

PS/ED COMMITTEE #1
October 5, 2015
Briefing

MEMORANDUM

October 1, 2015

TO: Public Safety Committee
Education Committee

FROM: Essie McGuire, Senior Legislative Analyst *Essie McGuire*
Susan Farag, Legislative Analyst *SF*

SUBJECT: **Briefing – School Resource Officer program**

Today the Public Safety and Education Committees will receive a briefing on the School Resource Officer (SRO) program. The following individuals are expected to participate:

- Assistant Chief Darryl McSwain, Patrol Services, Montgomery County Police Department (MCPD)
- Assistant Chief Luther Reynolds, Management Services, MCPD
- Lieutenant Michael Ward, SRO Program, MCPD
- Brian Acken, Director, Information Management and Technology Division, MCPD
- Robert Hellmuth, Director, School Safety and Security, Montgomery County Public Schools (MCPS)

Background

MCPS implemented a new Code of Conduct in the 2014-2015 school year, replacing the previous student disciplinary policy. The purpose of the new Code of Conduct is to approach student discipline on a continuum that emphasizes keeping students in the classroom whenever possible and uses restorative discipline methods to maintain a safe and positive learning environment for all students. One explicit goal of the new approach is to reduce out-of-school suspensions and narrow the achievement gap. The new Code of Conduct lays out a matrix of possible interventions and responses to various types of behaviors and incidents, with an expectation that the lowest level of intervention should be considered first. The Code also states that principals can work with Associate Superintendents on a case by case basis to determine appropriate interventions if a situation presents exceptional circumstances warranting lower or higher level response.

The most recent school year was the first year of implementing the new Code of Conduct. Over the past year, MCPS and the partner public safety departments and agencies have worked to revise the Memorandum of Understanding for the School Resource Officer program to better reflect the implementation of the new Code of Conduct. A new MOU was signed in June and is attached on circles 1-14. **The purpose of today's briefing is to discuss the new MOU and the interaction with the SRO program.**

Overview of changes

The new MOU reflects the philosophy and approach of the new Code of Conduct, and specifically states that all parties must exercise "discretion and judgment" in responding to school-based incidents. The MOU emphasizes collaboration among the school and public safety partners, states that student misconduct is best addressed through classroom and in-school strategies in the majority of cases, and encourages case by case discretion and consultation to resolve situations.

MCPD provided an overview of the major changes in the new MOU on circles 15-16. Much of the additional language in the MOU adds emphasis, consistent with the Code of Conduct, on maintaining a positive learning environment and on minimizing disruption of law enforcement activities on the learning environment for the individual student and the school community. The new MOU also calls for consultation between SRO, Principal, and MCPS Security Personnel both on a regular basis and surrounding any incident.

The new MOU includes the addition of monthly data review, incident debriefings, and reports from the Office of the State's Attorney.

The area with the most substantive change from the previous MOU relates to critical incident reporting and investigation (circles 7-11). The new Code replaced previously more rigid definitions of incidents and responses with a more nuanced approach to evaluating incidents from the perspective of positive behavior development, and this approach is reflected in the new MOU.

The new MOU adds extensive discussion that seeks to delineate degrees of severity among critical incidents and to encourage use of discretion in approaching incidents. There is also more discussion regarding law enforcement actions. For example, the MOU specifies critical incidents where Police "shall" take the lead in investigating and some where Police "may" take the lead. These sections discuss the need to consider the "totality of circumstances" as well as "the best interest of the student and the welfare of the school community".

The additional critical incident material appears intended to provide guidelines for the parties to use collaboratively to determine the best necessary course of action on a case by case basis. Again, this approach is consistent with the new Code of Conduct which emphasizes a range of options to respond to nearly every situation; it also requires that all parties involved exercise a high level of professional judgment and collaboration. It may be useful to hear more directly from today's participants how this collaborative process is being implemented on a regular basis.

SRO Training: In August the MCPD held its annual training for incoming SROs. The training schedule is attached on circle 18 for Committee members' information. The training included topics such as building relationships with schools and conflict management in addition to more typical public safety issues such as substance abuse and active shooter training.

Implementation Examples: One aspect of SRO training related to the new Code of Conduct during the first school year of implementation used case illustrations to discuss options for how to address particular school based incidents. On circle 17 the participants provided some examples that it may be helpful to discuss with the Committee today regarding how SROs work with the Code and the MOU in practice.

Body Cameras

The Police Department implemented its pilot body camera program this summer. Currently 76 officers, including three SROs, have been assigned cameras. The purpose of the pilot program is to test both technology and policy before expanding the program Department-wide. The Police Department has been meeting regularly with MCPS staff to determine best practices for body camera use within the schools.

