

MEMORANDUM OF UNDERSTANDING

**Monomoy Regional School District
Chatham Police Department and Harwich Police Department**

This Memorandum of Understanding (“MOU”) is entered into by and between the Monomoy Regional School District, Chatham Police Department and Harwich Police Department (collectively, “the Parties”).

1. Background Information

The Chatham and Harwich school systems and Police Departments have enjoyed a relationship that has been dedicated to the philosophy of providing a positive and safe atmosphere within these schools. This philosophy has promoted the best quality-learning environment for the students and educators within these school systems. For many years, the police departments have operated in an equal partnership with the school systems and have provided a full time shared liaison between these entities. This partnership has been dedicated to the preservation of safety, order and discipline within the schools. As a result of the July 1, 2012 regionalization of the Chatham and Harwich school systems becoming the Monomoy Regional School District (the District), the parties hereto have deemed it appropriate to revisit and update the terms of their prior memorandum of understanding.

2. Purpose

The purpose of this MOU is to develop a strong and consistent policy to continue the partnership that has been formulated between the Chatham and Harwich Police Departments and the Monomoy Regional School District. The goal of this partnership is the preservation of safety, order, and discipline within the schools. This policy must be one that can be constantly reviewed and modified as the needs of the Police Departments and -District change.

The fact that this MOU exists among the above agencies shall be clearly stated in the Student Handbook for each school so that there will be no misunderstanding within the Monomoy School Community as to the cooperative atmosphere that exists between all involved Parties.

3. Agreement

The Parties agree to respond effectively and cooperatively to incidents of student delinquency, truancy, and criminal behavior for the benefit and protection of all students, teachers, and staff or any situation that places a student at risk. The joint effort of cooperative response will focus on incidents that take place on school property, at school sponsored events, and at other locations at which students of the District may assemble or be present for school related functions or events.

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We also agree to work in conjunction with the Cape and Islands District Attorney on community based juvenile justice programs pursuant to G.L. c. 12 Sec 32 and to maintain information relative thereto confidential and exempt, from public dissemination to the extent permitted under state and federal law.

This MOU is entered into pursuant to the Laws of the Commonwealth of Massachusetts and pertains to issues of violence, attempted violence or threatened violence, the use, abuse and/or distribution of alcohol or other controlled substances, or other activities or incidents that would require a law enforcement response to a school, during any school sponsored activity (on or off school grounds), or involving students of the Monomoy Regional School District. It is to be read and implemented in conjunction with any and all policies, procedures, and reporting requirements set forth in the Monomoy Regional School District Student Handbook or otherwise maintained by the Monomoy Regional School District.

4. Process for Selecting SRO

The Parties acknowledge that the selection of the SRO is a critical aspect of the Program and that it is important for the Parties and the school community to have a positive perception of and relationship with the SRO.

In accordance with state law, the Chiefs of Harwich and Chatham shall assign an officer whom the Chiefs believe would foster an optimal learning environment and educational community and shall give preference to officers who demonstrate the requisite personality and character to work in a school environment with children and educators and who have received specialized training in child and adolescent cognitive development, de-escalation techniques, and alternatives to arrest and diversion strategies. In accordance with state law, the Chiefs shall not assign an SRO based solely on seniority.

5. Annual Review of the SRO and the SRO Program

In accordance with state law, the Chief and the Superintendent shall annually review the performance of the SRO and the success and effectiveness of the Program in meeting the Goals and Objectives.

6. Roles and Responsibilities of the SRO and School Administrators and Staff in Student Misbehavior

The Parties agree that school officials and the SRO play important and distinct roles in responding to student misbehavior to ensure school safety and promote a positive and supportive learning environment for all students.

Under state law, the SRO shall not serve as a school disciplinarian, as an enforcer of school regulations, or in place of school-based mental health providers, and the SRO shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior.

In accordance with state law, the SRO shall not take enforcement action against students for Disturbing a School Assembly (G.L. c. 272, § 40) or for Disorderly Conduct or Disturbing the

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Peace (G.L. c. 272, § 53) within school buildings, on school grounds, or in the course of school-related events.

7. Compliance with FERPA and Other Confidentiality Requirements

At all times, school officials must comply with FERPA. This federal statute permits disclosures of personally identifiable information about students contained in educational records ("Student PII"), without consent, only under specific circumstances.

When the District "has outsourced institutional services or functions" to the SRO consistent with 34 C.F.R. § 99.31(a)(1)(i)(B) of FERPA, the SRO qualifies as a "school official" who can access, without consent, Student PII contained in education records about which the SRO has a "legitimate educational interest."

