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Staff Report

Date: October 11, 2016

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Guy A. Swanger, Chief of Police

Prepared by: Russ Norris, Provisional Lieutenant
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925-671-5902

Subject: **Considering adoption of Resolution No. 16-79 accepting funds in the amount of \$986,770.22 from the Mt. Diablo Unified School District for School Resource Officers, and authorizing the City Manager to execute an agreement defining the provision and funding of School Resource Officers.**

Report in Brief

The Concord Police Department has entered into a partnership with the Mt. Diablo Unified School District (MDUSD) to share the cost of three School Resource Officers (SROs). The MDUSD portion for one-half of these officers is \$986,770.22. The funds will be used for the School Resource Officer Program in the City of Concord during the period of July 1, 2016 to June 30, 2019. The approved funds will be administered by the Police Department Field Operations Bureau.

Recommended Action

Adopt Resolution No. 16-79 accepting funds in the amount of \$986,770.22 from the MDUSD for use in the City's School Resource Officer program, and authorizing the City Manager to execute an agreement defining the provision and funding of school resource officers, in substantially the form of Attachment 2 and acceptable to the City Attorney.

Background

The City of Concord for many years had an active School Resource Officer (SRO) program that was fully funded by the City of Concord. Due to economic downturn the program was ended in 2012. In Fiscal Year 2014-15, the MDUSD Board and the Concord City Council decided to restart the SRO program and to partner on the funding by sharing the costs equally. The new program was initiated in 2014.

Analysis

According to the US Department of Justice Office of Community Oriented Policing Services, SROs serve four primary roles - **law enforcer, informal counselor, educator, and emergency manager.**

As a **law enforcer** the school becomes the officer's beat. The SRO assists the school administration in maintaining a safe and secure environment. School administrators benefit from an SRO's training, knowledge and experience in handling situations involving possible weapons violations or in the identification of controlled dangerous substances. An SRO provides a highly visible presence to deter or identify trespassers on campus. In addition, SROs provide a service to the surrounding community by addressing concerns such as loitering, speeding or loud car radios. The students, when going to or from school, often generate these types of community complaints.

SROs are responsible for investigating violations of criminal law and making arrests as appropriate. An SRO's sworn duty to enforce the law does not contradict the need for the SRO to be a positive role model – it in fact supports it. It is essential for an SRO to endorse high moral standards and use good judgment and discretion. Through observation and interaction with an SRO, students learn and understand what a professional police officer does. Further, the partnerships formed between an SRO and school staff allows them to each more effectively respond to crime and disharmony on school campuses.

As an **informal counselor**, SROs perform a role similar to a police officer's role elsewhere in the community. A large portion of an officer's job is to regularly conduct street-level informal counseling. For example, officers may offer guidance to domestic violence victims, mediate disputes between neighbors, or provide direction on neighborhood response to public nuisances. Similarly, through their work to build relationships and reinforce productive behaviors, SROs are often called upon to assist in conflict mediation, connect students with formal counselling services, offer legal guidance, or simply provide life skills advice.

School Resource Officers have contact with a majority of students in their assigned school. As a result, SROs can serve as a resource for teachers as guest **educators**. Classroom presentations by an SRO compliment the school's curriculum, give the SRO an opportunity to interact with students and discuss law-related issues, and provide opportunity for the development of beneficial relationships between the police and the youth of the community. Law-related education offered by SROs is intended to promote responsible citizenship and give students a better understanding of our legal system. An SRO can provide real-life examples of the function of the criminal justice system, and explain the system's impact on quality-of-life, crime, and the fear of crime in our

community. SROs may also provide education on the consequences of unacceptable behavior in school and in the community.

Lastly, SROs are **emergency managers** for critical situations that may impact school campuses and student safety. In the event of an immediate emergency, SROs can provide police presence and protection on school campuses, assist school personnel with school district response to the emergency, and guide other emergency responders such as police and medical aid onto the campus. SROs also proactively manage emergencies through collaboration with school personnel to design and implement comprehensive safety plans and strategies.

Fiscal Impact

The estimated total cost for each SRO is \$657,846.81, or a total of \$1,973,540.44 for all three SRO positions during the period of July 1, 2016 to June 30, 2019, a three year term. This agreement provides an equal (50%/50%) share in cost for the three officers. As such, the MDUSD will pay a total of \$986,770.22 during this three-year term. The sum shall be paid by the MDUSD in 27 separate, monthly installments adjusted to reflect differences in SRO compensation between the years – monthly payments in Fiscal Year (FY) 2016/17 will be \$35,472.24, monthly payments in FY 2017/18 will be \$36,536.40, and monthly payments in FY2018/19 will be \$37,632.50. Installments shall be paid commencing on September 1 of each FY and continuing through May 1 of each FY year during this three-year period.