With the implementation of the new program, there have been some concerns about privacy rights of those being filmed. The Public Safety Committee was provided a status update on the program on September 28, 2015. At that time, Police Department staff provided an overview of steps it takes to protect a recorded individual's privacy. These measures can occur at any point in the process, from when a domestic violence victim requests that the officer not film them, to internal Departmental protections against unauthorized viewing, to how requests for release under the Maryland Public Information Act (MPIA) are handled. It may be helpful for the Committee to discuss how juvenile records are handled.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
MONTGOMERY COUNTY PUBLIC SCHOOLS
AND
MONTGOMERY COUNTY DEPARTMENT OF POLICE
AND
MONTGOMERY COUNTY SHERIFF'S OFFICE
AND
ROCKVILLE CITY POLICE DEPARTMENT
AND
GAITHERSBURG CITY POLICE DEPARTMENT
AND
TAKOMA PARK POLICE DEPARTMENT
AND
MONTGOMERY COUNTY STATE'S ATTORNEY'S OFFICE**

**School Resource Officer Program &
Other Law Enforcement Responses to School-Based Incidents**

A. MISSION

The above law enforcement agencies, Montgomery County Public Schools (MCPS), and the Montgomery County State's Attorney's Office (SAO) enter into this Memorandum of Understanding for the purpose of establishing and improving the School Resource Officer Program, defining specific duties and responsibilities, and establishing a working protocol for exchanging information and addressing matters of concern cooperatively with the goal of maintaining and enhancing a safe and secure learning environment for students, staff, and the MCPS school community within Montgomery County, Maryland. The parties agree that:

- The vast majority of student misconduct is best addressed through classroom and in-school strategies that maintain a positive learning environment and afford students opportunities to learn from their mistakes, correct any harm that results from their behavior, and restore relationships that are disrupted by their conduct.
- The parties will work together to promote safe, inclusive, and positive learning environments and exercise discretion and judgment in responding to MCPS school-based incidents.

B. DELINEATION OF DUTIES

I. Involved Law Enforcement Agencies Duties and Responsibilities

School Resource Officer:

A **School Resource Officer (SRO)** is a sworn uniformed law enforcement officer trained in emergency preparedness, crisis management, community policing concepts, and

problem solving who is assigned to work as a liaison to MCPS.

Duties:

- The SROs will assist school staff in enhancing safety within their assigned schools and serve as a liaison between his/her agency and MCPS officials for school and police-related concerns and incidents.
- The SROs will assist in calls for service at their assigned schools and incidents occurring around their schools when they are available to respond. The responding SRO and/or the appropriate police department's unit having follow-up responsibility will investigate these calls for service at the direction of the patrol supervisor(s) in a way that, to the greatest extent possible, minimizes disruption to the school day and classroom instruction.
- The SROs will meet regularly with parents, teachers, principals, other school administrators, and students to discuss issues of concern.
- The SROs will act as a resource and assist with emergency preparedness, to include participating in lock-down, shelter in place, and evacuation drills, as well as safety awareness education to the high school population age groups.
- The SROs will serve as a point of contact to deliver law enforcement programs such as crime prevention, conflict resolution and mediation, drug and alcohol awareness, anti-bullying, violence prevention, gang awareness, and community relations and outreach.
- The SROs will maintain contact with beat officers who patrol the area around their schools for the purpose of sharing information and generating discussions pertaining to community concerns.
- The SROs will maintain contact with members of their agency's gang units in order to stay informed regarding current gang trends, share information, coordinate interventions, and support gang investigations.
- When possible, SROs, in coordination with school administrative staff, will provide training and presentations about law enforcement or school-related topics useful for students, staff, school administrators, school security, parents and other law enforcement agency personnel to aid efforts to enhance the safety of the school environment.
- SROs will assist with traffic safety and enforcement activities in and around their assigned school areas.
- When needed, the SROs will coordinate assistance at major school events such as athletic events, large dances, or other activities.

