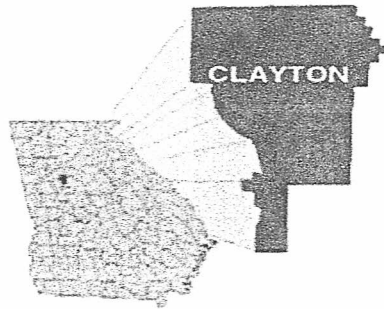


**INTER-AGENCY GOVERNANCE AGREEMENT
ON THE HANDLING OF SCHOOL OFFENSES**

BETWEEN THE

**CLAYTON COUNTY PUBLIC SCHOOL SYSTEM
AND
CLAYTON COUNTY JUVENILE COURT**

AUGUST 13, 2013



INTER-AGENCY GOVERNANCE AGREEMENT ON THE HANDLING OF SCHOOL OFFENSES

WHEREAS, this agreement is entered into between the Juvenile Court of Clayton County (hereinafter referred to as the Court) and the Clayton County Public School System (hereinafter referred to as the School System for the purpose of establishing a cooperative relationship in the handling of students who are alleged to have committed a delinquent act on school premises; and

WHEREAS the parties acknowledge that an inter-agency agreement was entered by the parties and several other agencies in 2004 for the purpose of creating a cooperative relationship in the handling of students charged with delinquent acts on school campus and that there has been a change in circumstances necessitating revisions and modifications of that agreement, to-wit: the creation of the Clayton County Public School System Police Department (CCSPD); and

WHEREAS the parties acknowledge the success of the cooperative relationship created by the original inter-agency agreement that was the first of its kind in the country to establish guidelines for School Resource Officers in the handling of school offenses including a 83% decline in school referrals to the juvenile court; and

WHEREAS the decline in school offense referrals has resulted in a cognitive shift in school policing from a "zero tolerance" approach to the Positive Student Engagement Model for School Policing (hereinafter referred to as the "Model") which emphasizes positive supports and interventions with students. A positive engagement approach minimizes arrests and detention in most school offense cases that increases the level of trust between the student body and SROs and encourages the exchange of information that has led to the prevention of school incidents and the solving of crimes in the community as shown by a 70% reduction in designated felony weapons on school campus; and

WHEREAS the parties acknowledge that the Positive Student Engagement Model for School Policing developed by Clayton County School Resource Officers 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 the 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 campus is contrary to the nature of adolescent cognition and disregards the research in adolescent development. The research using magnetic resonance imaging (MRI) found that the frontal lobe of the brain, which filters emotion into logical response, is not fully developed until about age 21 (Giedd *et al*, 1999) and that 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 justice 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 that the commission of delinquent act does not always require the finding that a student is a delinquent child (OCGA 15-11-65). The parties acknowledge that the law requires the Court to make a preliminary determination that a petition be certified in the best interest of the child and the

community before it can be filed with the Court (OCGA 15-11-37). The parties acknowledge that the Court has the authority to give counsel and advice to a juvenile without the filing of a petition and to delegate such authority to public or private agencies (OCGA 15-11-68 & 15-11-69). The parties acknowledge and agree that decisions affecting the filing of a complaint against a student and whether to place restraints on a student and place a student in secure detention should not be taken lightly, and that a cooperative agreement delineating 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 is a delinquent child would promote the best interest of the student and the community; and

WHEREAS the parties acknowledge and agree that this Agreement is a cooperative effort to establish guidelines for the handling of school related delinquent acts which are defined herein as the focused acts. The parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of student who has committed one of the focused acts as defined herein while simultaneously ensuring that each case is addressed on a case by case basis to promote a response proportional to the various and differing factors affecting each student's case. The parties acknowledge and agree that the manner in which each case or incident is handled by SROs, school administrator, 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, disciplinary record, academic record, 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; and

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Definitions

As used in this Agreement, the term:

- A. "Student" means a child under the age of 17 years.
- B. "Juvenile" means a child under the age of 17 years, which term is used interchangeably with "Student."
- C. "Regional Youth Detention Center" or also known as RYDC means a secure detention facility for the housing of juveniles detained by authorization of Intake and awaiting adjudication and/or disposition of their case.
- D. "Intake" means the division of the Juvenile Court responsible for making reviewing complaints to determine which complaints may be handled informally and by diversion, which complaints may be forwarded to the District Attorney's Office for a petition to be drawn, and which juveniles should be detained in the RYDC, or placed at another location, or returned home.
- E. "Detention Assessment Instrument" or known also as "DAI" means a risk assessment instrument used by Intake to determine if the juvenile should be detained or release. The DAI measures risk according to the juvenile's present offense, prior offenses, prior

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runaways or escapes, and the juvenile's current legal status such as probation, commitment, etc.