The City of Concord agrees to pay the remaining amount for these school resource officers in the amount of \$986,770.22.

Public Contact

The agenda has been posted as required by the Brown Act.

Attachments

1. Resolution No. 16-79
2. Agreement between the Mt. Diablo Unified School District and the City of Concord for the provision and funding of School Resource Officers

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

A Resolution Accepting Funds in the amount of \$986,770.22 from the Mt. Diablo Unified School District for use in the City’s School Resource Officer program, and authorizing the City Manager to Execute an Agreement Defining the Provision and Funding of School Resource Officers

Resolution No. 16-79

WHEREAS, the City Manager has recommended the approval of a School Resource Officer Program Funding Agreement Between the Mt. Diablo Unified School District and the City of Concord, Amending the Municipal Budget for Fiscal Year 2016-2017 and Appending the Municipal Budget for Fiscal Years 2017-2018 and 2018-2019, and

WHEREAS, the funding agreement deems necessary an amendment to the Municipal Budget for Fiscal Year 2016-2017 based upon the City Council’s approval for receipt of funds from the Mt. Diablo Unified School District in the amount of \$319,250.13 for the purpose of supporting the Police Department’s School Resource Officer Program; and

WHEREAS, the funding agreement deems necessary the acceptance of \$328,827.63 into the Municipal Budget for Fiscal Year 2017-2018 and the acceptance of \$338,692.46 into the Municipal Budget for Fiscal Year 2018-2019 from the Mt. Diablo Unified School District for the purpose of supporting the Police Department’s School Resource Officer Program; and

WHEREAS, the City Council has directed staff as to any amendments or acceptances to the municipal budget thereto.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES RESOLVE AS FOLLOWS:

Section 1. Approves the recommendations of the City Manager with regard to the amendment to the Municipal Budget for Fiscal Year 2016-2017 accepting funds in the amount of \$319,250.13 and allocating the funds for use in the City’s School Resource Officer Program.

Section 2. Approves the recommendations of the City Manager with regard to acceptance of \$328,827.63 into the Municipal Budget for Fiscal Year 2017-2018 and the acceptance of \$338,692.46

1 into the Municipal Budget for Fiscal Year 2018-2019 from the Mt. Diablo Unified School District,
2 and allocating the funds for use in the City’s School Resource Officer Program.

3 **Section 3.** The City Council does hereby authorize the City Manager to execute an agreement
4 defining the provision and funding of school resource officers, in substantially the form at Attachment
5 2 to the staff report and acceptable to the City Attorney.

6 **Section 4.** This resolution shall become effective immediately upon its passage and adoption.

7 **PASSED AND ADOPTED** by the City Council of the City of Concord on October 11, 2016,
8 by the following vote:

9 **AYES:** Councilmembers

10 **NOES:** Councilmembers

11 **ABSTAIN:** Councilmembers

12 **ABSENT:** Councilmembers

13 **I HEREBY CERTIFY** that the foregoing Resolution No. 16-79 was duly and regularly
14 adopted at a regular meeting of the City Council on October 11, 2016.

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16
17
18 **APPROVED AS TO FORM:**

By _____
Joelle Fockler, MMC
City Clerk

19
20 _____
Suzanne Meyer Brown
21 City Attorney

*AGREEMENT BETWEEN THE MT. DIABLO SCHOOL DISTRICT AND THE
CITY OF CONCORD FOR THE PROVISION AND FUNDING OF
SCHOOL RESOURCE OFFICERS*

This agreement is entered into effective July 1, 2016 (hereinafter “Agreement”), between the **Mt. Diablo Unified School District**, hereinafter referred to as “DISTRICT” and the **City of Concord**, hereinafter referred to as “CITY,” who agree as follows:

1. Terms of Agreement. This agreement shall be effective as of July 1, 2016, and shall remain in effect until June 30, 2019.
2. Goals and Objectives. It is understood and agreed that CITY and DISTRICT share the following goals, intentions , and objectives with regard to the utilization of the School Resource Officers (SROs) who will be funded and provided under the terms of this Agreement:
 - a. To act swiftly and cooperatively with school administration staff and other law enforcement personnel as required and permitted by law when responding to criminal offenses major disruptions at school, such as: disorderly conduct; fighting; trespassing, the possession and/or use of weapons on the DISTRICT campuses to which the SROs are assigned; the illegal sale, use and/or distribution of controlled substances and alcohol; gang activity; and riots;
 - b. To serve as a mentor and role model for students;
 - c. To act as an integral part of the campus Crisis Response Team, and to review and give input regarding the School Safety Plan;
 - d. To report/document crimes that occur on campus and to investigate crimes that occur at school;
 - e. To liaise with other law enforcement officials in the investigations of criminal offenses which occur off-campus but within the surrounding community and;
 - f. To work cooperatively to reduce the incidence of student truancy.
3. Scope of Service. During the term of this agreement, the CITY agrees to employ and provide three SROs as described in Paragraph 5 of this Agreement.

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4. Additional SROs. At the request of the DISTRICT, the CITY may employ and assign SROs in addition to those allocated pursuant to paragraph 3, subject to the written agreement of both parties in the form of an amendment to this Agreement. Such assignments, the duties of SROs so assigned, and compensation of the additional SROs shall be made by mutual agreement during the term of this Agreement.
5. Assignments. The CITY will assign three SROs: one to Concord High School, one to Mt. Diablo High School, and one to Ygnacio Valley High School. Prior to assignment to a particular site, the CITY's Chief of Police or his designee will consult with District staff and receive input on DISTRICT's needs and concerns as reflected in Paragraph 11. Said assignments are not exclusive and one or more of the three SROs provided under this Agreement may be assigned to one or more of DISTRICT's feeder schools within the City of Concord, upon request of the Superintendent of the DISTRICT, subject to agreement by CITY.
6. Selection of SROs. While CITY will confer in good faith with DISTRICT regarding the particular Concord Police Officers assigned to serve as SROs under this Agreement, CITY shall retain ultimate decision-making authority regarding officer selection. The CITY will make reasonable efforts not to reassign any SRO when school is in session. To the extent that DISTRICT is dissatisfied with the performance of one or more of the SROs provided under this Agreement, DISTRICT and CITY shall meet and confer and attempt to resolve the issues presented; however, to the extent DISTRICT's dissatisfaction is not remedied, CITY shall nevertheless have ultimate authority to determine whether or not any SRO provided under this Agreement shall be replaced by a different Concord Police Officer.
7. Employment and Relationship of the Parties. CITY and DISTRICT are and at all times shall be considered entirely independent of one another. Neither party shall be considered as the agent, representative or independent contractor of the other. Likewise, neither party shall be deemed the employee of the other under any federal, state or local law or regulation, including but not limited to laws governing unemployment insurance, workers' compensation, industrial illness or accident coverage, tax withholding, or labor and employment in general. Each SRO is an employee of the CITY and not the DISTRICT, and remains subject to the

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administration, supervision and control of the CITY. The SRO is subject to all personnel policies and practices of the CITY.

8. Payment of Employment Costs. The total estimated cost of three SROs for the duration of this Agreement is \$1,973,540.44. The DISTRICT agrees to pay CITY 50% (\$986,770.22) of the estimated cost (inclusive of salary and benefits) of each SRO provided under this Agreement. Payment will be according to a three-year fiscal year (FY) schedule as follows:

In year one (FY2016/17) of this Agreement, the estimated total cost for each SRO is \$212,833.42 or \$638,500.26 for all three SRO positions. At a 50% estimated cost, DISTRICT shall pay to CITY a total of \$319,250.13 during the first FY term of this Agreement. Said sum shall be paid in 9 separate, equal monthly installments, with each installment in the amount of \$35,472.24. The installments shall be paid to CITY commencing on September 1, 2016 and continuing through May 1, 2017.

In year two (FY2017/18) of this Agreement, the estimated total cost for each SRO is \$219,218.42 or \$657,655.26 for all three SRO positions. The cost increase over year one is due to a contractual cost-of-living pay increase for Concord Police Officers effective July 1, 2017. At a 50% estimated cost, DISTRICT shall pay to CITY a total of \$328,827.63 during the second FY term of this Agreement. Said sum shall be paid in 9 separate, equal monthly installments, with each installment in the amount of \$36,536.40. The installments shall be paid to CITY commencing on September 1, 2017 and continuing through May 1, 2018.