- SROs will coordinate familiarization training (“walkthroughs”), to include review of the schools’ emergency response plan/procedures, for responding officers within their district. These walkthrough trainings will be coordinated with school administration.
- SROs will provide advance notice to and obtain approval from the principal or the principal’s designee prior to conducting any “ride-along” visits on school premises, including with parents or community members. SROs will ensure that visitors respect student privacy and minimize disruption to the school day and classroom instruction.
- SROs will inform the principal or the principal’s designee of their duty schedule on a weekly basis, including, whenever possible, any obligations that require them to leave school premises.
- SROs will not be used to enforce MCPS policies, rules, regulations, and/or procedures.
- The SROs will have no special law enforcement emphasis while performing their duties and responsibilities. While on MCPS property, the SROs have full authority as sworn police officers. All enforcement actions will be taken in accordance with appropriate Federal, State, County and Local laws, and involved law enforcement agency policies and procedures. MCPS and the appropriate school staff will be notified of any actions taken in accordance with normal practice and any appropriate agreements between the involved law enforcement agencies and MCPS.
- SROs will acknowledge the authority of the principal, as the administrator of the school, at all times as to matters within the scope of his/her authority.

SRO Supervisors:

Each involved law enforcement agency will appoint a designated supervisor for its respective SROs. An SRO roster, including supervisor(s), shall be provided to MCPS on an annual basis, preferably before the start of each school calendar year, or as needed if personnel should change. This list should include current contact information; i.e., work cell/office telephone numbers and an e-mail address for each SRO and supervisor.

The Montgomery County Police Department Patrol Services Bureau (PSB) Lieutenant and Sergeant will coordinate training within the SRO Program, attend meetings with MCPS principals and/or administrators, and act as the point of contact for the Montgomery County Police Department (MCPD) and MCPS to assist with resolving any conflicts or matters of concern.

The MCPD PSB Lieutenant and/or PSB Sergeant will be notified by a MCPD officer's supervisor of any incidents involving any use of force on school property, and notify the MCPD PSB Chief.

Principals also should meet on a quarterly basis with their district commander to provide feedback on their SROs.

II. Montgomery County Public Schools (MCPS) – Duties and Responsibilities

MCPS Security Personnel:

A **Security Team Leader (STL)** is assigned to the high school to assist the school administration in maintaining a safe and secure learning atmosphere for staff and students. Major job responsibilities include supervision and leadership of the security team and investigation of incidents on school property. Under supervision of the principal or designee, the STL assists in controlling access to buildings and grounds by unauthorized persons and in assuring that students report to their assigned instructional areas.

Duties of the STL:

- Investigates incidents on school property and prepares a written report for administrative purposes.
- Advises the principal on all school security-related matters.
- Maintains a high profile to discourage disruptive acts.
- Provides surveillance of suspected problem areas.
- Provides day-to-day supervision and leadership of the security assistant(s) and provides guidance and assistance to them in the more difficult situations.
- Assists the administration with staff and student awareness programs.
- Acts as a liaison between the school administration and emergency service agencies.
- Represents the school in criminal cases.
- Assists feeder schools with security problems
- Communicates, under the direction of the principal, with the school SRO about safety issues. Whenever practicable, the STL shall consult with the principal or a principal's designee to determine whether a school-based incident necessitates a call for service to an SRO or other law enforcement officer as dictated by this MOU.

A **Security Assistant (SA)** is assigned to the local school to assist the school administration in maintaining a safe and secure learning environment for the school community. Under the general supervision of the STL, the SA assists in screening visitor access to school facilities, maintains student class attendance and carries out other responsibilities related to school security operations. The SA receives guidance and assistance from the STL on the more difficult or unusual situations.

Duties of the SA:

- Patrols school buildings and grounds to prevent loitering and to ensure compliance with school regulations and local laws.
- Checks parking areas and entrances to school.
- Queries visitors on the school premises and assures that such persons report to the school office or leave the buildings or grounds.
- Reports unusual incidents and observations to the STL or appropriate school or law enforcement personnel in accordance with procedures established by principals.
- Checks hallways, restrooms, cafeterias, and remote areas of the facility.
- Investigates incidents on school property and prepares written reports for administrative purposes.
- Confers with students regarding improper behavior and attempts to obtain voluntary compliance with school standards.
- Reports to the STL or principal/designee regarding building conditions or practices which interfere with maintenance of building security or the welfare and safety of students.

MCPS Principals/Senior Administrators:

The principal is responsible for administering and supervising the total school program, including the safety and security for students and staff and providing educational leadership for the students and staff consistent with the educational goals of the community.

In the event that a student misbehaves, the principal or his/her designee will be the primary source of administrative disciplinary consequences and interventions. The *MCPS Code of Conduct* provides detailed information on administrative disciplinary consequences and interventions and shall guide the school-based responses to particular types of misbehavior.

Whenever possible, the SRO and other law enforcement agencies will work with the principal when responding to school-based incidents involving students, and will work

together with MCPS staff to de-escalate those incidents. Principals or their designees will make every effort to notify the SRO and/or any other law enforcement officer who responds to a school-based incident if any student involved is a student with disabilities, limited English proficiency, or other special needs and therefore may require special treatment and accommodation in addressing the incident at issue.

