

REQUEST 5

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEWTON PUBLIC SCHOOLS
AND
THE NEWTON POLICE DEPARTMENT**

I. GENERAL PRINCIPLES

The Newton Public Schools and the Newton Police Department are proud of the joint effort, in effect since the original Memorandum of Understanding was adopted in 1991, to work in partnership and to serve our city's youth. We are committed to continue to strengthen the relationship between the police and the schools for the benefit of students, staff and community.

Therefore, the Newton Public Schools and the Newton Police Department agree to continue to coordinate efforts to intervene and prevent violence involving the students of the Newton Public Schools; to prevent the improper and/or illegal use, abuse and distribution of alcohol and other illegal drugs involving the students of Newton Public Schools; and to promote a safe and nurturing environment in the school community.

We agree to work effectively and cooperatively to respond to and address, for everyone's protection, incidents of truancy, school delinquency, criminal behavior, and other activity detrimental to the welfare of the school community. The joint and cooperative response efforts will focus on incidents that take place on school grounds, within school property, at school sponsored events, and at other locations in which students of the Newton Public Schools are involved.

We also agree to keep all information which is disclosed between the parties pursuant to M.G.L. c. 12 § 32; M.G.L. c. 71 § 37H1/2; M.G.L. c. 71 § 37L; 603 CMR 23; and 20 U.S.C. § 1232g from public dissemination in accordance with State and Federal Laws.

This agreement is intended to address issues of violence; attempted violence or threatened violence; the use, abuse and/or distribution of alcohol or other drugs; or other incidents of conduct possibly detrimental to the welfare of the school community, where a law enforcement response is likely helpful or required:

- in a school setting;
- during any school sponsored activity, even if the event is off school grounds; or
- in the community involving students of the Newton Public Schools.

It will be the sole prerogative of school officials to impose internal school discipline for infractions of school rules and policies. See the ***school handbook*** for specific policies and procedures.

II. SCHOOL AND POLICE DEPARTMENT DESIGNATED LIAISONS

In order to facilitate prompt and clear communications between the school and police personnel, the Newton Public Schools and the Newton Police Department agree to identify individuals on their respective staffs who will function as "Designated Liaisons." These representatives shall serve as conduits between the school system and the police department for matters related to the school system and students.

- A. THE NEWTON PUBLIC SCHOOLS DESIGNATED LIAISONS, BY SCHOOL, ARE
 - School Principals
 - Housemasters or Assistant Principals
 - Deputy Superintendent

- B. THE NEWTON POLICE DEPARTMENT DESIGNATED LIAISONS ARE
 - Youth Officer
 - Supervisor, Community Services Division

The aforementioned police department designated liaisons are also considered the Newton School District's "Law Enforcement Unit" as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) for purposes of sharing information between the Newton Public Schools and the Newton Police Department regarding students.

III. ISSUES OF CONCERN TO THE DESIGNATED LIAISONS

A. REPORTABLE INCIDENTS:

- (1) The Designated Liaisons from the School and Police Department will review all incidents classified as Mandatory Reportable Incidents, as defined in Section IV of this agreement.

- (2) The Designated Liaisons will also review any incident or information that may affect the safety or well being of students, faculty, or administrative personnel.

- (3) Additionally, upon request from the District Attorney's Office, the Designated Liaisons will provide appropriate information to the Office of the District Attorney which may be helpful in fashioning proposed terms and conditions to be imposed upon a student of the Newton Public Schools at both the pre-adjudication and post-adjudication stages of a proceeding within the court and criminal justice systems.

B. PREVENTION STRATEGIES:

In addition to the above responsibilities, the Designated Liaisons from the School, the Police Department and the Middlesex District Attorney's Office will meet regularly for the following purposes:

- (1) to discuss incidents of violence; any use, abuse or distribution of alcohol and/or other drugs; criminal activity affecting students; or any other activity detrimental to the school community;
- (2) to identify strategies to reduce such activities and to promote a safe and nurturing school environment;
- (3) to discuss resources available for students at risk of harm from violence, abuse or neglect;
- (4) to develop and be involved with prevention and intervention programs focused on anti-violence and corresponding strategies as required by M.G.L. c. 12 § 32; and
- (5) to help outline necessary action plans for implementation of such strategies.

