

APPENDIX A

ROLE OF THE OFFICE OF THE MIDDLESEX DISTRICT ATTORNEY

In the spirit of enhancing communication between the district attorney, law enforcement, and school officials and to assist the Acton Boxborough Public Schools in providing a safe, secure, violence-free, and nurturing environment for learning and in accordance with the legislative mandates set forth in G.L. c. 12, § 32, c. 71, §§ 37H and 37I/2H, among others, the Middlesex District Attorney, through her designees, agrees to:

- (1) Report to the school any criminal or delinquency complaint that is issued against a defendant or juvenile who is known to be a student of the Acton Boxborough Public Schools
- (2) Consult with the Acton Boxborough Public Schools and the Acton Police Department when fashioning proposed terms and conditions to be imposed upon a known student of the Acton Boxborough Public Schools at both the pre-adjudication and post-adjudication stages of the prosecution
- (3) Report to the school any adjudication of delinquency or conviction, diversion or other significant occurrence that arises from any above criminal or delinquency proceeding;

The Middlesex District Attorney agrees to provide training to the Middlesex District Attorney's Office ("MDAO") staff to inform them of their roles and responsibilities under this agreement. On an on-going basis, the same training will be provided to new staff members.

The MDAO will not disclose a student's personally identifiable information learned during and/or in relation to a G.L. c. 12, § 32 community based justice meeting to a third party other than another juvenile justice system agency and/or as provided by state and federal law.

Marlan T. Ryan
Marlan T. Ryan
Middlesex District Attorney

9/20/18
Date

***Standard Operating Procedures Regarding the
School Resource Officer Program in the Acton Boxborough Regional School District***

Close cooperation and communication between the schools and police and a mutual understanding of and respect for the important role that each plays in connection with our children and youth are essential to the success of the mission of both institutions. Whenever it is necessary for the police to be present on school property, they will conduct themselves according to accepted legal practices, recognizing the responsibility and authority of school officials to manage the school environment, and work with school officials to minimize any impact their actions might have on that environment.

Pursuant to G.L. c. 71, § 37P, the Chief of Police of the Acton Police Department in consultation with the Superintendent of the Acton Boxborough Regional School District has established the following Standard Operating Procedures ("SOP") regarding the community's School Resource Officer ("SRO") Program.

1. SRO Uniform:

When possible, the SRO will wear a regulation patrol uniform, carry all the same equipment they would have on any other law enforcement assignment, and drive a fully equipped patrol vehicle while on school premises. More casual attire (e.g., soft uniform or plain clothes) may be worn, and an unmarked car may be utilized with the permission of the SRO's supervisor when the SRO is participating in school activities that make wearing a uniform impractical. At the secondary schools, the SRO may encounter situations where a uniform can hinder the officer's effectiveness, making the need for plain clothes a necessity.

2. SRO's Duty Hours and Schedule: :

The SRO normally will work 7:00 AM to 3:00 PM Monday through Friday, with Saturday and Sunday off. When at full staffing, the SRO supervisor may adjust the work schedule, including a full time SRO evening shift, in order to accommodate school activities and requests. The supervisor may approve overtime pay in advance when schedule adjustments are not practical.

The SRO shall report to his/her supervisor as required at the beginning of his/her shift unless other arrangements are made in advance with the supervisor. The SRO is expected to provide contact information for school officials and his/her supervisor regarding his/her whereabouts when off campus.

When school is not in session (i.e., holidays, summer vacation), the SRO will report to his/her supervisor for any special assignments.

3. Chain of Command for SRO and Collaboration with School:

The SRO will be supervised and collaborate with school personnel as outlined in the Memorandum of Understanding Between Acton Boxborough Public Schools and the Acton

Police Department Regarding the School Resource Officer Program ("SRO MOU") §§ IV.B. & VI.

4. Information Sharing:

Information shared between the SRO, police department, schools, and parent(s)/guardian(s) will be done in accordance with the SRO MOU § V as well as state and federal law.