In year three (FY2018/19) of this Agreement, the estimated total cost for each SRO is \$225,794.97 or \$677,384.92 for all three SRO positions. The cost increase over year two is due to a contractual cost-of-living pay increase for Concord Police Officers effective July 1, 2018. At a 50% estimated cost, DISTRICT shall pay to CITY a total of \$338,692.46 during the third FY term of this Agreement. Said sum shall be paid in 9 separate, equal monthly installments, with each installment in the amount of \$37,632.50. The installments shall be paid to CITY commencing on September 1, 2018 and continuing through May 1, 2019.

9. Compensation. The DISTRICT agrees to pay for needed campus SRO equipment, supplies, and workspace as described in paragraph 15.

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10. Employment Practices. The CITY and DISTRICT, by execution of this agreement, certifies that neither party shall discriminate against any person upon the basis of race, color, creed, national origin, age, sex, sexual orientation, disability, marital status, or other legally protected characteristic in its employment practices.

11. Supervision and Control. The CITY, in its sole discretion, shall have the power and authority to hire, assign, discharge and discipline the SRO. DISTRICT staff may participate with CITY staff in review and determination of SRO school placement/assignment as described in Paragraph 6 of this Agreement.
 - a. As an employee of the CITY, each SRO shall follow the Concord Police Department's chain of command, reporting first to the assigned supervisor as prescribed by the CITY.
 - b. In the performance of his/her duties, each SRO shall coordinate and communicate with the principal or the principal's designee of the school/campus to which he/she is assigned.
 - c. The parties will endeavor to follow and implement the attached Mount Diablo Unified School District Guidelines for Working with Law Enforcement Officers and Exchanging Student Information

12. Hours of Work.
 - a. Each SRO provided under this Agreement will ordinarily work on a four day schedule during the work-week, typically Tuesday through Friday. The CITY maintains the right to alter this schedule based on any applicable Memorandum of Understanding ("MOU") between CITY and its employee organizations. Coverage for days on which the regular SRO is not available will be provided by other law enforcement officers of the CITY as directed by the Chief of Police.
 - b. Specific SRO campus workday schedules will be established by agreement of CITY's SRO Supervisor and the Principal, subject to the ultimate authority of CITY's Chief of Police.
 - c. For school vacations, holidays, and other times when school is not in session and/or his/her presence is not required on campus, each SRO will report to the CITY, but, at the discretion of the Chief of Police or

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his designee, shall provide investigation and support of other DISTRICT law enforcement needs.

- d. Each SRO will be assigned to the appropriate school handling programs during summer school, and report to the CITY when summer school is not in session.
13. Absences. In the event one or more of the SROs provided under this Agreement is absent from work when school is in session, the SRO shall notify both his/her CITY supervisor and the Principal (or designee) of the school to which the SRO is assigned. The DISTRICT recognizes that there will be times when an SRO provided under this Agreement is necessarily absent from campus, including but not limited to CITY staffing shortages, emergencies, mandated CITY functions and training. Under such circumstances, and as availability may dictate, SROs at other designated district school sites may be utilized by the CITY to support the absent school site. The DISTRICT also recognizes that the SRO may express his/her right to transfer from the SRO assignment, per existing CITY policy and MOUs any effected exclusive labor representative.
14. Additional Assignments.
- a. For extra-curricular activities closely related to the duties of the SRO, the SRO may flex his/her hours beyond the normal working hours with the authorization of his/her CITY supervisor.
 - b. Should the DISTRICT desire the SRO to attend functions outside of normal school hours that are unique and raise specific public safety concerns, such as dances, sporting events, or other DISTRICT authorized extracurricular activities, CITY's SRO Supervisor may authorize adjusting SRO hours in order to provide coverage and support of such school activities. The DISTRICT retains sole responsibility and authority to determine and fulfill school site security needs.
15. Equipment, Supplies, and Work Space.
- a. Safety Equipment. The CITY agrees to provide CSO safety equipment as prescribed by department policy for each SRO.