C. SELECTION PROCESS FOR SROs

SRO positions will be formally announced by involved law enforcement agencies. The selection process will include the submission of a memorandum of interest from officer(s), review of personnel files, and a formal interview that includes the participation of an MCPS high school principal and the MCPS Director of School Safety and Security or his/her designee.

D. TRAINING

Officers who are selected to join the program will be required to attend and successfully complete 40 hours of training provided by MCPD within three months of being selected. Training should be specific to the following areas: role of the SRO, review of the current SRO MOU, SRO's specific agency's policies/procedures involving juvenile arrests/investigations, legal updates, review of the MCPS *Code of Conduct* and applicable security policies, emergency preparedness and responses to critical incidents (criminal, weather, natural disasters), threat assessment training, mediation and conflict resolution, childhood and adolescent development, alcohol/drug awareness, gang awareness, truancy, child abuse and neglect, and county/community-based supports and outreach resources. MCPD and MCPS will work together each year to assess the current level of training and new proposals. MCPS will provide additional specialty training that the parties agree is in the best interest of the SRO program.

SRO Biannual Training During the School Year

On a biannual basis, the SROs, MCPS administrators, and/or MCPS security staff will participate in joint training opportunities on matters that are the subject of this MOU, current trends or issues within the school communities, and other topics of mutual interest.

This training will be conducted by the MCPD PSB Administrative Lieutenant, PSB Administrative Sergeant, MCPS representatives, and involved agencies. Ongoing training on the topics included in the initial 40 hours of training will be conducted as appropriate.

SROs will maintain familiarity with, and be respectful of, the current version of the MCPS *Code of Conduct* and the Montgomery County Board of Education's policies, rules, regulations, and procedures regarding student discipline and other school norms.



E. MEETINGS

Annual Meetings

On an annual basis (preferably the first meeting should be held before the start of the school year), MCPD PSB and participating agency supervisors will meet with MCPS leadership and community stakeholders to discuss current matters of mutual interest, including MOU implementation issues and joint training opportunities.

School-Based Meetings

It is highly recommended that SROs be invited to school administrative and security meetings within their assigned schools, and they should be encouraged to attend.

Monthly Data Review

On a monthly basis, the MCPS Department of School Safety and Security shall consult with the PSB Lieutenant to review data on SRO reports of arrests and other interventions during the prior month. At the earliest opportunity, the parties will address and debrief specific cases of interest with the intent to enhance the quality of the program.

F. SCHOOL ASSIGNMENT CRITERIA

Although these are guidelines, every situation should be considered under the totality of the circumstances. At a minimum, the final decisions should be made between the MCPD Chief of Patrol Services Bureau and a designated senior MCPS administrator. The following criteria should be considered during this decision process: school enrollment, calls for service, anticipated number of after-school events both sponsored by the school and/or parents, and traffic challenges (e.g., urban location and number of egress and ingress options).

G. ON-SITE ACCOMMODATIONS FOR SROs

It is recommended that the SROs be provided a designated space/office with access to a telephone and a computer at their assigned school locations.

H. INFORMATION SHARING AND INVESTIGATIONS

The sharing of appropriate and timely information between the law enforcement agencies and MCPS is critical to the mission of maintaining and enhancing a safe and secure learning environment. Within the context of the SRO Program, the sharing of information will follow the protocols below between the law enforcement agencies and MCPS in accordance with applicable federal, state, and local laws.

1. **Reporting Critical Incidents Involving Students or Others on School Property.**
The parties agree that the offenses set forth in Sections H(1)(a) and H(1)(b), termed "critical incidents," that occur on MCPS property (e.g., school buses, MCPS sponsored

event including extra-curricular activities) shall be reported to the appropriate law enforcement agency by the principal, administrator-in-charge, or designee as soon as practicable so that the agency can determine the appropriate law enforcement response in accordance with the procedures in Section H(2) below. Such notification must be made by direct communication with the SRO, if immediately available, or to the Public Safety Communications Center (911) or 301-279-8000, with the exception of rape and/or sexual assault, which shall be reported directly to the Special Victims Investigations Division of the Montgomery County Police Department (240-773-5400). Voice mail messages to the SRO will not suffice and must be followed with a call to 911.

a. **Critical Incidents Where Police Shall Take the Lead in Investigating.** The appropriate law enforcement agency shall take the lead in investigating the following critical incidents, in accordance with the procedures in Section H(2).

