



**LA CROSSE COUNTY SYSTEM OF CARE  
JUVENILE JUSTICE BEST PRACTICE  
MEMORANDUM OF UNDERSTANDING**

WHEREAS, this agreement is entered into on this date, the 21<sup>st</sup> day of February, 2018 between the City of La Crosse Police Department, La Crosse County Circuit Court, La Crosse County District Attorney's Office, La Crosse County Department of Health and Human Services, and the School District of La Crosse for the purpose of establishing a cooperative relationship regarding students who are alleged to have committed a delinquent act on school premises or areas immediately adjacent to the school during school hours or activities.

WHEREAS, the parties acknowledge that some delinquent acts committed on school campus do not warrant a response from the Justice System and should be handled using alternative measures supported by the research on adolescent brain development.

WHEREAS, the parties acknowledge the studies showing that the use of the Justice System involving low risk offenses on school campus can be detrimental to student academic performance, to-wit: a student is twice as likely to drop out of school if arrested on campus and four times more likely if they appear in court<sup>i</sup>. The parties also acknowledge that arrests and overuse of out-of-school suspensions lower standardized test scores, reduce future employment prospects, and increase the likelihood of future interaction with the criminal justice system.<sup>ii</sup>

WHEREAS, the parties utilize current adolescent brain development research<sup>iii</sup> and its application to the development of best practices when handling school discipline actions involving certain misdemeanor and other low level offenses, including but not limited to collaborative agreements to reduce referrals to the juvenile court.<sup>iv</sup>

WHEREAS, the parties acknowledge the importance of providing all youth an experience that is fair, equitable, and responsive regardless of race, ethnicity, gender, geography, and offense.

WHEREAS, the parties acknowledge that handcuffing or shackling of juveniles can be traumatizing and contrary to the developmentally appropriate approach to juvenile justice.

WHEREAS, the parties acknowledge the legislative intent of the Wisconsin Legislature to treat juvenile offenders uniquely from adults by expressly authorizing juvenile courts pursuant to Wis. Stat. § 938.01 (2) (e) "To divert juveniles from the juvenile justice system through early intervention as warranted, when consistent with the protection of the public" and in accordance with Wis. Stat. § 938.245 to defer juveniles from prosecution and having to appear in court.

WHEREAS, the parties acknowledge and agree this Agreement is a cooperative effort to establish guidelines for the handling of school related delinquent acts which are defined herein as "Focus Acts". The parties further acknowledge and agree the guidelines contained herein are intended to establish uniformity 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 the manner in which each case or incident is handled by law enforcement, school administrators, and/or the Juvenile Court is dependent upon the many factors unique to each child that include, but are not limited to, the child's background, present circumstances, disciplinary record, general demeanor and disposition toward others, mental health status, and other factors. 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.

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

## I. DEFINITIONS

As used in this Agreement, the term:

A. "Student" means a person who is enrolled in the school district.

B. Bullying - Bullying is deliberate or intentional behavior using words or actions, intended to cause fear, intimidation, or harm. Bullying is repeated behavior and involves an imbalance of power. The behavior may be motivated by an actual or perceived distinguishing characteristic, such as, but not limited to: age, national origin; race; ethnicity; religion; gender; gender identity; sexual orientation; physical attributes; physical or mental ability or disability; and social, economic, or family status.

The School District of La Crosse views bullying as being exposed, repeatedly and over time to negative actions by one or more people. Bullying behavior can be:

1. Physical (e.g. assault, hitting or punching, kicking, theft)
2. Verbal (e.g. threatening or intimidating language, teasing or name-calling, racist remarks)
3. Indirect (e.g. spreading cruel rumors, intimidation through gestures, social exclusion, and sending insulting messages or pictures by mobile phone or using the internet - also known as cyber bullying.)
4. Between students and students, students and adults, or adults and adults.

C. "Intake Worker" means a person authorized pursuant to Wis. Stat. § 938.067 to screen and interview juveniles to determine if detention is warranted in accordance with Wis. Stat. §938.208, provide crisis counseling, make referrals to other agencies, defer prosecution, and certified if a petition should be filed.

D. "Juvenile Court" refers to the court assigned to exercise jurisdiction over juveniles under Wisconsin Statutes chapter 938.

E. "Delinquent Act" means an act designated a crime by state law, federal laws, or by local ordinance.

F. "Juvenile in Need of Protection and Services (JIPS) offense" means conduct that is unlawful only because the offender is a minor (i.e. runaway, uncontrollable, truancy) known otherwise as a status offense.

