

MEMORANDUM OF UNDERSTANDING
Between
BERNALILLO COUNTY SHERIFF'S DEPARTMENT
and
ALBUQUERQUE PUBLIC SCHOOLS

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into by and between the Bernalillo County Sheriff's Department (hereinafter referred to as "BCSD") and the Albuquerque Public Schools (hereinafter referred to as "APS").

WHEREAS, In order to ensure a safe educational environment, the Bernalillo County Sheriff recognizes the need to commission members of the APS police.

WHEREAS, providing a safe educational environment includes maintaining the peace and enforcing the law on school campuses, providing swift response in criminal investigation and immediate assistance to victims of crimes.

WHEREAS, the Sheriff and APS have determined that where a specific need for law enforcement assistance and investigative support has been identified or where initial law enforcement action for a violation in progress exists on APS property, it shall be beneficial, economical, advantageous, and in the best interest of the public to commission the APS police for this limited purpose.

WHEREAS, BCSD and APS agree to develop, coordinate, and implement their response to violent, delinquent, or criminal acts by students and adults, including weapons reporting, alcohol and other drug use and other misdemeanor and felony crimes which occur on APS property.

WHEREAS, BCSD and APS agree that every effort should be made to communicate information effectively within the statutory mandates of both agencies in order to better support children in the community.

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

I. PURPOSE.

- a. The purpose of this MOU is to establish a general framework for cooperation between BCSD and APS.
- b. APS does not currently have the authority to operate its own independent law enforcement agency.

- c. The issuance of Sheriff's commission is for the limited purpose of providing law enforcement on APS property and in accordance with the terms outlined in this agreement.

II. SCOPE OF AGREEMENT.

- a. The Sheriff shall issue deputy commissions to qualified APS police officers as determined by the Sheriff. The Sheriff will maintain sole discretion in issuing and revoking any commission.
- b. APS police officers commissioned by the Sheriff shall serve at no cost to BCSD or the County of Bernalillo and shall not be eligible for or entitled to the provisions, benefits, duties, or obligations contained in any employment merit system established by the BCSD or the County of Bernalillo.
- c. APS police commissioned by the Sheriff are strictly prohibited from exercising law enforcement authority on behalf of the Sheriff outside the perimeters of property owned or leased by APS, excluding a violent felony in progress and subject to provision "d" below.
- d. APS police may pursue a violent felony in progress if the violent felony was witnessed by the APS police officer. Upon witnessing a violent felony, the APS police officer will immediately notify BCSD or the Albuquerque Police Department (APD) and provide a description of the offender, a description of any vehicles involved, including a license plate number, and provide continuous update on location and direction of travel. The pursuit must be in compliance with BCSD policy. APS police will defer to BCSD or APD while the pursuit is in progress and will terminate the pursuit when directed to do so by BCSD or APD.
- e. APS police officers enforcing laws within APS property shall be deemed to be acting within the scope of their employment with APS. Under no circumstances shall APS police be deemed to be "borrowed servants" of BCSD or Bernalillo County.
- f. Regardless of whether an arrest is made by BCSD or APS police, the detention of persons arrested for violation of an ordinance or state law will be handled in accordance with BCSD policy and procedures and New Mexico state law.
- g. The on-scene commanding deputy of BCSD shall be in command of all officers, including APS police who are rendering emergency assistance; provided that BCSD

on-scene commander shall exercise command of APS police only through the highest ranking APS police officer at the scene, which individual shall be identified by APS police.