Initials: District _____ City _____

- b. Motor Vehicles. The CITY shall provide each SRO with access to a vehicle as prescribed by Concord Police Department policy. If not utilizing a CITY vehicle, SROs may receive mileage reimbursement for utilization of private vehicle as prescribed by Concord Police Department policy.
 - c. Computers. The CITY shall provide each SRO with access to CITY's law enforcement programs and networks as prescribed by Concord Police Department policy. The DISTRICT agrees to provide to each campus SRO access to the district email system and such other computerized systems as are specifically authorized in writing by the designated district office level administrator responsible, but only to the extent necessary to carry out the purposes of this Agreement, and only to the extent privacy or other laws are not compromised.
 - d. Telecommunications. The CITY agrees to supply each SRO with a cellular phone. The DISTRICT agrees to furnish an on campus telephone instrument and dedicated telephone line for business use by each SRO. The DISTRICT agrees to furnish a facsimile machine or make a facsimile machine available on each campus for SRO use.
 - e. Radio Communications. If the DISTRICT operates a radio network for staff or security at the campus to which each SRO is assigned, the DISTRICT agrees to furnish the SRO with a transceiver with that capability.
 - f. Supplies. The DISTRICT agrees to provide each SRO with the usual and customary office supplies and forms required in the performance of their duties. The CITY agrees to supply each SRO with specialized law enforcement/court/department forms.
 - g. Workspace. The DISTRICT agrees to provide each SRO with a private office accessible to the students on campus and equipped with suitable seating, work surface, air conditioning/heating and secure storage. The DISTRICT agrees to provide such workspace that will not infringe upon an SRO/minor's right to confidentiality in law enforcement manners.
16. Student Records.
- a. The DISTRICT shall allow each SRO to inspect and copy any pupil records maintained by the school including yearbooks and student directory information as defined in Education Code 49061.

- b. If information in a student's cumulative or other confidential record is needed in an emergency to protect the health or safety of the student or other individuals, the District shall disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety; the need of the information to meet the emergency situation; and the extent to which time is of the essence.
 - c. If confidential student records information is needed, but no emergency situation exists, the information may be released only upon probable cause and exigent circumstances, the issuance of a court order, or by written authorization of the parent/guardian.
 - d. The CITY and each SRO will comply with policies of the DISTRICT relative to release of student information, except as provided herein.
17. Applicable Laws. The CITY provides the services specified herein in accordance with any and all applicable federal and state statutes, regulations, and directives.
18. Mutual Indemnity.
- a. The DISTRICT shall indemnify, defend and hold harmless the CITY, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions, including payment of reasonable attorney's fees, arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of the DISTRICT, its officers, agents, employees, or anyone directly or indirectly acting on behalf of the DISTRICT, regardless of whether caused in part by a party indemnified hereunder.
 - b. The CITY shall indemnify, defend and hold harmless the DISTRICT, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions, including payment of reasonable attorney's fees, arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of the CITY, its officers, agents, employees, or anyone directly or indirectly acting on behalf of the CITY, regardless of whether caused in part by a party indemnified hereunder.

Initials: District _____ City _____

- c. This mutual indemnification agreement is adopted pursuant to Government Code section 895.4 and in lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code section 895.6.
19. Termination. Absent an economic or other *force majeure* event which prevents one or both of the parties from completing their respective obligations under this Agreement, or unless either party fails to fulfill obligations contained in this Agreement, or unless otherwise mutually agreed upon in writing, neither party may terminate this agreement prior to the cessation of its term on June 30, 2019.
20. Amendments. No modification or amendment to this agreement shall be valid unless it is set forth in writing and is signed by the parties thereto.
21. Entire Agreement. This contract constitutes the entire agreement between the DISTRICT and the CITY regarding the subject matter of this contract. It supersedes all prior or contemporaneous agreements, commitments, representations, writings and discussions between DISTRICT and CITY relating to the subject matter of this Agreement.
22. Insurance. The parties shall each be responsible for procuring whatever insurance they deem necessary under this Agreement, and neither party shall be deemed the insured of the other.
23. Choice of Laws. This Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.
24. Non-Waiver. The waiver by either party of any breach of any term, covenant, or condition contained in the Agreement, or any default in their performance of any obligations under the Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition, or obligation, nor shall any waiver of any incident of breach or default constitute a continuing waiver of same.
25. Enforceability. In the event that any of the provisions or portions of application of any of the provisions of the Agreement are held to be illegal

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or invalid by a court of competent jurisdiction, CITY and DISTRICT shall, to the extent legally permissible, negotiate an equitable adjustment in the provisions of the Agreement with a view toward effecting the purpose of the Agreement. The illegality or invalidity of any of the provisions or portions of application of any of the provisions of the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of application of any of the provisions of the Agreement.