- Death
- Rape and/or sexual assault with another by force or threat of force¹
- Arson (willful and maliciously set fire) or verbal or written threat of arson
- Manufacture or possession of a destructive device (explosive, incendiary, or toxic material combined with a delivery or detonating apparatus or modified to do so)
- Knowingly make false reports about the location or detonation of a destructive device
- Robbery/attempted robbery (taking property of another from his person or in his presence by force, reasonable fear of violence, or intimidation whether the perpetrator is armed or unarmed)
- Hate crime (harassing² a person or damaging property of a person because of his race, color, religious beliefs, sexual orientation,³ or national origin)
- Possession of a firearm, knowingly brought onto or brandished upon school property, or knowingly brandishing or using any other dangerous or deadly weapon, including any device designed or manipulated to shoot any projectile, to cause harm
- Distribution or manufacture of a controlled dangerous substance

¹ Meaning engaging in a sexual act or sexual contact, without consent, by force or threat of force, and/or employing or displaying a dangerous weapon or object reasonably believed to be a weapon (sexual offense in the first, second, or third degree). Note that these sexual offenses, as well as child abuse and neglect more generally, are subject to a separate Memorandum of Understanding as well as other MCPS policies and regulations.

² Harassment is defined as a persistent pattern of conduct intended to alarm or seriously annoy another, without a legal purpose, after receiving reasonable warning or request to stop.

³ Sexual orientation means the identification of an individual as to male or female homosexuality, heterosexuality, bisexuality, or gender-related identity.



- Gang⁴ related incident/crime
- b. **Critical Incidents Where Police May Take the Lead in Investigating Depending on the Circumstances.** After reporting the following critical incidents to the appropriate law enforcement agency, the principal or designee shall consult with the SRO or other law enforcement officers responding to the incident to determine who should take the lead in investigating depending on the totality of the circumstances; provided, however, that the law enforcement agency shall take the lead in investigating, in accordance with the procedures in Section H(2) below, in any case in which: (i) there is evidence that the alleged perpetrator is not a student; and/or (ii) there is a serious and imminent threat to the safety of the school and its community. As circumstances warrant, those on the scene may consult with MCPS staff in the Office of School Support and Improvement (OSSI) and the Department of School Safety and Security, supervisors in the Police Department, the Special Victims Investigations Division, and/or the State's Attorney's office. (If the law enforcement agency does not take the lead in the initial investigation, that determination does not preclude subsequent law enforcement action.)
- Physical attack on another that requires medical attention outside of the school health room
 - Theft (any single incident or series of incidents committed by the same perpetrator where the value of the stolen property is \$500 or more)
 - Possession of a potentially dangerous or deadly weapon on school property that is not knowingly brandished or used to cause harm⁵
 - Possession of, and/or possession with intent to distribute, a controlled dangerous substance (whether or not law enforcement takes the lead in the investigation, MCPS staff shall turn over to the appropriate law enforcement agency any substance that comes into their possession that they suspect to be a controlled substance)
- c. **Releasing Student Information.** Notwithstanding any other provision of this agreement, the parties shall fully comply with the Family Educational Rights and Privacy Act (FERPA) and all other applicable state or federal laws regarding the confidentiality of student information, as well as MCPS Regulation JOA-RA, *Student Records*. Information obtained by school staff may be shared with a law enforcement officer/agency or SAO as long as the information is not derived from

⁴ A formal or informal ongoing organization, association, or group of three or more persons who: (a) have a history of criminal street gang activity; (b) have a common name or common identifying signs, colors, or symbols; and (c) have members or associates who, individually or collectively, engage in or have engaged in a pattern of criminal activity.

⁵ A butter knife is not a dangerous or deadly weapon. *See In re Melanie H.*, 120 Md. App. 158 (1999).

school records.⁶ For example, information received orally from a student may be shared, even if later recorded in a written statement used by school staff for disciplinary purposes. Information from school records can be shared under any one of the following circumstances:

- “Directory information” unless the parent/guardian has asked specifically that such information be kept confidential
- With consent of the parent/guardian or adult student
- In response to a subpoena, including a subpoena from the SAO⁷
- In a specific situation that presents imminent danger to students or members of the community or that requires an immediate need for information in order to avert or diffuse serious threats to the safety or health of a student or other individual

2. Investigation of Critical Incidents Occurring on School Property

MCPS shall immediately notify the appropriate law enforcement agency of all critical incidents as described in both Sections H(1)(a) and H(1)(b) of this agreement. The agency will respond promptly to such incidents or will keep the school staff advised of any delay in the response of officers.

