

MEMORANDUM OF UNDERSTANDING ON
THE HANDLING OF PUBLIC OFFENSES
OCCURRING AT SCHOOL
BETWEEN THE
CHRISTIAN COUNTY PUBLIC SCHOOL SYSTEM AND
CHRISTIAN COUNTY JUVENILE COURT
AND
CHRISTIAN COUNTY SHERIFF'S DEPARTMENT AND
HOPKINSVILLE POLICE DEPARTMENT

REVISED – JULY 2024

MEMORANDUM OF UNDERSTANDING
ON THE HANDLING OF PUBLIC OFFENSES
OCCURRING AT SCHOOL

WHEREAS, this memorandum of understanding is entered into between the Juvenile Court of Christian County (hereinafter referred to as the Court), the Christian County Public Schools (hereinafter referred to as the School System), the Hopkinsville Police Department (hereinafter referred to as HPD), and the Christian County Sheriff (hereinafter referred to as the Sheriff) for the purpose of establishing a cooperative relationship in the handling of students who are alleged to have committed a public offense on school premises, especially those public offenses described herein as Focused Acts; and

WHEREAS, the decline of school offense referrals has resulted from a cognitive shift in school policing and school discipline from a “zero tolerance” approach to the Positive Behavior Instructional Supports, which emphasizes positive supports and interventions with students. A positive engagement approach minimizes arrests and detention in most school offense cases, increases the level of trust between the student body and School Resource Officers (SROs), and encourages the exchange of information that has led to the prevention of school incidents and the solving of crimes; and

WHEREAS the parties acknowledge that the Positive Behavior Instructional Supports is supported by studies showing that being arrested has detrimental effects on a student nearly doubling the odds of dropping out of school and quadrupling the odds if coupled with court appearance (Sweeten, 2006) as well as lowering standardized test scores, reducing future employment prospects, and increasing the likelihood of future interaction with criminal justice system (Thornberry et al, 2004 and Grogger, 1992); and

WHEREAS the parties acknowledge that a zero-tolerance approach and the improper use of law enforcement on school campuses is contrary to the nature of adolescent cognition and disregards the research in adolescent development. The research using magnetic resonance imaging (MRI) found the frontal lobe of the brain, which filters emotion into logical response, is not fully developed until about age 21 (Geidd et al, 1999) and those adolescents are “biologically wired to exhibit risk-taking behaviors, impulsive responses, and exercise poor judgment” (Teske, 2011); and

WHEREAS the parties acknowledge that the juvenile system was established specially for adolescents under neurological construction and with propensities to make poor decisions as evidenced by the Juvenile Code’s emphasis on diversion and treatment

as opposed to punishment. The parties acknowledge and agree that decisions affecting the filing of a complaint against a student in secure detention should not be taken lightly, the parties further acknowledge that a cooperative memorandum of understanding providing guidance with respect to the responsibilities of each party when involved in making a decision to place restraints on a student and to file a complaint alleging the child would promote the best interest of the student and the community; and

WHEREAS the parties acknowledge and agree that this memorandum of understanding is a cooperative effort to establish guidelines for the handling of certain school related public offenses, which are herein referred to as Focused Acts. The parties further acknowledge and agree that the guidelines contained herein are intended to establish greater uniformity in the handling of students who have committed Focused Acts while simultaneously ensuring each case is addressed on a case-by-case basis to promote a response proportional to the various and factors affecting each student's case. The parties acknowledge and agree that the way each case or incident is handled by SROs, school administrators, and/or the Juvenile Court is dependent upon the many factors unique to each child that includes, but is not limited to, the child's background, present circumstances, general demeanor and disposition toward others, mental health status, and other factors. Therefore, the parties acknowledge that students involved in the same incident or similar incidents may receive different and varying responses depending on the factors and needs of each student. Furthermore, the parties will make every effort to identify and correct any issue of inherent and unintentional bias within their control; and

WHEREAS, the parties agree that, notwithstanding any other statement made herein, an overriding purpose of each party is to protect, and ensure the safety to the extent practicable of, students, teachers, administrators, classified employees, and visitors on any of the campuses of the Christian County Public School. To that end, the parties agree that violence and/ or threats of violence aimed at school employees should not be tolerated, and, further, that other violence or threats of violence involving deadly weapons or serious physical injury should not be tolerated.