- h. Any report of a crime which may be determined to be a felony offense, excluding property crimes, shall be promptly reported to and investigated by BCSD or APD.
- i. All crimes which may be determined to be felony offenses, including property crimes, shall be documented utilizing a New Mexico State Uniform Police Report. An APS morning report shall be provided to the Sheriff within Twenty-four (24) hours. An initial police report for felony property crimes shall be provided to the Sheriff within seventy-two (72) hours. The morning report referenced above shall include:
 - i. All arrests
 - ii. Use of force incidents
 - iii. Burglaries and incidents of breaking and entering
 - iv. Missing students
 - v. Injuries to personnel
 - vi. Significant property damage to facilities
 - vii. 10-70 requests
 - viii. Any predatory incident against a student
 - ix. Any other significant incident
- j. Any evidence collected by APS police in relation to any crime that may be determined to be a felony, excluding property crimes, shall be submitted to BCSD or APD for tagging and safe keeping. The collection of such evidence will be subject to the requirement contained in provision 'k' below.
- k. APS police will maintain an evidence log which will contain the date and time of collection, the name of the person collecting the evidence, a general description of the evidence collected, the date and time of submission to BCSD or APD, the name of every individual that handled the evidence, the location of the submission of the evidence and the name of the person that took possession of the evidence. The evidence log will be made available to BCSD for review upon request.
- l. If the nature of the collection of evidence requires special training or certification, APS police will immediately contact BCSD or APD in order to arrange for collection by the appropriate agency.

- m. APS will provide the Sheriff with the name of every APS police officer and make and model of every firearm carried by each officer and every firearm made available to each officer.
- n. APS will provide a semi-annual report of any training received by each officer. The report will include a description of the training, the location and title of the training, and the method by which the training was received.
- o. All APS police are required to receive training as directed by the Sheriff. The Sheriff will exercise reasonable judgment in mandating training and BCSD will provide training to APS police at no cost to APS police or APS. BCSD will coordinate and provide this training at a time that is convenient for each agency.
- p. APS police will be required to pass firearms qualifications in accordance with BCSD policy and procedure. Notification of the specifics of this requirement will be provided in writing to APS. The commission of any APS police officer who fails to qualify in accordance with BCSD policy and procedure will be subject to revocation at the discretion of the Sheriff. APS will provide the ammunition for firearm qualification.
- q. Claims of abuse, including inappropriate touching or sexual contact of a student, committed by an APS employee shall be immediately reported to BCSD or APD for investigation by the appropriate agency. Documentation of the complaint and/or police report shall be provided to the Sheriff within twenty-four (24) hours of the initial complaint. This provision does not negate the reporting of such abuse or criminal activity to an appropriate agency in accordance with state or federal law.
- r. Claims of abuse, including inappropriate touching or sexual contact, committed against an APS student will be provided to the Sheriff within twenty-four (24) hours of the initial complaint. This provision does not negate the reporting of such abuse to an appropriate agency in accordance with state or federal law.
- s. BCSD will inform the school building administration of their presence whenever they arrive on an APS campus.
- t. BCSD will carry out their duties while on APS property with as little disruption of the school environment as possible.
- u. APS will investigate all property and misdemeanor crimes in accordance with state law and will cooperate with the District Attorney's office when necessary.

- v. APS will promptly report any and all criminal activity committed on APS property to BCSD within twenty-four (24) hours. This includes the reporting of misdemeanor and felony crimes investigated by APS police.
- w. APS police will comply with BCSD policy and procedure and state and federal law when handling juvenile offenders on APS property. APS personnel will identify students who participate in special education programs to assist APS police and BCSD when dealing with those students. BCSD will make every effort to clarify and provide written BCSD standard operating procedures whenever requested by APS police.
- x. BCSD will make every effort to clarify and provide written BCSD standard operating procedures whenever requested by APS police.
- y. Each party is responsible for the actions of their own employees in accordance with New Mexico State Law.
- z. APS will notify the Sheriff immediately when an APS police officer is placed on administrative leave or suspension in order to determine the status of the Sheriff's commission. APS will provide the Sheriff with the final report of all Internal Affairs investigations of APS police officers. This information will remain confidential and will be used by the Sheriff to determine the status of the APS police officer's commission.

III. TERM AND EFFECTIVE DATE.

- a. This MOU will be effective for twelve (12) months beginning from the date it is signed by both parties.