For those critical incidents in which the law enforcement agency is taking the lead in the investigation, MCPS will limit its administrative investigation of the critical incident to ascertaining basic facts and doing what is necessary to stabilize the situation until a law enforcement officer arrives, absent exigent circumstances. For such critical incidents, MCPS will defer taking written statements from students and/or witnesses, thereby permitting the law enforcement agency the opportunity to do so. In addition, MCPS shall consult with the appropriate law enforcement agency to determine whether it is appropriate to notify the school community and the timeline for so doing.

If requested by MCPS for purposes of conducting its own disciplinary processes within the timeframes mandated by state law, the law enforcement agency shall provide copies of written student and witness statements to MCPS within one day of the critical incident, with the approval of the SAO, which shall make the determination after consultation with the law enforcement agency. The law enforcement agency will assist MCPS with its administrative procedures by providing the relevant information requested (including a synopsis of relevant facts) in order that statutory and administrative deadlines may be met and by providing witness statements in any closed investigations and as otherwise authorized by the SAO.

⁶ School records are those records identifiable to an individual student, governed by FERPA.

⁷ Release of documents from a student record requires that the school first make reasonable efforts to notify the parent/guardian or adult student of receipt of the subpoena in advance of complying with the subpoena so the parent/guardian may seek protective action, unless the issuing authority has ordered that the existence or contents of the subpoena not be disclosed.

The principal or his/her designee shall be present during any interview conducted by the law enforcement agency on school property and may interview the individual after the officer has concluded his/her interview. Students should be questioned by the appropriate law enforcement agency, when necessary, in a manner and at a time that is age-appropriate, minimizes disruption to the school day and classroom instruction, and is consistent with all applicable laws and regulations. When questioning of students by law enforcement officers occurs on school property, MCPS staff will strive to promptly contact the student's parent/guardian to inform them of the nature of the incident, unless the investigation involves suspected child abuse or neglect.

In the event that the law enforcement agency has not arrived and school dismissal is about to occur, MCPS will notify the law enforcement agency, and MCPS may conduct an administrative investigation, including taking student and witness statements. The law enforcement agency understands that MCPS does not have the authority to arrest individuals or hold them for the law enforcement agency.

3. Arrests and Other Law Enforcement Actions.

Absent an immediate public safety need to stop an illegal activity, effect an arrest, and/or seize evidence, SROs and other law enforcement officers will collaborate with the principal or his/her designee prior to a law enforcement action to assess the totality of the circumstances and applicable agreements/legal guidelines, and address the matter in a manner that is the best interest of the student and the welfare of the school community. If circumstances do not allow for consultation prior to a law enforcement action, the parties will come together as soon as possible thereafter to address the matter. Every opportunity should be made to debrief especially critical incidents at the appropriate time to identify lessons learned.

Circumstances to consider under the totality of circumstances regarding law enforcement action include:

- Absence or presence of perceived intent
- Whether the matter is solely administrative in nature or involves a criminal nexus⁸
- Input from the SAO on appropriate charges, if any, in instances of ambiguity and/or exceptional circumstances not clearly addressed by the criminal code
- Whether or not the offender was coerced and/or threatened to participate in the inappropriate behavior. (i.e. gang coercion, threat of retaliation, etc.)
- Which least proposed action (physical arrest, paper arrest, citation, suspension, mediation, counseling, etc.) will achieve the desired goal of correcting behavior

⁸ Section 26-101(a) of the Maryland Education Code, which makes it a misdemeanor to "willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of [a school]," requires a disturbance that significantly interferes with school operations; it does not apply to minimal or routine disruption, such as "[a] child who speaks disrespectfully or out of turn, who refuses to sit down or pay attention when told to do so, who gets into an argument with another student, who throws a rolled-up napkin across the room, who comes to class late, or even who violates the local dress code in some way." *In re Jason W.*, 378 Md. 596 (2003).

- while being accountable to all stakeholders within the school community
- Administrative and/or delinquent history of the offender
- The student's age
- Cultural or linguistic factors, as well as any student disability or other special needs, that may provide context to understand student behavior
- Other mitigating circumstances

When an arrest of a student or adult on school premises and/or during the school hours is necessary, it shall be done in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students. In addition, every effort shall be made by school officials to inform the parent or guardians immediately. After an arrest of a student is made on school premises, law enforcement officers shall not engage in further questioning and remove the student from the school premises as soon as practicable, except in circumstances that pose a serious and immediate threat to school safety.