NOW, THEREFORE, this Memorandum of Understanding sets forth the terms and understandings of the parties:

I. DEFINITIONS

As used in this Memorandum of Understanding, the term:

- A. "Court Designated Worker" (CDW) means the division of the Administrative Office of the Courts responsible for receiving, reviewing, and investigating juvenile complaints; disposing of juvenile complaints through informal diversion

as permitted by statute; administering evidence based screenings and assessments to identify the risk and needs of a child; making advisory dispositional recommendations to the court; and performing such other functions as authorized by law or court order.

- B. “Detention Risk Screening Instrument: or known also as “DRSI” means a risk assessment instrument used by CDW to determine if the juvenile should be detained or released. The DSRI measures risk according to the juvenile’s present offense, prior offense, prior runaways or escapes, and the juvenile’s current legal status such as probation, commitment, etc.
- C. “Diversion” means an educational program developed by the CDW for those juveniles who have been charged with less serious public offenses and qualify under CDW guidelines and does not require probation or commitment to the Department of Juvenile Justice (DJJ)
- D. “Felony” means a crime defined in Kentucky Revised Statutes as a Class A, B, C, or D felony. No offense that constitutes a Felony shall be considered a Focus Act.
- E. “Focused Acts” include all misdemeanor type Public Offenses committed by Juveniles, except those involving serious bodily harm or drugs.
- F. “IDEA” means the Individuals with Disabilities Education Act which is a federal law ensuring services to children with disabilities. This law governs how states and public agencies provide early intervention, special education, and related services to students.
- G. “IEP” means Individualized Education Program or Plan which is a written statement for each student with a disability that includes goals to meet the student’s needs that result from the student’s disability to enable the student to be involved in and make progress in the general education curriculum.
- H. “Juvenile” means a child under the age of 18 years, which term is used interchangeably with “students”.
- I. “Misdemeanor” means any crime defined by Kentucky Revised Statutes as a Class A or B misdemeanor.
- J. “Notice of a Behavioral Infraction” means a document or form used by the SRO to place a student on notice of his or her commission of a Focused Act and to warn the student that subsequent commissions of Focused Acts may result in graduated responses including but not limited to mediation, campus restrictions, mandatory participation in afterschool programs that may require parental participation, and referral to the Court Designated Worker Program as the last resort.
- K. “Public Offense” means an act designated as a crime by the laws of the Commonwealth, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance.
- L. “Student” means a child under the age of 18 years.

II. TERMS OF AGREEMENT

A. Role of the School Resource Officer

The mission of the SRO is to improve school safety and the educational climate at the school, not to enforce school discipline or punish students. The SRO's presence on school campuses is a necessity to prevent weapons, drugs, and persons with the intent to commit harm from entering upon the campus or disable persons with intent to harm and confiscate weapons and drugs that enter campus premises. This primary safety concern can be compromised when SRO's are removed from campus to transport students on Focused Acts. The SRO will serve as a positive role model to instill in students good moral standards, good judgment and discretion, respect for other students, and a sincere concern for the school community. The SRO will promote citizen awareness of the law to enable students to become better informed and effective citizens, while empowering students with the knowledge of law enforcement efforts and obligations regarding enforcement as well as consequences for violations of the law.

B. Prerequisites to Filing a Juvenile Complaint

The parties agree that Focused Acts are considered school discipline issues to be handled by school officials and are not deemed criminal law issues warranting the filing of a juvenile complaint unless the student has committed at least two (2) of the same or similar Focused Acts within the same school calendar year, with the prior incident being documented by the applicable SRO using the Notice of a Behavioral Infraction. Multiple Focused Acts committed during a single event shall not be considered "separate".