Consistent with 34 C.F.R. §§ 99.31(10) and 99.36 of FERPA, the SRO (or other Police Department employee identified in Section V.A.) may gain access, without consent, to Student PII contained in education records "in connection with an emergency if knowledge of the [Student PII] is necessary to protect the health or safety of the student or other individuals."

These are the *only* circumstances in which an SRO may gain access, without consent, to education records containing student PII (such as IEPs, disciplinary documentation created by a school, or work samples).

FERPA does not apply to communications or conversations about what school staff have observed or to information derived from sources other than education records.

In addition to FERPA, the Parties agree to comply with all other state and federal laws and regulations regarding confidentiality, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and state student record regulations at 603 C.M.R. 23.00. The Parties agree to collect only that student information necessary and relevant to fulfilling their respective roles, to share such information with each other only where required or allowed under this Agreement, and not to share such information beyond the sharing contemplated in this Agreement unless required to be shared by state or federal law. The Parties shall not collect or share information on a student's immigration status except as required by law.

8. Procedures for Sharing Information

This MOU will fail without the mutual exchange of relevant information. It is therefore agreed that the School Resource Officer will verbally notify the principal or his/her designee in a timely manner of any criminal activity, particularly incidents involving:

1. Violence or the possession/use of controlled substances and/or alcohol by students, whether such activities took place inside or outside the school premises, during or after school hours.

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2. If an individual arrested and/or criminally charged, or placed in protective custody by Chatham or Harwich Police is a student of the District or any other educational institution authorized to receive such information for internal disciplinary proceedings, the circumstances surrounding the event, results of any test administered or the refusal of any test administered will be provided to the appropriate school official by the appropriate Police Department.
3. The School Resource Officer will notify the school of any attempts of suicide, acts of suicide, or victimization of a student by any person.

The SRO shall provide such information whether the activity takes place in or out of school, consistent with the requirements of G.L. c. 12, § 32 (Community Based Justice information-sharing programs) and G.L. c. 71, § 37H (setting forth potential disciplinary consequences for violations of criminal law).

When the SRO observes or learns of student misconduct in school for which a law enforcement response is appropriate (as described in Section IV), the SRO shall convey to the principal or his or her designee as soon as reasonably possible the fact of that misconduct and the nature of the intended law enforcement response, and when the SRO observes or learns of student misconduct that does not merit a law enforcement response, but that appears to violate school rules, the SRO shall report the misconduct whenever such reporting would be required for school personnel.

The School resource Officer will be available to testify to the facts in any administrative hearing that the District may conduct with respect to any such activity or incident. This notification will be made in recognition of the fact that such behavior may constitute a violation of school rules and/or may have a negative impact on safety, order, and discipline in the school environment.

The District, through its' designee (principal, assistant principal, superintendent) shall formally notify the School Resource Officer or his/her designee in a timely manner of any violation of Massachusetts General Law occurring on school property or at a school event involving a student of the District. This will include but will not be limited to:

1. assault and batteries in which a weapon is involved, or injury occurred;
2. possession of a weapon, as defined in the school handbook or under G.L. c. 71 § 37H (a), which includes, but is not limited to, a gun or a knife, and ammunition or components thereof; also including student manufactured weapons, makeshift weapons or other types of components that have been modified or created to appear to be a dangerous item of any kind
3. sexual assaults;
4. larceny over \$1200;
5. controlled substances violations (possession, use, or distribution of an inhalant or any controlled substance, as defined in G.L. c. 94c (except any possession of prescription