4. Notification of State's Attorney's Office

The MCPS Department of School Safety and Security will make reasonable efforts to notify the SAO when it receives notice that a student has been arrested by the law enforcement agency and charged with one of the offenses listed under Section H(1)(a) above as critical incidents where the police shall take the lead in investigating, in order for the SAO to obtain the information necessary to present the State's case at a detention hearing or other judicial proceeding which generally will be held within the next business day following the student arrest.

When legally permissible, the SAO shall advise MCPS of whether the student was or was not prosecuted for a school-based incident.

6. Serious Incidents in the Community

In addition to the required notification of reportable offenses committed by students in the community, the law enforcement agency will notify MCPS as soon as practicable of any serious incident involving MCPS schools, facilities, students, or staff that the law enforcement agency reasonably believes will impact MCPS operations in order for appropriate measures to be taken by MCPS to address the impact. Examples include:

- Death of a student or staff member
- Child abuse or neglect, including sexual offenses
- Serious or life-threatening injury to a student or staff member
- Hostage-barricade, criminal suspect at large, or hazardous materials incident that may affect students and/or staff
- Gang related incident/crime
- After-hours property damage to an MCPS facility, school, bus, or other vehicle

During normal business hours, the law enforcement agency will provide notice to the MCPS Department of School Safety and Security at 301-279-3066. At all other times, the

law enforcement agency will notify the Electronic Detection Section, the MCPS 24-hour communication center, at 301-279-3232.

I. COLLABORATION, MONITORING, AND REVIEW OF THE SRO PROGRAM

School administrators and officials of the law enforcement agencies are encouraged to periodically meet at the school community level to establish and foster good working relations between the agencies.

In order to monitor specific trends in and around the high school communities, the MCPD Patrol Services Bureau will maintain and share with the other parties to this Agreement disaggregated statistical data through monthly SRO reports and crime analysis.

The SAO will provide MCPD and MCPS with regular summary reports on pending charges and adjudications by the juvenile justice system.

The signatory agencies agree that this MOU and its implementation will be reviewed by the parties annually in order to determine if any inadequacies exist and further agree to revise the MOU as may be appropriate, upon the agreement of the parties, in order to further the safety and welfare of the school community. Furthermore, the signatory agencies will meet annually thereafter to review the provisions contained within this MOU as well as the implementation of it. Amendments, with the agreement of each agency, may be made from time to time, as desirable.

The MCPS Department of School Safety and Security, MCPD PSB, and the appropriate principal will promptly discuss any complaints regarding the actions of any signatory of the agreement within the bounds of collective bargaining agreements and applicable confidentiality laws/procedures if such a conference is necessary to maintain operational efficiency and a professional work environment.

J. NON-DISCRIMINATION AND OTHER GENERAL PROVISIONS

The parties agree that no person shall be subjected to discrimination on the basis of race, color, national origin, religion, age, gender, marital status, socio-economic status, sexual orientation, physical characteristics or disability in the performance of the parties' respective duties, responsibilities, and obligations under this agreement.

Each party is an independent contractor with the others for all purposes. None of the provisions of this Agreement are intended for the benefit of any third party, and no such third party shall have the right to enforce the provisions of this Agreement.

K. DESIRED OUTCOMES

- Enhanced safe and secure learning environments for students, staff, and the school community within Montgomery County, Maryland.
- MCPS and the law enforcement agencies have an effective emergency preparedness plan

County Council

Education and Public Safety Committees

October 5, 2015

Overview of the major changes in the new SRO MOU

- Mandated meeting between school administration and SRO when practical in matters involving safety to seek solutions in the best interest of the child and school community
- Minimizing disruption to the classroom/school day with police functions if safety is not being jeopardized. Investigative arrests that are not time sensitive will not take place in the classroom if there is no exigent need to do so for safety, evidentiary purposes, etc.
- The MCPS Security Director has been added to the SRO selection panel.
- MCPS has agreed to provide SMEs with specialized training to further enhance the overall skill set of SROs in areas such as childhood and adolescent development.
- MCP will continue to provide monthly data on police related activities on school property
- Information on the new sex offense/abuse notification protocols
- Guidelines for assessing each incident under the "totality of circumstances"
- Based on the circumstances of a particular incident, more discretion is being allowed for certain criminal offences to be handled by MCPS as the lead agency
- **H. Information Sharing and Investigations**
 - **A. Critical Incidents Where Police Shall Take the Lead in Investigating**
 - Death
 - Rape/Sexual Assault with force or threat
 - Arson
 - Destructive device
 - False report destructive device
 - Robbery/Attempt Robbery
 - Hate Crime
 - Possession Firearm
 - Distribution/manufacture CDS
 - Gang related incident/crime