IV. REPORTING GUIDELINES

A. SCHOOL REPORTS TO POLICE DEPARTMENT

- (1) The incidents listed in 2(a)-(m) shall be considered Mandatory Reportable Incidents and shall be reported to the Newton Police Department as soon as possible if the incident:
 - (a) occurred on school property or within 1,000 foot radius of school property;
 - (b) occurred at a school-sponsored function; or
 - (c) occurred in a school owned or contracted bus or other vehicle.
- (2) The following shall be considered Reportable Incidents:
 - (a) possession, use, sale, or distribution of alcohol and/or other drugs by a student at any time, or by a non-student where it is a crime or affects students;
 - (b) possession, use, or distribution of an inhalant or any controlled substance, as defined in M.G.L. c. 94C;

- (c) any incident involving the threat of assaultive behavior or intentional assaultive or negligent behavior that results in personal injury;
- (d) possession of a weapon as defined in either M.G.L. c. 269 § 10 or in the ***school handbook***;
- (e) any incident involving crimes of intolerance, including, but not limited to, serious "bullying," certain civil rights violations, domestic abuse, dating violence, or a violation of a M.G.L. c. 209A order;
- (f) 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 Social Services pursuant to M.G.L. c. 119 § 51A);
- (g) 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 M.G.L. c. 265 § 39;
- (h) any incident resulting in significant damage to municipal or private property;
- (i) any bomb threat; fire, threatened or attempted fire setting; threatened or attempted use of an explosive device or hoax device. Such reports shall include but not be limited to the requirements of M.G.L. c. 148 § 2A;
- (j) any creation, possession, or dissemination of a document that identifies individuals targeted for violence or death;
- (k) any threat, direct or indirect, against a student, school personnel or other school employee, including but not limited to threats which occur via telecommunications (e.g. internet, text message, IM);
- (l) any incident of "hazing" as defined by M.G.L. c. 269 § 17, involving a threatened or actual risk of physical or emotional harm to a student;
- (m) any sexual assault, rape or incident of gender-based harassment. This shall include but not be limited to any and all policies, procedures, and reporting requirements as defined in the ***student handbook***.

(3) Non-Mandatory Reportable Incidents

If a Reportable Incident involves a student/students of the Newton Public Schools and occurs at a location other than those identified in Section IV (1) above, including outside of Newton, and if after an inquiry, a Designated School Liaison discovers there are reasonable grounds for further investigation, the Liaison will make a report to facilitate supportive intervention on behalf of the student/students.

B. POLICE DEPARTMENT REPORTS TO THE SCHOOL

The appropriate Police Department Designated Liaison will inform the appropriate School Designated Liaison, subject to applicable statutes and regulations governing confidentiality, of

- (1) any activity which may be classified as a Mandatory Reportable Incident as listed in section IV A(1) of this document;
- (2) any arrest of a student or the filing of a complaint application or other police or court action taken against any student of Newton Public Schools; and
- (3) any occurrence involving a student of the Newton Public Schools, if the
 - (a) activity poses a serious and imminent threat to the safety of the student, other students, faculty, or school personnel;
 - (b) making of such report would facilitate supportive intervention by school personnel on behalf of the student; or
 - (c) activity involves actual or possible truancy.

V. PROCEDURE GUIDELINES

A. INTRODUCTION

A concern of educators is to provide a safe and nurturing climate in which learning can take place, as is evidenced in the student handbook. It is also a concern of local law enforcement to promote a safe environment in the public school community.

As recent events have shown, any school is at risk for incidents of violence, threatened violence or attempted violence, as well as the use, abuse and distribution of alcohol and other drugs, all of which diminish the ability of the school community to focus upon the business of learning. In order to promote a safe and nurturing environment in our schools and in our community, it is in our common interest to share information. It is through the collaborative efforts of the Newton Public Schools and the Newton Police Department that this can occur.