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- medication possessed and administered in accordance with state law and school policy) or alcohol violations (possession or distribution);
6. any incident involving the threat of assaultive behavior or intentional assaultive behavior and/or reckless behavior that results in personal injury;
 7. any incident involving stalking or harassment in violation of G.L. c. 265 § 43 and 43A, annoying phone calls, domestic abuse, dating violence, or a violation of G.L. c. 209A or 258E restraining order, and any students either protected by a restraining order;
 8. any incident involving a child suffering physical or emotional injury resulting from abuse inflicted upon him or her which causes harm or the substantial risk of harm to the child's health or welfare, including sexual abuse or from neglect (in addition to a report filed with the Department of Children and Families);
 9. any incident involving an actual or suspected hate crime or violation of civil rights, including but not limited to an assault or battery upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's race, color, national origin, sexual orientation, or disability in violation of G.L. c. 265 §§ 37 and 39, as well as any act of bodily injury or attempt to cause bodily injury against a person due to actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability in violation of 18 U.S.C. § 249;
 10. any incident resulting in significant damage to District municipal or private property;
 11. any bomb threat, fire, threatened or attempted firesetting, threatened or attempted use of an explosive device or hoax device, or possession of a "novelty lighter" as defined by G.L. c. 148 § 60. NOTE: The school shall also report "unauthorized ignition of any fires" to the local fire department under G.L. c. 148 § 2A;
 12. any creation or possession of a document, whether computer or manually generated, handwritten or electronic (e.g., *text or email*), that identifies any individual or group of individuals targeted for violence or death;
 13. any threat, direct or indirect, past or future, against a student, school personnel or other school employee or their relative;
 14. any incident of "hazing" as defined by G.L. c. 269 § 17, involving any conduct or ritual or method of initiation into any school organization that endangers the physical or mental health of any student;
 15. any sexual assault, including but not limited to rape, assault with intent to rape, indecent assault and battery, as well as any lewd and lascivious behavior, open and gross lewdness, indecent exposure, or incident of gender-based harassment, "sexting", "sextortion"¹ or possession or dissemination of sexually explicit photographs of a student;
 16. any incident of "bullying" or "cyber-bullying" as defined by G.L. c. 71 § 37O where the school believes that the incident may have involved criminal conduct or involves any other reportable acts outlined in (a) through (n) (1) through (15).

¹ "Sexting" refers to the sending of a photograph or other visual image, depicting a person in a partial or total state of nudity, via text message, from one electronic device to another, usually cell telephones. "Sextortion" refers to a form of extortion (attempted or completed) where a person is extorted with a nude or partially nude image of themselves they had shared through "sexting", usually of money, additional images or a promise of sexual acts.

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17. minor assaults, minor larcenies, and other incidents involving potential threats to public safety in the building or at school activities shall be made known to the School Resource Officer and shall be treated with the utmost concern.

In addition, if school officials have reasonable suspicion that an individual is suspected of, or determined to be selling or distributing narcotics or alcohol on school property, school authorized functions or where students were present, the school shall notify the School Resource Officer.

These notifications shall be made for several reasons, including the following:

1. To document incidents for statistical analysis;
2. To be prepared for students or parents pursuing private complaints;
3. To identify trends of ongoing conflict between individuals and groups; and
4. To facilitate prosecution of felonies, and serious misdemeanors that involved a clear aggressor, result in injury or cause severe disruption to the school environment.

It is understood that school officials are not agents of the Police Departments, and the Police Departments and their respective Officers are not agents of the school. The District reserves the right to search all school property and personal property brought onto school property for contraband, controlled substances, or weapons in accordance with state laws and school policy.

The District, upon mutual agreement with the Chatham and Harwich Police Department and the Barnstable County Sheriff's Department or other law enforcement agency may utilize police dogs to search and check school buildings and property, including student lockers and vehicles for controlled substances on a random basis.

To the extent possible, precautions will be taken by both the Police Departments and school officials at all times to ensure the educational process is not disrupted.

9. Data Collection and Reporting

In accordance with state law, the SRO and school administrators shall work together to ensure the proper collection and reporting of data on school-based arrests, citations, and court referrals of students, consistent with regulations promulgated by the Department of Elementary and Secondary Education.

10. SRO Training

In accordance with state law, the SRO shall receive ongoing professional development in:

- (1) child and adolescent development,
- (2) conflict resolution, and
- (3) diversion strategies.

11. Reporting Procedures for Emergency Situations

Definition: An emergency situation is any incident that poses an imminent threat to human health or safety or which may result in serious property damage.

A teacher or other school employee having knowledge of any emergency situation shall **immediately notify** or cause to be notified both the Police Departments (911) in which the incident occurred and the School Principal or Assistant Principal. This requirement is in addition to any procedures outlined in the Student Handbook.

Where an emergency exists and there is an immediate need to avert or defuse certain unusual conditions or disruptions in the school setting, the school will forthwith provide all the necessary information to law enforcement personnel regarding the student issue. (See s 99.31(a) (10) of the FERPA regulations).

12. Reporting Procedures for Non-Emergency Situations

A teacher or other school employee, having reasonable grounds to believe that a student has committed an act listed above, shall **promptly**:

1. Report the incident and names of any involved persons to the appropriate designated school liaison;
2. Take reasonable steps to maintain any pertinent physical evidence in a secure place.

13. Responsibilities of the Designated School Liaison

Once a designated school liaison has been made aware of an incident listed above, it is her/his responsibility to **immediately**:

1. notify the Police Liaison and, when appropriate, the parents or guardians of the involved students;
2. notify the POlice Liaison of the existence of pertinent physical evidence and take reasonable steps to maintain it in a secure place;
3. provide the Police Liaison with a copy of any related written reports about the incident.