- 26. Successors and Assigns. CITY and DISTRICT respectively bind themselves, their successors, assigns, and legal representatives. Neither party shall assign or transfer any interest in the Agreement without the other party's prior written consent.
- 27. Time. Time is of the essence in each and all provisions of this Agreement.
- 28. Notices. Notices concerning this Agreement shall be deemed to have been served when deposited in the United States Mail, first class postage prepaid, and addressed as follows:

TO DISTRICT:

Mt. Diablo Unified School
District
1936 Carlotta Drive
Concord, CA 94519

TO CITY:

Guy Swanger, Chief of Police
Concord Police Department
1350 Galindo Street
Concord, CA 94520

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written above.

Dated: _____

MT. DIABLO UNIFIED SCHOOL
DISTRICT

By: _____
Dr. Nellie Meyer, Superintendent of
Schools

Initials: District _____ City _____

Dated: _____

CITY OF CONCORD

By: _____
Valerie Barone, City Manager

**Mount Diablo Unified School District
Guidelines for Working with Law Enforcement Officers
and
Exchanging Student Information**

Access to School Grounds

The authority of peace officers extends to all schools in California (Penal Code Section 830). Peace officers do not need permission to enter school grounds, and school officials must not hinder or resist Peace Officers in carrying out their duties on school grounds (Penal Code Section 148).

School Resource Officers have Peace Officer authority as outlined in the Penal Code; wherein, while engaged in the performance of their duties. City of Concord policy requires all Peace Officers to carry department designated identification while on duty. All School Resource Officers are directed by department policy to identify themselves to school administration when entering upon a school campus.

Taking A Minor Into Custody

W & I Code Section 625 gives Peace Officers the power to take a minor into custody under the age of 18 without a warrant if there is reasonable cause to believe such person is a minor described in W & I Code Sections 601 and 602. The fact that the minor is at school does not limit the authority given to the Peace Officer. Notification to parents of the release of a minor to a Peace Officer is required (Education Code Section 48906). School Officials and Peace Officers should work together to insure that appropriate notice is provided.

Search and Seizure Standards

California's "Right to Safe Schools" provision of the state constitution, states: "All students and staff of primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful." In order to balance individual rights with school safety, it's important to understand their relationship with search and seizure laws.

Compulsory education laws compel students to attend school, and the law requires parents to send their children to school. Students have a "constitutional" guarantee to a safe, secure and peaceful school environment. Thus, school officials are bound with the responsibility to create safe school conditions at an environment in which students are not free to leave.

Upon knowledge that a violation of law has occurred or that staff and student safety are at risk, school administrators, teachers, school safety personnel and staff have responsibility to take the most appropriate action necessary to minimize further incidents, stabilize and reassure students, secure the campus and implement protocols that address the particular incident. The U.

Initials: District _____ City _____

S. Constitutional standard for acting on such an incident, is reasonable suspicion. A student's legitimate expectation of privacy (i.e. his/her Fourth Amendment rights) must be weighed against the school's legitimate need to maintain an environment conducive to learning. The reasonableness of the search also depends on whether the action is justified at its inception, and whether the search as actually conducted is reasonably related in scope to the circumstances that justified interference in the first place. A search cannot be based on a mere hunch or rumor.

Any suspicion must be supported by facts (e.g., information or allegations from other students that the suspect has performed or is about to perform an illegal act).

In order for a court to find there was a reasonable suspicion, the searcher is expected to:

- Clearly explain the reasons for his/her suspicion and the facts surrounding the incident;
- Be able to connect the student who was searched to a crime or rule violation;
- Have relied on recent, credible information from personal knowledge or observation and/or other eyewitnesses.

Reasonable suspicion may include previous similar illegal activity in that area, suspicious movements, illicit behavior or prior contacts with the student for similar illegal activities.

In order for a search to be reasonable in scope, the searcher is expected to have:

- Intruded only to an extent that was reasonable under the circumstances to recover the contraband;
- Evaluated the seriousness of the violation when deciding how intensive the search should be;
- Considered the student's age and sex;
- Have searched only those students likely to possess evidence of the crime or rule violation.

Proper Search Protocol:

A school official may form a reasonable suspicion of student wrong-doing on information from law enforcement and then make a search with the help of peace officers. This would be considered a search by a school official and not law enforcement, providing the official made an independent determination that a search was needed to gather evidence of student misconduct in order to protect school safety.