- **B. Critical Incidents Where Police May Take the Lead in Investigating depending on Circumstances**
 - Physical attack on another that requires medical attention outside of the school
 - Theft over \$500
 - Possession of a potentially dangerous weapon on school property which is brandished or used to cause harm
 - Possession of, and/or PWID CDS
 - “After reporting the above critical incidents to the appropriate law enforcement agency, the principal or designee shall consult with the SRO or other LE to determine who should take the lead in investigating depending on the totality of the circumstances; provided, however, that the LE agency shall take the lead in investigating, in accordance with the procedures in Section H2 (above), in any case in which: (i) there is evidence that the alleged perpetrator is not a student; and/or (ii) there is a serious and imminent threat to the safety of the school and its community.”

- **Arrests and Other Law Enforcement Actions**
 - **Absent the need to make an immediate arrest, stop illegal activity, or seize evidence, police will collaborate with the principal prior to law enforcement action to assess the totality of the circumstances and applicable guidelines, and address the matter in a manner in best interest of the student/school community.**
 - **Circumstances to consider**
 - Perceived intent
 - Whether matter is administrative in nature or involves criminal nexus
 - Input from SAO
 - Was the offender coerced and/or threatened to participate
 - Least proposed action (arrest, paper arrest, citation, suspension, mediation, counseling, etc.) that will achieve desired goal of correcting behavior
 - History of offender
 - Student’s age
 - Cultural or linguistic factors
 - Other mitigating circumstances

Examples:

1. The investigation of an **assault** which occurred earlier would involve consultation with school officials (huddle) and would take the above factors into account. Other mitigating circumstances may include whether the offender was bullied or psychological issues were present.
2. **Possession of marijuana** (less than 10 grams) is now a civil offense for which a citation is issued. The Montgomery County State's Attorney's Office will not prosecute criminal charges for possession over 10 grams unless it constitutes a Possession with Intent to Distribute (felony), occurs on school grounds, is charged in connection with other crimes, or under special circumstances. Marijuana remains contraband, and an SRO will still seize and submit CDS in accordance with Departmental policy regardless if an individual is charged (civilly or criminally). SROs will consult with MCPS officials to determine the best course of action in situations involving the simple possession of marijuana.
3. SROs will maintain discretion and consult with MCPS officials in reference to situations involving **weapons** when there is no imminent danger and/or intent to harm. For example, a situation involving the possession of a butter knife is not considered a criminal offense unless the butter knife is actually used as a weapon.
4. **School Disturbance** – Within the MOU - "Section 26-101 (a) of the Maryland Education Code, which makes it a misdemeanor to 'willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of a school' requires a disturbance that significantly interferes with school operations, it does not apply to minimal or routine disruption, such as 'a child who speaks disrespectfully or out of turn, who refuses to sit down or pay attention when told to do so, who gets into an argument with another student, who throws a rolled up napkin across the room, who comes to class late, or even who violates the local dress code in some way.'"

SRO TRAINING AUGUST 2015

MONDAY 08/17	TUESDAY 08/18	WEDNESDAY 08/19	THURSDAY 08/20	FRIDAY 08/21
0800-0850 Introduction A/C McSwain	0800 - 1100 Active Shooter Training Wooten HS PSTA Staff	0800 - 1100 Legal Review/Law Updates/Truancy Program SAO	0800 - 0950 CIT Training/De- escalation Practices PO3 Scott Davis and CIT Team	0800 - 0920 Drug and Alcohol Power Point Presentation SRO Jacaruso
0900 - 1100 Radicalization and Recognizing At-Risk Teens Hedieh Mirahmadi				0930 - 1100 Media Services
			1000 - 1100 Child Welfare Services Susanne Shook	
1100 - 1200 Lunch	1100 - 1200 Lunch	1100 - 1200 Lunch	1100 - 1200 Lunch	1100 - 1200 Lunch
1200 - 1300 Building Relationships btw MCPS & SRO Carole Working (QO HS Principal)	1200 - 1600 Active Shooter Training Wooten HS PSTA Staff	1200-1350 Gangs in the County Sgt. Garnes	1200-1400 MCPS General Counsel Block/ Bob Hellmuth	1200 - 1400 Conflict Management Workshop Conflict Resolution Center of Mont. Co.
1300 - 1600 Alcohol Awareness/ Prevention/Enforcement/ PBT Training AIS		1400 - 1600 Social Media Investigations Det. Adam Hart (CATS)	1400 - 1600 Human Trafficking in HS SRO McLain	1400 - 1600

(18)