14. School Safety Meetings

The undersigned agencies have a common responsibility to deter and prevent violent criminal, disruptive or delinquent conduct which poses a threat to the Monomoy Regional School District community. To that end and pursuant to M.G.L. Chapter 12, s. 32, the parties will conduct regularly scheduled confidential safety meetings to discuss and assess specific events or activities of particular individuals whose conduct may pose a threat to the safety of the school community.

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These confidential meetings shall bring together school administrators, police officers, prosecutors and representatives from the Department of Probation, Youth Services and Social Services, as appropriate to share felony information about court-involved and at risk youth to the extent permitted by law. These meetings will also address general safety issues, specific safety issues and planning for appropriate action to address legitimate safety concerns.

15. Accompanying Standard Operating Procedures

This Agreement shall be accompanied by Standing Operating Procedures that shall be consistent with this Agreement and shall include, at a minimum, provisions detailing:

- The SRO uniform and any other ways of identifying as a police officer;
- Duty hours and scheduling for the SRO;
- Use of police force, arrest, citation, and court referral on school property;
- A statement and description of students' legal rights, including the process for searching and questioning students and when parents and administrators must be notified and present;
- The chain of command, including delineating to whom the SRO reports, how often the SRO meets with the principal or his or her designee, and how school administrators and the SRO work together, as well as what procedure will be followed when there is a disagreement between the administrator and the SRO;
- Protocols for SROs when school administrators, teachers, or other school personnel call upon them to intervene in situations beyond the role prescribed for them in Section IV;
- Performance evaluation standards, which shall incorporate monitoring compliance with this Agreement and use of arrest, citation, and police force in school;
- Protocols for diverting and referring at-risk students to school- and community-based supports and providers; and
- Clear guidelines on confidentiality and information sharing between the SRO, school staff, and parents or guardians.

16. Limited Scope of MOU


This MOU is intended to express the commitment of the parties to work cooperatively with each other. Nothing in the MOU is intended to nor shall be construed to, impose any duty or obligation of any type, kind, nature or description upon any person or entity and nothing herein shall be construed in any way to create any rights, substantive, procedural or otherwise or confer any private right of action upon any individual or entity against any signatory organization or any official, officer, agent employee or servant of such entity.

This MOU is in addition to and does not supplant policies of the Monomoy Regional School District Schools with regard to disciplinary procedures and codes of student conduct which are now or may be formalized and published in any student handbook.

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The guidelines established in this MOU will allow the District and the Police Departments to provide a coordinated and effective School Resource Officer program and will facilitate the ability of the District and the Police Departments to work together for the good of the community.


Agreed to this 7th day of October, 2019.



Scott Carpenter, Superintendent of Schools



Mark Pawlina, Chatham Chief of Police



David Guillemette, Harwich Chief of Police

**APPENDIX A
ROLE OF THE OFFICE OF THE CAPE AND ISLAND DISTRICT ATTORNEY**

In the spirit of the legislative mandate regarding communication between the district attorney, law enforcement and school officials, as included in General Laws, Chapter 12, Section 32, and to assist the Monomoy Regional School District in providing a safe environment for learning, in accordance with the legislative mandate set forth in G.L. c. 71, §§ 37H and among others, the Cape and Islands District Attorney's Office, through his designees, agrees to:

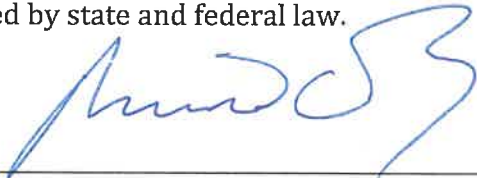
- (1) report to the school any felony (criminal or delinquency) that is issued against a defendant or juvenile who is known to be a student of the Monomoy Regional School District;
- (2) Provide to the school the facts underlying any incident which the Cape and Islands District Attorney is considering diverting a student in lieu of prosecution where the student is known to attend the Monomoy regional School District and the incident occurred on school grounds or at any school related activities.;
- (3) report to the school any adjudication of delinquency or conviction, or other significant occurrence that arises from any above criminal or delinquency proceeding;
- (4) consider information received from Monomoy Regional School District and the Chatham and Harwich Police Departments when fashioning proposed terms and conditions to be imposed upon a known student of the Monomoy Regional School District at both the pre-adjudication and post-adjudication stages of the prosecution; and
- (5) consider information received from Monomoy Regional School District and the Chatham and Harwich Police Departments when deciding whether to divert a known student in lieu of prosecution or to prosecute a student as a Youthful Offender.
- (6) The information that falls within the definition of criminal offender record information (CORI) set forth in M.G.L. c.6,s.167 shall be provided to the Monomoy Regional School District Superintendent of Schools after the Superintendent has applied for and been granted certification by the Department of Criminal Justice Information System (DCJIS) to access CORI in accordance with the provisions of M.G.L. c. 6,s.172 in order to comply with the provisions of M.G.L. c. 71, s. 37H, 37H1/2, and 37H3/4. The Superintendent shall coordinate the distribution of information to principals who have completed an Agreement of Nondisclosure (AOND) and have been approved by the DCJIS to have access to such information. The information may include summary police reports and statements of the student when requested by the Superintendent; however, prior to any such information