I. Notice of a Behavioral Infraction

The notice of a Behavioral Infraction is a document or form used by the SRO to Place a student on notice of his or her commission of a Focused Act and to warn the student that subsequent commissions of Focused Acts may result in graduated responses including but not limited to mediation, campus restrictions, mandatory participation in afterschool programs that may require parental participation, and referral to the Court Designated Worker Program as the last resort.

School Administrators are prohibited from directing the SRO to issue a Notice of the Behavioral Infraction, arrest a student, or file a juvenile complaint. The SRO may apply a verbal direction or counsel in lieu of a Notice of a Behavioral Infraction.

School Administrators will make good faith efforts to notify the SRO of the commission of a Focused Act to enable the giving of a prompt Notice of the Behavioral Infraction by the SRO.

SROs are only required to make good faith and reasonable efforts to deliver Notices of Behavior Infractions to students.

2. Responses to Behavioral Infractions

A notice of Behavioral Infraction that is issued to a student will be addressed through a system of a warning and service referral. The behaviors that may warrant the use of the Notice of a Behavioral Infraction are outlined in the Code of Acceptable Behavior and Discipline of the Christian County Public School System.

If the SRO issues a Notice of a Behavioral Infraction, the first offense shall consist of a “warning.”

A second Notice of a Behavioral Infraction for the commission of a Focused Act, of the same or similar nature, in the same school year may result in a “Referral”. A Referral consists of a meeting with the school administrator or student’s counselor to problem-solve the undesirable behavior of the student and coordinate appropriate services with a school-based therapist and/or with mediation.

The commission of a third Focused Act of the same or similar nature, in the same school year may result in the filing of a juvenile complaint but is not mandated by this agreement.

A Focused Act shall be considered of a same or similar nature to a prior Focused Act if it falls under the same Chapter of the Kentucky Penal Code.

By way of illustration, the following misdemeanor offenses (potential Focused Acts) fall under Chapter 5085 of the Kentucky Penal Code: Fourth Degree Assault, Menacing, Terroristic Threatening in the Third Degree, and Stalking in the Second Degree. An occurrence of any of these offenses will be considered same or similar to any of the other of these offenses.

Additionally, all drugs, alcohol, synthetic drug, vapor with substance other than nicotine, and simulated substances related shall not be considered Focused Acts hereunder.

3. Exigent Circumstances

The parties from their experience acknowledge that there may be situations that warrant removal of a student from the campus to maintain safety of other students and school staff. The SRO and administrators will utilize least restrictive measures to remove a student from campus beginning, if practicable, with parental contact to retrieve their child. The decision will depend upon the attitude, demeanor, and disposition of the student and his or her history of being resistant or being uncooperative during transport.

4. Probation Exception

A juvenile complaint may be filed on a student serving probation or diversion under the supervision of the Administrative Office of the Court, the juvenile court, or other approved supervisory authority without first consulting the supervising authority and/or the county attorney.

5. Special Education Prerequisites

A juvenile complaint shall not be filed alleging a Focused Act against a student with an IEP without first consulting with a school administrator familiar with the student's IEP to consider whether the Focused Act is a manifestation of the student's disability and whether the Focused Act could be most effectively addressed by way of school discipline and/or modification of the student's IEP without filing of a juvenile complaint, but the school administrator shall not have the right to direct that a juvenile complaint be filed or not filed. If, after this consultation, the charging authority determines that a juvenile complaint is warranted, the SRO or other charging authority will bring the matter to the attention of the administrator.

6. Felony Offenses

The parties acknowledge that some felony offenses may not warrant a juvenile complaint due to the nature of the offense (e.g., no physical injury) coupled with discretionary factors described above and the needs of the student, especially involving students diagnosed with Learning Disabilities (LD) and Emotion Behavioral Disorder (EBD). The parties agree that SROs are not mandated to refer a student to juvenile court on a complaint because the allegations are felonious. The SRO shall have the discretion to make the determination whether to file a juvenile complaint but is not mandated to file a complaint.