B. REPORTING PROCEDURES FOR EMERGENCY SITUATIONS

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

A teacher or other employee having knowledge of any emergency situation shall immediately notify or cause to be notified both the Newton Police Department (911) 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 diffuse certain unusual conditions or disruptions in the school setting, the school will provide all necessary information to law enforcement personnel regarding the students at issue. (See section 99.31(a) (10) of the FERPA regulations.)

C. REPORTING PROCEDURES FOR NON-EMERGENCY SITUATIONS

Where a teacher or other school employee has reasonable grounds to believe that a student has committed an act categorized as a mandatory reportable act and that student is on school grounds, he or she shall take or cause the student to be taken to the appropriate Designated School Liaison.

D. NECESSARY FOLLOW-UP

A teacher or other school employee with knowledge of facts pertinent to the reportable act shall

- (1) prepare and submit a report (see the *student handbook*) on the incident to the appropriate Designated School Liaison;
- (2) notify the Designated School Liaison of the existence of any physical evidence; and
- (3) take reasonable steps to maintain any pertinent physical evidence in a secure place.

E. RESPONSIBILITY OF THE DESIGNATED SCHOOL LIAISON

Once a Designated School Liaison has been made aware of a mandatory reportable incident, it is her/his responsibility to

- (1) notify the Police Department Designated School Liaison and, when appropriate, parents;
- (2) notify the Police Department Designated School Liaison of the existence of pertinent physical evidence and speak with him or her about whether and how to take reasonable steps to maintain it in a secure place; and

- (3) follow up by forwarding any related reports (see the *student handbook*) to the Newton Police Department.

VI. PROCEDURES FOR INTERVIEWING OR ARRESTING STUDENT/S ON SCHOOL GROUNDS

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 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.

A. GENERAL

This agreement pertains to juveniles on school property during school hours or during school-sanctioned events, on or off school property. It does not pertain to juveniles trespassing or committing offenses on school property after school hours.

B. INTERVIEWING/INTERROGATING STUDENTS

- (1) Except in exigent circumstances, officers who wish to detain or question youths on school property shall first contact the school principal or his/her designee. To the degree possible, officers shall explain the nature of their business and the need to meet with the youth(s) in question. Wherever possible, parents will be notified by the school prior to the officers detaining or questioning the youth(s).
- (2) In general, students should not be publicly contacted by officers in the school setting for purposes of questioning unless exigent circumstances exist or such notification would potentially jeopardize student, school staff, or officer safety.
- (3) At their request, school officials and/or parents may be present as observers during interviews or questioning of the students.

C. JUVENILE INCIDENTS/CRIMES COMMITTED ON SCHOOL GROUNDS

- (1) Only a small percentage of school related juvenile incidents reported to the Newton Police Department amount to serious crimes. As such, the vast majority of juveniles involved in incidents are likely candidates for positive diversion and intervention efforts agreed upon by school officials, the police and parents.
- (2) When juveniles commit a more serious act that, if committed by an adult, would constitute a crime not amounting to a serious or violent felony, youth

officers, working with school officials shall, when appropriate, request a hearing or summons instead of affecting an arrest.

- (3) Juvenile incidents that constitute serious or violent felonies if committed by an adult, would generally, but not always, result in an arrest. The following are examples of serious/violent crimes where any arrest should be contemplated:
 - a. felony assault with intent to cause serious bodily injury or death;
 - b. robbery involving force;
 - c. sale of controlled substance;
 - d. burglary; and
 - e. rape.

Also, with respect to active arrest warrants and violations of active restraining orders which may result in an arrest, the police will consult with school officials on the least disruptive way to take the youth into custody.