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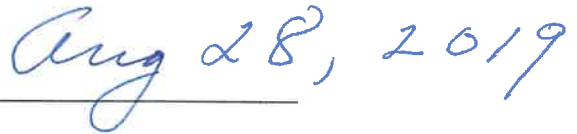
being provided to the Superintendent, the police departments that are parties to this agreement shall redact the names of victims as required by M.G.L. c. 258B and witnesses that are not necessary for the safety of the schools.

The Cape and Islands District Attorney agrees to provide training to the DA's staff to inform them of their roles and responsibilities under this agreement. On an ongoing basis, the same training will be provided to new staff members.

The Cape and Islands District Attorney 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.



Michael O'Keefe
Cape and Islands District Attorney



Date

APPENDIX B

***Standard Operating Procedures Regarding the
School Resource Officer Program In the Monomoy 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 Chatham and Harwich Police Departments in consultation with the Superintendent of the Monomoy Regional School District has established the following Standard Operating Procedures (“SOP”) regarding the community’s School Resource Officer (“SRO”) Program.

1. SRO Uniform:

The SRO will wear a standard uniform, carry all the same equipment they would have on any other law enforcement assignment, and will typically drive a police department assigned police vehicle while on school premises. More casual attire (e.g., soft uniform or plain clothes) may be worn, with the permission of the SRO’s supervisor.

2. SRO’s Duty Hours and Schedule:

The SRO normally will work the hours of the school day within the building they are assigned. Work days would typically be Monday through Friday, with Saturday and Sunday off. The SRO may adjust the work schedule, with appropriate approval of his/her supervisor in order to accommodate school activities and requests.

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

The SRO will collaborate with school personnel as outlined in the Memorandum of Understanding Between Monomoy Regional School District and the Harwich and Chatham Police Departments. The SRO will be supervised and report directly to the police patrol supervisor assigned to day shift in the community where the school is located or a designated SRO supervisor working during school hours in the community where the school is located. For example: Harwich SRO at Monomoy Regional High School reports to the Harwich PD patrol supervisor on day shift. Chatham SRO reports to the Community Patrol Commander or other supervisory level personnel as designated by the Chatham Police Chief.

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 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.

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- 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 Harwich and Chatham Police Departments place 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 Harwich and Chatham Police Departments 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.

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- 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,

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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. School Administrators and SROs working together

The SRO and Principal are expected to work collaboratively. In most settings this would involve daily communication. However, if daily communication is not possible, communication should occur regularly. The SRO answers directly to a Police Department supervisor. While on duty at the school the Principal should be consulted on matters of concern to the SRO. Every effort will be made to work out disagreements within the school setting. Should those efforts fail, disagreements will be referred to the Police Chief and the Superintendent.

If an SRO is called upon to intervene in situations beyond the role prescribed for them herein, the SRO should refer the person back to the Principal or his/her designee.

10. Performance Evaluation Standards:

The performance of the SRO and the success and effectiveness of SRO Program will be reviewed annually by the respective Chiefs and the Superintendent.

Additionally, a review of the Data Collection and Reporting information outlined in the SRO MOU will be conducted 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.

- 11.** The above stated standard operating procedure is meant to provide guidelines concerning the operations of the School Resource Officer position. Unanticipated or highly unusual facts or circumstances may necessitate an officer taking action other than the procedures listed above. It is understood that the above stated standard operating procedure cannot anticipate every circumstance. This standard operating procedure is not meant to enlarge an officer's criminal or civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims.

Monomoy MOU 2019

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 Monomoy Public Schools and amended as necessary. This document will remain in full force and effect until amended or rescinded by the Chiefs of Police.

Signed on this 7th day of October, 2019.



Chief of Police Harwich



Chief of Police Chatham