By way of illustration, a common occurrence among adolescents is their lack of conflict resolution skills that leads to abusive, and violent words. Depending on the nature of the words, the student is facing either a misdemeanor disorderly conduct or terroristic threatening. The presumption is to view all matters as disciplinary issues unless the circumstances include both mitigating and aggravating factors. Mitigating factors include, but are not limited to:

- Lack of a prior record
- Positive academic standing
- Student's minor role in the incident
- Provocation
- Genuine remorse/acceptance of responsibility
- Mental or Physical illness
- Cooperation
- Voluntary cessation of behavior before discovery
- Minor nature of the violation

Aggravating factors include, but are not limited to:

- Record of prior similar offenses
- History of unacceptable behavior
- Severity of offense
- Use of weapons
- Severity of injuries
- Vulnerability of victim
- Student's major role in the incident
- Discriminatory/hate related
- Dishonesty/concealment
- Refusal to cooperate
- Threat to students or staff posed by the student

Unlike adult criminal justice, youth who commit a public offense are not necessarily delinquent, which is grounded in the studies that adolescents are neurologically under construction and vulnerable to poor decision making. Therefore, the parties have acknowledged that it is in the best interest of the student to divert, when practicable, the misbehavior from criminal justice treatment when warranted to avoid the stigmatization of criminality. The Parties further acknowledge that it is best practice for SROs to refrain from unnecessary filings that would otherwise minimize SRO visibility and presence on school campuses and diminish the effectiveness of the Positive Behavior Instructional Supports supported by the parties.

7. Arrest and Detention

No student shall be placed in a secure facility other than in accordance with the Kentucky Revised Statutes (KRS). If a student meets the criteria for filing a juvenile complaint, it is presumed that the student will be released to his parent, guardian, custodian, or person exercising custodial control as required by KRS 610.0200(3).

8. Treatment of Elementary Age Students

Generally, juveniles of elementary age do not possess the requisite knowledge of the nature of court proceedings and the role of various players in the courtroom to assist his or her defense attorney and/or grasp the seriousness of juvenile proceedings, including what may happen to them at the disposition of the case. The parties agree that a juvenile complaint shall not be filed on an elementary age student without first consulting with the Christian County Attorney. The tender age of elementary students demands that the least restrictive measures be utilized to address the chronic disruptions of the student. The parties agree that elementary age students are not subject to the conditions, criteria, and guidelines of this agreement and shall be handled in accordance with their age and state of mind.

9. School Safety

The parties agree that their paramount concern is the safety of the students, teachers, administrators, staff, and visitors. For this reason, felony offenses are not treated herein as a Focused Act. Felony offenses include Third Degree Assault, which includes the assault of both certified and classified school employees.

III. DURATION AND MODIFICATION

This memorandum of Understanding shall become effective immediately upon its execution by signature and shall remain in full force and effect until such time as terminated by any party to the Memorandum of Understanding. The Memorandum of Understanding may be modified at any time by amendment to the Agreement. The parties acknowledge and agree to meet annually to provide oversight of the Agreement and make recommendations on any modifications to the Agreement.

It is understood and acknowledged by parties that this Memorandum of Understanding represents a set of agreed guidelines for handling of all public offenses that occur in the school context, except when the extraordinary facts and circumstances peculiar to a

peculiar case justify departure from the guidelines in the interest of student, staff, and public safety.

Dated, this _____ day of July, 2024

Chris Bentzel, Superintendent
Christian County Public Schools

Jason Newby, Chief
Hopkinsville Police Department

Hon. J. Lindsey Adams, Judge
Christian District Court

Tyler DeArmond, Sheriff
Christian County

Lincoln Foster, Christian County
Attorney

Jack Lackey, Board Attorney
Christian County Public Schools