IV. TERMINATION.

- a. This agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. At the conclusion of twelve (12) months, this agreement may be extended or renewed by written agreement of the parties.

V. LIABILITY.

- a. Each party shall be solely responsible for fiscal and other sanctions occasioned as a result of its own violation of requirements applicable to the performance of this MOU. Each party shall be liable for its own actions or inactions in accordance with state law and nothing herein shall be deemed waiver, indemnity or to otherwise create or effect liabilities between the parties.

VI. NEW MEXICO TORT CLAIMS ACT.

- a. By entering into this MOU, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this MOU. Any liability incurred in connection with this MOU is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq., NMSA 1978, as amended. This paragraph is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. No provision in this MOU modifies or waives any provision of the New Mexico Tort Claims Act.

VII. THIRD PARTY BENEFICIARIES.

- a. By entering into this MOU, the parties do not intend to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to the MOU to maintain a suit for wrongful death, bodily injury to persons, damage to property, or any other claim whatsoever pursuant to the provision of this MOU. No person shall claim any right, title or interest under this MOU or seek to enforce this MOU as a third party beneficiary of this MOU.

VIII. SEVERABILITY.

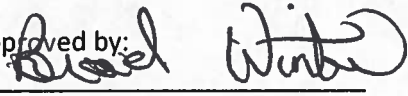
- a. If any provision of this agreement is held invalid or unenforceable by any court of law, the remainder shall remain in effect unless terminated as provided herein.

IX. AMENDMENTS.

- a. This agreement shall not be amended except by an instrument in writing executed by the signatories below. However, notice of changes in persons holding positions, changes in addresses and similar changes of a ministerial nature do not constitute amendments which require approval. This agreement and any amendments hereto shall be governed by applicable laws of the State of New Mexico.

In witness hereof, the following authorized representatives of the parties have signed their names on the dates indicated below, thereby executing this agreement.

Albuquerque Public Schools

Approved by: 

Brad Winter
APS Chief Operations Officer

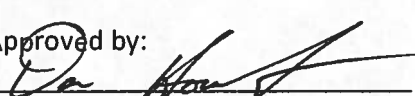
Date: 10/24/11

Approved by: 

Arthur D. Melendres
APS Legal

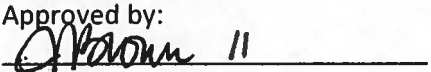
Date: 10/24/11

County of Bernalillo

Approved by: 

Dan Houston
Bernalillo County Sheriff

Date: 10/24/11

Approved by: 

Jennifer Vega-Brown
Attorney for BCSD

Date: 10/24/2011

Approved by: 

Tom Zdunek
County Manager

Date: 10-24-11



BERNALILLO COUNTY
Office of the County Manager

MEMORANDUM

TO: Board of County Commissioners
Maggie Hart Stebbins, Chair
Art De La Cruz, Vice Chair
Michelle Lujan Grisham, Member, District 1
Michael C. Wiener, Member, District 4
Wayne A. Johnson, Member, District 5
Karen Montoya, Assessor
Willow M. Parks, Probate Judge
Maggie Toulouse Oliver, Clerk
Patrick J. Padilla, Treasurer
Dan Houston, Sheriff
Peter Auh, Interim County Attorney
Julie M. Baca, Deputy County Manager, Community Services
Teresa Byrd, Interim Deputy County Manager, Finance
Tom Swisstack, Deputy County Manager, Public Safety
Roger Paul, Interim Deputy County Manager, Public Works
Tia Bland, Director, Public Information Department

FROM: Tom Zdunek, County Manager

DATE: October 19, 2011

SUBJECT: Out of Office Notification

I will be taking annual leave from Thursday, October 20, 2011, through Sunday, October 30, 2011. Julie Morgas Baca, Deputy County Manager for Community Services, will be Acting County Manager from October 20 through October 25; Roger Paul, Interim Deputy County Manager for Public Works, will be Acting County Manager from October 26, through October 28. Each is authorized to take actions necessary during my absence.