- F. "Delinquent Act" means an act designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance.
- G. "Felony" means a crime punishable by imprisonment for more than 12 months.
- H. "Designated Felony" means a felony designated in OCGA 15-11-63 that may result in restrictive custody in a Youth Development Campus for up to five years.
- I. "Misdemeanor" means any crime punishable for less than 12 months.
- J. "Warning Notice" 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, referral to the Quad C-ST as a chronically disruptive student for family assessment and treatment, and referral to the juvenile court as the last resort.
- K. "Diversion" means an educational program developed by the Court or other provider approved by the Court for those juveniles who have been charged with less serious delinquent acts, and Intake believes is not a delinquent child and most likely does not require probation or commitment to DJJ.
- L. "Informal Adjustment" means informal supervision in which the juvenile is required to comply with conditions established by Intake of the judge for up to 90 days and is dismissed upon successful completion.
- M. "Bully" is a student who has three (3) times in a school year willfully attempted or threatened to inflict injury on another person, when accompanied by an apparent present ability to do so or has intentionally displayed force such as would give the victim reason to fear or expect immediate bodily harm.
- N. "Focused Acts" include all misdemeanor type delinquent acts except those involving serious bodily harm or drugs.
- O. "IDEA" means Individuals with Disabilities Improvement 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.
- P. "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.

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 campus 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 is compromised when SRO's are removed from campus to transport students on Focused Acts or when distracted on campus by students committing Focused Acts. Absent a real and immediate threat to student, teacher, or other school official, and absent the situations described herein where SRO intervention is deemed appropriate, the school administrators shall be responsible for the handling of situations and shall not direct an SRO to take action contrary to the terms, conditions, and spirit of this agreement and the role of the SRO that would result in the unnecessary filing of a juvenile complaint.

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 three (3) separate prior Focused Acts within the same school calendar year and each incident documented using the Warning Notice.

1. Warning Notice

The Warning Notice is a discretionary tool that is not required unless the SRO deems it just and appropriate. The SRO's discretion shall take into consideration certain factors that include but not limited to the student's overall discipline record, academic record, nature of the offense, display of remorse, attitude toward others, and the disciplinary action taken by the school administrator. Nothing in this agreement shall be construed to require or mandate the use of a Warning Notice upon the commission of a Focused Act. A Warning Notice shall not be issued without first consulting with an administrator to ascertain the disciplinary response of the administrator. The administrator's disciplinary response shall be given greater weight in mitigation of issuing a Warning Notice unless the nature of the act complained of and the needs of the student warrant additional action and/or services. The decision to issue a Warning Notice shall be made on a case by case basis using SRO discretion as described above unless vetoed by the school administrator. School administrators are prohibited from directing the SRO to issue a Warning Notice, arrest a student, or file a juvenile complaint. The SRO may apply a verbal admonishment or counsel in lieu of a Warning Notice.

The parties shall consult on the development of the Warning Notice. The juvenile court shall provide the administrative costs for development and printing of the Warning Notice.

2. Graduated Response System

In the event the SRO elects to issue a Warning Notice, the first offense shall consist of a warning unless the nature of the Focused Act warrants a referral to a school sponsored, community based, or juvenile court sponsored program that targets the complained behavior of the student. Examples of graduated response programs are shown in the following Graduated Response Table:

FOCUSED ACT	PROGRAM
2 nd or subsequent Disorderly Conduct	School Conflict Workshop
Theft	Theft Workshop
Simple Battery	School Conflict Workshop/Mediation
Criminal Damage to Property	Mediation/Volunteer Restitution Program/ Civil Action

The above list includes examples and is not intended to be exhaustive. The Balance and Restorative Justice Division (BARJ) of the Juvenile Court develops, approves, and manages programs that serve youth diverted from the court process. The parties agree that BARJ will assist SROs and administrators in recommending programs appropriate for students referred on a Warning Notice.

A second and third commission of a Focused Act in the same school year may result in a referral to a graduated program made available by the school, juvenile court, or community. SROs are not required to make a referral and may admonish and counsel, give another warning using the Warning Notice, or defer to the disciplinary action taken by the administrator.

A referral is made using the Warning Notice and forwarded to the BARJ Division of the juvenile court. The BARJ Division shall make contact with the parent of the child within ten (10) business days of receipt of the notice from the SRO to schedule the parent and child to attend the recommended alternative program appropriate to address the student's conduct. BARJ shall forward to the SRO where the child attends a confirmation of the child's successful participation in the diversion program. A child's failure to attend shall be reported to the School Resource Officer and together with the assigned BARJ officer decide determine the appropriate action.

The commission of a fourth Focused Act in the same school year may result in the filing of a juvenile complaint, but is not mandated by this agreement. The SRO has discretion to take other action that includes deferment to the administrator's disciplinary action, admonishment and counsel, or a referral to a graduate response program.

3. Clayton County System of Care and Quad C-ST

In every case a student is eligible for the filing of a juvenile complaint and the SRO deems it just and appropriate, the SRO shall first consult with the administrator to determine if the child qualifies as a chronically disruptive student eligible for services under the Clayton County System of Care (SOC). If so, the administrator shall take immediate action to make application to the SOC for assessment by the Clayton County Collaborative Child Study Team (Quad C-ST).