5. Students' Legal Rights:

(a) Searching Students:

- i. All searches and seizure by the SRO and School Administrators must comply with the 4th Amendment of the United States Constitution and Article 14 of the Massachusetts Declaration of Rights.
- ii. In order for the police to conduct a warrantless search of a student's person, possessions, or locker, both probable cause and exigent circumstances must exist to justify the search. At the time of the search, the SRO must establish that there is probable cause to believe that evidence of a crime is or will be in a particular location and the circumstances must be so exigent, urgent, and unforeseeable that obtaining a warrant is impracticable.
- iii. The SRO shall inform the School Administrators before conducting a warrantless search of a student or their belongings where practicable.
- iv. In order for a School Administrator to conduct a warrantless search of a student's person, possessions, or locker on school grounds, the School Administrator must have reasonable grounds to suspect the search will turn up evidence that the student has violated or is violating the law or school rules.
- v. The SRO shall not ask School Administrators to search students or their belongings for law enforcement purposes nor shall School Administrators act as an agent of the SRO.
- vi. Absent a real and immediate threat to a student, teacher, or public safety, the SRO shall not be present or participate in a search conducted by School Administrators.

(b) Interviewing Students:

- i. The SRO Program strives to provide students with positive role models, to develop collaborative relationships between the school community (including students) and law enforcement, and to identify and provide preventive help and services to at-risk students and families. In carrying out these responsibilities, SROs necessarily will – and should – interact and communicate with students for non-law enforcement purposes.
- ii. When a SRO and/or police officer wishes to detain or question a student on school property *for law enforcement purposes*, the following shall occur unless exigent

circumstances exist or such notification would potentially jeopardize student, school staff, or officer safety:

- a) The officer shall contact the Designated School Liaison or his/her designee first and, to the degree possible, explain the nature of the police business and the need to meet with the student in question.
- b) The Designated School Liaison or his/her designee shall notify the student's parent/guardian prior to the questioning.
- c) The student shall not be publicly contacted by the officer in the school setting.
- d) The Designated School Liaison or his/her designee may be present during the student interview or questioning at the discretion of the police upon consideration of voluntariness and privacy issues.
- e) After due consideration of the nature of the questioning, the individual circumstances of the student, and state and federal law, the officer shall:
 - 1) Determine whether a juvenile under the age of fourteen is required to have a parent or interested adult present to participate in the juvenile's decision to waive rights and, if so required, arrange for such.
 - 2) Determine whether a juvenile who has attained the age of fourteen is required to be provided with a "genuine opportunity" to meaningfully consult with an interested adult regarding a decision to waive rights and, if so required, arrange for such.

6. Use of Police Force

The Acton Police Department places the highest value on the sanctity of life, safety of its officers, protection of the public, and respecting individual dignity. Because of their law enforcement and peacekeeping role, a SRO will be required at times to use reasonable physical force to enable them to fully carry out their responsibilities. The degree of force used is dependent upon the facts surrounding the situation the officer encounters.

It is the policy of the Acton Police Department that the SRO use only the force that is reasonably necessary to accomplish lawful objectives such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and/or others.

7. Arrest, Citation, Court Referral on School Property:

In accordance with the SRO MOU, SROs shall not serve as school disciplinarians, as enforcers of school regulations, or in place of licensed school mental health professionals. SROs also shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior except, as asked or needed, to support school staff in maintaining a safe school environment.

The manner in which each incident is handled by the SRO, the Principal or his/her designee, and/or the criminal justice system is dependent upon the many factors unique to each student, including, but not limited to, present circumstances, behavioral history, disciplinary record, academic record, general demeanor and disposition toward others, disability or special education status, and mental health history.

(a) "Delinquent child"/Juvenile Court Jurisdiction (G.L. c. 119, § 52 *as amended*):

- i. A child under the age of 12 years old cannot be charged with a crime.
- ii. Delinquency proceeding can be initiated against a child between the ages of 12 and 18 years old who commits an offense against the laws of the Commonwealth except as provided below in § 7(a)(iii).
- iii. Delinquency proceedings cannot be initiated for the following offenses:
 - a) Civil infractions
 - b) A violation of a municipal ordinance or town by-law
 - c) A *first offense* of a misdemeanor for which the punishment is a fine and/or imprisonment for not more than six months (e.g., shoplifting, threats)
 - d) Disturbing an assembly (G.L. c. 272, § 40 *as amended*) if committed by an elementary or secondary student within school buildings, on school grounds, or in the course of school-related events
 - e) Disorderly person or disturbing the peace (G.L. c. 272, § 53 *as amended*) if committed by an elementary or secondary student within school buildings, on school grounds, or in the course of school-related events

(b) Summons/Court Referral:

If the SRO determines that a delinquency or criminal complaint needs to be filed with the Juvenile or District Court, a summons, rather than an arrest is the preferred method of bringing the student to court. Prior to filing the complaint, the complaint must be reviewed by the SRO's supervisor to ensure that a Diversion Program would not be appropriate.

