPD policy. When required a search warrant will be obtained. All searches should be reasonable in scope. All searches should occur outside the presence of students and school staff with the exception of school administrators, unless there is a clear and immediate threat to physical safety.

SROs shall not become involved in administrative (school-related) searches unless requested by a school administrator, and at no time shall SROs request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

Arrests

Whenever practical, arrests of a student or staff member should be accomplished outside of school hours in order to not disrupt the educational process or school setting. Arrests that must occur during school hours or on school grounds should be coordinated through the school administrator to minimize potential disruption. When circumstances do not allow for prior coordination through the school administrator, arrests will be reported to the school administrator as soon as possible. In addition to any required notification of parents and legal guardians by the SRO taking a student into custody, school administrators or their designees are also responsible to make notification to parents and legal guardians upon a school-based arrest of their child.

Physical Restraint by School Personnel

Physical restraint is a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

Physical restraint by school personnel is used in accordance with Virginia Board of Education policies and guidelines on seclusion and restraint and related local school board policies. Every effort should be made by school personnel to prevent the need for the use of restraint. Physical restraint should not be used except by school personnel trained in the use of physical restraint required by the school division.

School staff will act to de-escalate situations that are, or have the potential to cause, disruptions to the school environment and are violations of the student code of conduct. If physical intervention is necessary, the action should be reported promptly to the school administrator and the rationale for the action must be fully documented.

Physical Intervention by School Resource Officers

An SRO should not be involved in the physical restraint of a student unless there is imminent danger of serious physical harm to self or others. As sworn law enforcement officers, SROs may intervene to de-escalate situations.

Physical intervention by SROs is undertaken in accordance with policies and operational procedures of their local law enforcement agency. If an SRO is involved in the use of restraint or physical intervention, the action must be reported to the school principal and the SRO's Supervisor and the rationale for the action must be fully documented.

SROs should be aware of the Virginia Board of Education's policies and guidelines on seclusion and restraint and related local school board policies and will attend training offered by the local school system on their use of seclusion and restraint by school employees. SROs, however, must continue to operate by their own department's policies and state law regarding physical intervention and use of force. Additionally, the APS and ACPD will coordinate to ensure that reasonable effort is made to inform the parents on the day of the incident.

KEY STATUTORY RESPONSIBILITIES

Crime Reporting

Pursuant to §22.1-279.3:1.B, *Code of Virginia*, law enforcement agencies are required to notify a division superintendent, a principal, or a designee when a student in their school commits certain offenses that would be a felony if committed by an adult and the release status of the student. School superintendents who receive such reports are required to report the information to the principal of the school in which the students is enrolled. As a general practice, SROs should notify the principal as soon as practical of any significant law enforcement events occurring at or in association with the school (e.g., at a school bus stop or off-campus activity, during or outside school hours) whether or not the offense would be a felony if committed by an adult.

Pursuant to §22.1-279.3:1.D, *Code of Virginia*, certain types of criminal activity that come to the attention of the principal or school staff shall be reported immediately to ACPD/SRO as specified in APS policy. No SRO or school administrator shall be required to file delinquency charges. After such notification is made to ACPD/SRO, APS will ascertain the disposition of the incident made by ACPD/SRO in order to complete the School/Law Enforcement Reporting form. Schools and SROs shall be encouraged to deal with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Threat Assessment

Threat assessments shall be conducted in accordance with APS School Board Policy 25-3.11 adopted as required by §22.1-79.4, *Code of Virginia* and consistent with model procedures and guidelines published by the Virginia Department of Criminal Justice Services.

SROs may serve as members of threat assessment teams and assist in monitoring of subject students as well as determining the need, if any, for law enforcement action.

School Safety Audits

School safety audits will be conducted annually as required by law to assess school safety conditions in schools. SROs, in collaboration with school administrators, will conduct school inspection walkthroughs using a prescribed checklist and will collaborate in other school safety audit mandates including school crisis and emergency management and response planning and preparation.

OTHER PROVISIONS

The Parties retain all rights, privileges, immunities, and defenses provided under law and there shall be no joint or several liabilities for any action taken by either of the Parties pursuant to this MOU. Nothing in this MOU shall be construed to create an agency relationship between the Parties.

This agreement is entered into with the intention that the law of the Commonwealth of Virginia shall govern its construction and enforcement.

Notwithstanding any other provision in this agreement to the contrary, nothing in this agreement nor any action taken by the COUNTY or the ACPD pursuant to this agreement shall constitute or be construed as a waiver of the sovereign or governmental immunity of the COUNTY, the ACPD or its officers or employees. Further, notwithstanding any other provision of this agreement to the contrary, the COUNTY and the ACPD shall have no obligation to explicitly or implicitly indemnify or hold harmless APS or any third party from any liability whatsoever.

The parties mutually agree that no provision of this agreement shall create in the public, any student, parent of a student, or in any person or entity other than those signing this agreement as parties hereto, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this agreement or otherwise.

REVIEW OF MOU

This MOU should be reviewed annually and amended as necessary to meet the needs and enhance the partnership of the two signatory organizations. Quarterly meetings should be conducted throughout the year between APS (designee) and ACPD (designee) to support successful implementation of the partnership. This MOU remains in force until such time as either party, with 45 days' notice, withdraws from the agreement by delivering a written notification of such rescission to the other party.

Signed:



ACPD Chief of Police



APS Superintendent of Schools

5.16.2018
Date

5.16.2018
Date

The entirety of this agreement is contained in the language above the signature line.

Appendix A

Graduated Intervention and Responses

In developing the School-Law Enforcement Partnership MOU, the School Division and Law Enforcement Agency are encouraged to develop alternative responses and educational programming for school-based misconduct in order to divert youth from unnecessary involvement with the juvenile justice systems.

School & Law Enforcement Partnership Guide is cited as a source for the APS & ACPD MOU

<https://www.dcjs.virginia>

Examples of graduated response programs used by school divisions and law enforcement agencies in other states can be found in these agreements and MOUs.

Clayton County, Georgia

Inter-Agency Governance Agreement on the Handling of School Offenses Between the Clayton County Public School System and Clayton County Juvenile Court (2013).

[http://www.jdaihelpdesk.org/casemodpolicies/Handling%20of%20School%20Offenses%20MOU%20\(Clayton%20County,%20GA\).pdf](http://www.jdaihelpdesk.org/casemodpolicies/Handling%20of%20School%20Offenses%20MOU%20(Clayton%20County,%20GA).pdf) Hartford, Connecticut

Memorandum of Agreement By and Between Hartford Public Schools and Hartford Police Department (2012).

<https://www.cga.ct.gov/2014/JUDdata/Tmy/2014SB-00054-R000224-Hartford%20Police%20Dept.%20-%20James%20C.%20Rovella-TMY.PDF>

San Francisco, California

Memorandum of Understanding Between the San Francisco Police Department and the San Francisco Unified School District (2014).

<http://www.dignityinschools.org/sites/default/files/SFPD-SRO-MOU.pdf>