Any students receiving services under the SOC shall not be referred to the juvenile court on a Focused Act with the consent of the SOC Administrator in consultation with the Quad C-ST Facilitator and Intake Supervisor.

4. 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 administrator shall always utilize least restrictive measures to remove a student from campus beginning with parental contact to retrieve their child. If this attempt is unsuccessful, the SRO shall contact the Intake Division of the juvenile court for consultation. The Intake Officer shall also employ least restrictive measures that may include a shelter care order for the Clayton County Department of Family & Children Services to take protective custody and transport the student to the juvenile court or instruct the SRO to take protective custody and transport the student to juvenile court. The decision will depend upon the attitude, demeanor, and disposition of the student and his or her propensity to resist or be uncooperative during transport.

The SRO is not required to file a juvenile complaint to transport a student even if the SRO deems it necessary to utilize restraints during transport. A student will be considered in protective custody and transferred to an Intake Officer upon arrival. This will permit the SRO to return to the campus as soon as practicable. The Intake Officer shall follow-up and contact the parents and assess the situation for further action. The Intake Officer shall contact the SRO within 24 hours with the results of the assessment and any recommendations.

5. Probation Exception

A juvenile complaint shall not be filed on a student serving probation under the supervision of the juvenile court without first consulting with the assigned probation officer and seeking the probation officer's approval. This exception is required because probation officers have the authority to take action immediately without requiring a juvenile complaint.

6. Special Education Prerequisites

A juvenile complaint shall not be filed alleging a Focused Act against a student with an IEP without first evaluating the student's IEP and determining what actions are required under

the IEP to remedy the behavior or if the IEP should be modified to address the behavior giving rise to the conduct. If the SRO believes that a juvenile complaint is warranted and the student has an IEP, the SRO shall act immediately to bring the matter to the attention of the administrator to take appropriate steps in accordance with the IDEA and for the protection of the student's rights under the law.

7. Bullying Exception

In accordance with state law, if the Focused Acts involve acts of bullying and the student is alleged to have committed his or her third "bullying" act, he or she shall be referred to the Juvenile Court on a juvenile complaint and the Court shall certify said petition provided probable cause exists and if adjudicated shall proceed to determine if said student is delinquent and in need of supervision. In furtherance of state law, the school system shall proceed to bring the student before a tribunal hearing and if found to have committed acts of bullying shall in the least, with consideration given to special education laws, expel said child from the school and place in an alternative educational setting, unless expulsion from the school system is warranted. All acts of bullying shall be reported by school personnel and addressed immediately to protect the victims of said acts of bullying.

8. 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 the discretionary factors described above and the needs of the student, especially involving students diagnosed with Learning Disabilities (LD) and Emotional 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, opprobrious, and violent words. Depending on the nature of the words, the student is facing either a misdemeanor disorderly conduct or felony terroristic threats. The presumption is to view all matters as disciplinary issues unless the circumstances warrant it treated as a criminal matter. Administrators and SROs must keep in mind that the juvenile code will not certify a juvenile complaint be filed as a petition and the student formally charged if the student will not be declared a delinquent child that is in need of supervision and treatment. Unlike adult criminal justice, youth who commit a criminal act 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 is in the best of the student to divert from criminal justice treatment when warranted to avoid the stigmatization of criminality. The parties further acknowledge that it is a best practice for SROs to refrain from unnecessary filings that would otherwise minimize SRO visibility and presence on school campus and diminish the effectiveness of the Positive Student Engagement Model supported by the parties.

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The parties agree that in cases involving felony allegations that may warrant alternatives to filing a juvenile complaint, the SRO may consult with the juvenile court intake supervisor and/or the coordinator of BARJ for recommendations and/or direction.

C. Arrest and Detention

No student accused of a Focused Act shall be placed in a secure facility unless approved by a juvenile court intake officer. If a student meets the criteria for filing of a juvenile complaint, it is presumed that the student will be released to his parent, guardian, custodian, or fictive kin to be returned to his legal caretaker.

In accordance with the law, a judge or designee shall not detain a child unless that child presents the likelihood of serious bodily injury or has shown a pattern of theft or property destruction. The juvenile court employs a Detention Assessment Instrument (DAI) in accordance with state law to determine the risk of re-offending on acts resulting in serious bodily injury, theft, and property destruction.

D. 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 the 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 a juvenile court intake officer. The tender age of elementary students demands that least restrictive measures are utilized to address the chronic disruptions of the student. The parties agree that elementary age students are not subject to this conditions, criteria, and guidelines of this agreement and shall be handled in accordance to their age and state of mind.

III. DURATION AND MODIFICATION

This Agreement 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 Agreement. The Agreement 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.

IN WITNESS WHEREOF, the parties hereto, intending to cooperate with one another, have hereunder set their hands on the date set forth below.

Luvenia Jackson

Luvenia Jackson, Interim Superintendent
Clayton County Public School System

8-13-13

Date

Steven C. Teske

Steven C. Teske, Chief Judge
Juvenile Court of Clayton County

08/13/13

DATE

CLAYTON COUNTY
JUVENILE COURT
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