D. ARREST/REMOVAL OF STUDENTS

- (1) As a general rule, officers should avoid making arrests on school grounds when they may be made effectively elsewhere. Whenever possible, youth officers or police supervisors shall work with school authorities to make the appropriate arrangements for taking the juvenile into custody off of the school grounds.
- (2) Where possible, officers should not arrest juveniles on school grounds if the use of force is a reasonable possibility.
- (3) When an arrest of a juvenile must be made during school hours on school grounds or at school sanctioned activities, a youth officer will be notified to respond if not already at the scene. In the event that youth officers are unavailable, the patrol supervisor will go to the scene to consult with school officials and take appropriate action.
- (4) Students shall not be removed from school property or school sanctioned events without the youth officer or supervisors making notification to the school principal or his/her designee, unless exigent circumstances exist.
- (5) The youth officer or supervisor shall notify the principal or her/his 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 schools if a student is arrested on school grounds.
- (6) Working with designated school officials, the youth officer or supervisor will arrange for the least disruptive and embarrassing method of affecting the arrest.

VII. IMPLEMENTATION

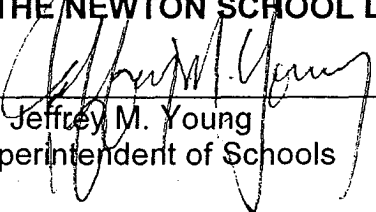
A. TRAINING

The Newton Public Schools and the Newton Police Departments agree to provide agency-wide training to their respective staffs to inform them of their roles and responsibilities under this agreement and to consult with the District Attorney's Office as appropriate regarding this agency-wide training. On an on-going basis, the same training will be provided to new staff members.

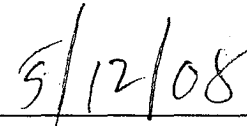
B. EFFECTIVE DATE AND DURATION OF THIS AGREEMENT

The provisions of this Memorandum of Understanding shall be effective as of the date of signing and will remain in full force and effect until amended or rescinded by the parties.

FOR THE NEWTON SCHOOL DEPARTMENT:

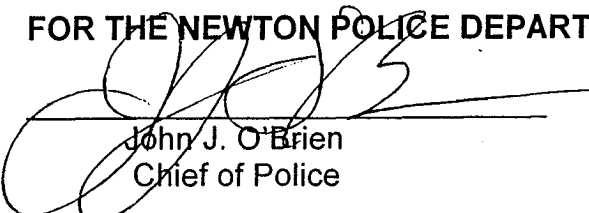


Jeffrey M. Young
Superintendent of Schools

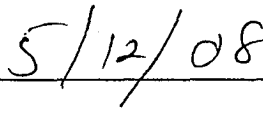


Date

FOR THE NEWTON POLICE DEPARTMENT:



John J. O'Brien
Chief of Police



Date

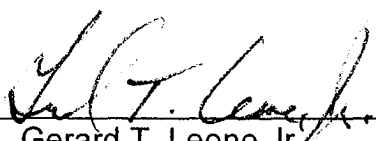
APPENDIX A

ROLE OF THE OFFICE OF THE MIDDLESEX DISTRICT ATTORNEY

In the spirit of the legislative mandate regarding communication between the Office of the District Attorney, law enforcement and school officials, as included in General Laws, Chapter 12, Section 32, and to assist the Newton Public Schools in providing a safe environment for learning, in accordance with the legislative mandate set forth in G.L. c. 71, sections 37H and 37H1/2, inter alia, the Middlesex District Attorney agrees to

- (1) report to the school any felony (criminal or delinquency complaint) that is issued against a student of the Newton Public Schools;
- (2) report to the school any adjudication of delinquency or conviction, or other significant occurrence that arises from the above;
- (3) consider information received from the Newton Public Schools and the Newton Police Department when fashioning proposed terms and conditions to be imposed upon a student of the Newton Public Schools at both the pre-adjudication and post-adjudication stages of the prosecution when possible; and
- (4) consider information received from the Newton Public Schools and the Newton Police Department when deciding whether to prosecute a student as a Youthful Offender.

The Middlesex District Attorney agrees to provide training to 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.



Gerard T. Leone Jr.
Middlesex District Attorney

5/23/08

Date