(c) Arrest:

Offenses that constitute serious or violent felonies if committed by an adult generally, but not always, result in an arrest in accordance with state law and the existence of probable cause. The following are example of serious/violent offenses where an arrest should be contemplated:

- Felony assault with intent to cause serious bodily injury or death

- Robbery involving force
- Sale of controlled substance
- Burglary
- Sexual assault (after consultation with the District Attorney's Office)

As a general rule, the police (generally a SRO) should avoid making arrests on school grounds when the arrest may be made effectively elsewhere. Whenever possible, the police shall work with the Designated School Liaison to make the appropriate arrangements for taking a student into custody off of the school grounds.

On occasion, an arrest of a student must be made during school hours on school grounds or at school sanctioned activities. For example, when a student poses a real and immediate threat to public safety, poses a risk of flight, or could not practicably be served with a warrant or complaint at another location. When this is necessary, best efforts will be made to notify the SRO to respond if not already at the scene. In the event an SRO is unavailable, another police officer will go to the scene to consult with Designated School Liaison and take appropriate action.

Students shall not be removed from school property or school sanctioned events without the police making notification to the Designated School Liaison or his/her designee, unless exigent circumstances exist.

The police shall notify the Designated School Liaison or his/her designee *before* arresting a student(s) on school grounds during school hours or school sanctioned activities on or off school grounds unless exigent circumstances exist or such notification would potentially jeopardize the ability of officers to safely and effectively make the arrest. Whenever possible, parents will be notified by the Designated School Liaison if a student is arrested on school grounds.

Working with Designated School Liaison, the police will arrange for the least disruptive way to take the student into custody.

8. Diversion Protocols:

Diversion Programs offer an alternative to formal prosecution. These programs seek to treat at-risk students, not as criminals, but as children and youth in need of aid, encouragement, and guidance. The goal of such programming is to address the root causes of the student's offense and to work with the student to make better choices while minimizing any life-altering negative consequences (i.e., keeping them out of the criminal justice system and preventing the creation of a criminal record).

Evaluation for referral to a Diversion Program and, if accepted, the development of a remedial plan involves a consideration of multiple factors, including:

1. Factual review and determination of whether the offense is program eligible:

- a. Eligible offenses could include, but are not limited to, any misdemeanor, any felony that if committed by an adult could be prosecuted in the District Court, and any case involving a victim only if the victim consents.
 - b. Ineligible offenses could include, but are not limited to, minimum mandatory offenses, terroristic school threats, cases involving the possession or use of weapons, and cases involving serious assaultive or threatening behavior, serious bodily injury, sexual offenses or conduct, or gang-related activity.
2. Any past criminal conduct
 3. Willingness to participate and engage in a remedial program
 4. Input from the police and, where appropriate, from the victim and/or parties involved with the student such as schools, parent(s)/guardian(s), or other youth-involved agencies.

Remedial plans may include referral to community-based supports and providers, assignment to an educational program, community service, letter of apology, restitution, essay writing, curfew, and/or other case-specific conditions.

9. Performance Evaluation Standards:


The success and effectiveness of the SRO Program will be reviewed, modified, and amended as outlined in the SRO MOU § IV.D. & VIII.

Additionally, a review of the Data Collection and Reporting information outlined in the SRO MOU § VII will be conducted quarterly by the SRO's Supervisor and the Designated School Liaison. Other sources of data for review include: SRO activity log; student arrest and citation logs; use of police force in school; student, school staff, and parent surveys; referrals made by the SRO to assist students and families; number of students advised and the nature of the counseling; informal counseling meetings with students and families; and training and presentations conducted by the SRO.

10. Effective Date and Duration

This document shall be effective as of the date of signing. It should be reviewed at least annually (before the start of the school year) in consultation with the Superintendent of the Acton Boxborough Regional Schools and amended as necessary. This document will remain in full force and effect until amended or rescinded by the Chief of Police.

Signed on this 17th day of July, 2018.



Chief of Police

APPENDIX A

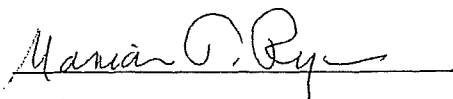
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