If, for example, school officials have reasonable suspicion that a student has marijuana in his pockets, they have the right to search the student. However, if the student refuses to be searched, rather than risk a violent confrontation, school officials may call a law enforcement officer to conduct the search for them. In conducting the search, the peace officer acts as an agent of the school official rather than it his/her own right, and the search will be upheld.

Initials: District _____ City _____

If though, a school official conducts a search as a law enforcement agent rather than as an independent school official, he/she must abide by the probable cause standard requirements established for searches by law enforcement rather than the reasonable suspicion standards for school officials. The school official would be held to this probable cause standard when as a law enforcement agent, he/she were requested by a peace officer to conduct a search for the *primary purpose* of securing evidence of a criminal violation and/or for making an arrest.

Students on county probation or parole may have special conditions set by the court under which they and their possessions may be searched by law enforcement, and/or probation officers. Educators should know which students are on probation or parole and work closely with the Probation officers performing supervision of their court conditions. If a student on probation/parole is involved in suspected criminal activity, immediate notification and/or coordination should be made by school officials with the campus probation officer so that appropriate action may be taken.

Peace Officer Interviews

54 Cal. Atty. Gen. 96; 34 Cal. Atty. Gen. 93, and 32 Cal. Atty. Gen. 46 state that school officials have no right to prohibit peace officers from interviewing a minor at school or removing a minor from school. The interviewing may take place without the presence of a school official, *except that victims of child abuse may request a school staff member to be present.*

34 Cal. Atty. Gen. 93, 95 state that the peace officer, in contacting a minor while at school, should be able to identify himself/herself and the authority under which he/she is acting. In other words, the officer should be able to articulate what he/she is doing and associate his/her action with his/her duty as a peace officer.

While no California code requires the notification of parents when a peace officer contacts a student while at school, district practice is that the Principal or his/her designee notify the parents that peace officers are present to interview their son/daughter and to be present during the interview unless directed not to do so by the officer.

Student Confidentiality

Federal and state laws protect the privacy of students and their parents. Information may only be shared with individuals authorized to receive the information. Information may be shared with an authorized person when:

- It is in the interest of the student;
- The person giving the information is acting within their job responsibility and the information is related to that job function;
- The person receiving the information is serving within the capacity of his/her job and the information is related to that job function.

Violating a student's right to confidentiality is a violation of the student's civil rights.

Access to Student Records

Family Educational Rights and Privacy Act (FERPA) of 1974, U. S. Congress Public Law 93-380 Section 439, as amended in 1975, states that appropriate persons may access student records if the knowledge of such information is necessary to protect the health or safety of the student or other persons. This Federal law also identifies state and local officials as being individuals to whom disclosure of information may be made when the disclosure is required or permitted.

Student records may, therefore, be provided to Peace Officers on a case by case basis based on the Peace Officer's need for the information. Access to student records by Peace Officers should only be granted with the approval and supervision of a school administrator. Access shall be duly noted on the Access Log.

Information Sharing

No law prevents police – probation – school partnerships, nor do any laws to place police, probation, or school officials in the position of not being able to share information in cases of student safety. As a rule of thumb in determining whether or not to divulge information to a Peace Officer, the school official should ask, "Am I sharing this information in order to carry out my duties?" School officials are required to maintain a safe school environment. If the answer is "yes", then sharing or giving of information is not "divulging" information in the sense prohibited by any statute. The key is the official's "need to know."

Examples of Information That Can Be Shared With Peace Officers:

- Student "A" was in possession of a knife. (Required if it was switchblade, fixed blade, or folding knife with blade of 2 ½ inches or longer.) Directory information (student's name, address, and telephone number) and information relevant to the officer taking or investigating the report may be provided.
- As part of an investigation, the officer is in need of information about student suspects and/or witnesses. Directory information and information relevant to the investigation that is requested by the officer may be shared.
- Student "A" was involved in flashing gang signs during a school assembly. Directory information and information relevant to the student's behavior at school may be shared.
- Student "A" was in a physical fight and seriously injured another student. (Required report in cases of serious physical injury.) Directory information and information relevant to the incident may be shared.

Initials: District _____ City _____

- Student “A” was not expelled for a recent school offense because of due process right(s). (Shared as information that appropriate action was taken and that because of procedural safeguards, expulsion could not be considered.)
- In a case where a student is going to be interviewed as a suspect in a gang beating that occurred over the previous weekend, a peace officer may be interested in other related offenses at school. Incidents relevant to prior gang activity or conflict with others may be shared.
- As a member of the district’s School Attendance Review Board (SARB), peace officers have access to all student information considered a part of the SARB process.
- Relevant information about students involved in child abuse cases. Information about siblings in these cases may also be shared.
- Relevant information about students involved in youth gang investigations or incidents. Information about siblings in these cases may also be shared.

Information That Cannot or Should Not Be Shared:

Any information that is not relevant or related to an ongoing investigation being conducted by peace officers or information that is not related to a safety concern at school should not be shared with officers.

Working With School Resource Officers (SROs) / Deputy Probation Officers (SROs)

School safety has improved through the assistance of School Resource Officers (SROs) and Deputy Probation Officers (DPOs). Care must be taken to respect the partnership that has been developed between the school district and local law enforcement and probation agencies who provide these officers.

It is important that administrators understand the appropriate roles that SROs and DPOs have in the school setting and know how to work cooperatively with them.

The following guidelines should be observed in establishing relationships with both SROs and DPOs:

- Regular communication between the SRO, DPO, and school administration is very important for sharing information, planning, coordination of effort, and to discuss issues and concerns of mutual interest;
- Focused investigations of student violations should be primarily concentrated on by each entity as follows:
- SROs: Criminal Code Violations
- DPOs: Probation (Court) Terms/Conditions

Initials: District _____ City _____

- Violations; Criminal and Welfare & Institutions Code Violations
- School Administration: Education Code and other non-criminal violations
- School administrators should be advised of all such activities prior to the SRO or DPO beginning any formal investigation on campus.
- Regular campus supervision scheduling contacts of juvenile probationers will be determined and coordinated between DPOs and School Administrators.
- Prior to contacting a student as a witness, victim, or suspect (investigation), the SRO and/or DPO should notify a school administrator in order to discuss the student contact and make arrangements for contacting the parent, when practicable. (Note: District practice is that parent is contacted prior to most peace officer investigation contacts with students unless directed otherwise by the officer.)
- In cases of education, criminal, and/or probation violations, neither the SRO, DPO, or School Administrator should take disciplinary actions based on what the other will do. The action of one should not determine the course of action taken by the others. They should act independently and as required by their own job functions.
- When conducting an investigation involving a student as a witness, victim, or suspect, the SRO and/or DPO should interview the student in the privacy of a school office. Interviews in open, public areas should be avoided.
- Unless compelling circumstances exist requiring an immediate response from the SRO and/or DPO, removal of a student from a classroom should only be done with the knowledge and involvement of a school administrator.
- Involvement of the SRO and/or DPO in removing a student from a classroom should occur only if reasonable concerns exist regarding student safety or flight. This guideline would not apply in emergency situations and pre-determined DPO supervision scheduling contacts.
- During times when the SRO and/or DPO are not at the school, dispatch and/or a pre-arranged communication contact plan should be implemented when incidents requiring immediate police and/or probation involvement occur.

Examples of Primary Duties and Responsibilities of SROs and DPOs:

- Increase perceptions of safety among students, staff, and nearby community by providing law enforcement and probation visibility on campus.
- Deter criminal and truancy activity on campus.
- Allow students to know police and probation officers through positive interaction and ways other than through enforcement experiences.
- Provide classroom interaction and presentations on such issues/topics as anger management, gang prevention, drug and weapons laws, function of government and courts, vehicle code, and various public safety and law related matters.

- Assist in coordination of services between the district, police, probation, child protective services, social services, mental and public health, community based resource programs, and other public agency officials in areas of child welfare.
- Interpret the Penal Code, Welfare & Institutions Code, and courts (Juvenile Justice System) process for school officials.
- Assist in campus supervision. Intervene with students as needed, and provide access to preventative and intervention services as appropriate.
- Provide timely assistance in situations requiring police and probation intervention, investigation, and/or supervision in criminal actions, Penal/Welfare & Institutions Code violations, and probation (court) violations.
- Assist school officials in criminal and/or probation search activities.
- Assist in attendance sweeps. Assist with home visits in matters of truancy or child welfare.
- Provide information about students to the School Attendance Review Board (SARB) and IEP sessions as appropriate.
- As appropriate, monitor student behavior contracts issued by SARB and court terms and conditions of probation.
- Promote positive relationships between school and community.
- Promote positive recreational alternatives for students.