G. "Felony" means a crime punishable by imprisonment for more than 12 months if committed by an adult.

H. "Misdemeanor" means any crime punishable by imprisonment for less than 12 months if committed by an adult.

I. "Focus Acts" refers to the identified delinquent acts or status offenses set forth in this agreement that will be targeted for intervention through the La Crosse County System of Care.

J. "System of Care" refers to a diversionary option for youth who display rule violations or focus act behaviors that aims to assess the needs of the individual and connect them with appropriate resources to fill that need as a means of diversion from formal charges.

K. "Referral" means a form used by law enforcement to document the occurrence of a Focus Act.

L. "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.

M. "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.

N. A "School Resource Officer" (SRO) is a police officer that is assigned to a school as a liaison between the school district and the police department. SROs support school personnel and

students with resources that promote academic success and improve school climates. SROs are also responsible for crisis management, community policing, school security, and conducting student-related investigations.

O. "Positive Behavioral Interventions and Supports" (PBIS) is an evidenced based framework designed to promote positive behavior, enhance school cultures, increase instructional time, and improve outcomes for children in need. The framework is based on research that has found that safe and welcoming schools have all of the following elements:

1. Common behavioral expectations for adults and children.
2. Adults who regularly teach and model positive behavior to children.
3. Adults who frequently acknowledge positive behavior in children.
4. Positive behavioral interventions and supports for children in need.

## II. TERMS OF AGREEMENT

### A. Role of the School Resource Officer

The primary role of the SRO is to improve school safety and the educational climate at the school, not to enforce regular school discipline or administer school-based consequences. Absent a real and immediate threat to a student, teacher, or school official, and absent the situations described herein where SRO intervention is deemed appropriate, the school administrators shall be responsible for the handling of school discipline matters.

Administrators shall support an SRO in taking actions consistent to the terms, conditions, and spirit of this agreement

### B. Prerequisites to Court Referral

The parties agree that Focus Acts committed by a student not currently under juvenile supervision, are presumptive school discipline matters that should be handled by school officials and SROs without referral to the juvenile or criminal court. The Focus Acts identified as part of this MOU include the following offenses:

1. Disorderly Conduct
2. Misdemeanor Battery
3. Misdemeanor Theft
4. Misdemeanor Criminal Damage to Property
5. Truancy 2nd Offense

When a Focus Act occurs, school officials and SROs shall consider the graduated responses below.

1. Positive Behavioral Interventions and Supports (PBIS) and School-Based Interventions

For any offense committed by a student at school, school administrators and SROs should first consider all available, culturally responsive, school-based resolutions including PBIS interventions or other school based interventions. These interventions may include, but are not limited to, Check-in/Check-out, Social Academic Instructional Groups, Functional Behavior Assessment/Behavior Intervention Plan, School-based conflict resolution, informal restitution, behavior contract, or Justice Circle.

2. Referral to La Crosse County System of Care (SOC)

The parties agree that a diversionary program like La Crosse County System of Care (SOC) is an evidence-based practice for handling rule violators designed to avoid serious and harsh consequences that may be harmful to the student's success and personal development if less restrictive means may be sufficient to modify the student's behavior. The use of the SOC by school officials and/or SROs is to engage all students in a positive, culturally responsive manner while holding them accountable for their behavior. This approach can afford school officials and/or SROs an opportunity to assist students in problem-solving that is not otherwise available in an incident-driven approach. The parties agree the La Crosse County SOC enhances the problem-oriented approach recognized as the cornerstone of an effective juvenile justice system.

Students who have committed a Focus Act and who are not on supervision with La Crosse County Juvenile Justice are eligible to participate in the La Crosse County SOC. There may be other students who will access the SOC based on the unique circumstances of the situation.

The school official and/or SRO shall obtain verbal consent for the student to participate in the SOC from the student's parent or guardian. Once verbal consent is given, the school official and/or SRO will complete a formal referral to the SOC by contacting the SOC Coordinator. Parental consent in the SOC is a prerequisite to participation in the program. Non-consent should be noted on any discipline documentation and may result in a referral for formal charges at the discretion of the SRO. The La Crosse County SOC process is outlined below.

1. Parent or guardian consent for student to participate in the SOC
2. Formal referral to the SOC
3. SOC student assessment
4. SOC Intervention selection and placement
5. Intervention monitoring
6. Success monitoring
7. Exiting the SOC

School officials and SROs will be notified of a parent's revocation of consent or a student's non-participation in the SOC. Once notified, school officials and SROs shall make an effort to reengage the parent or student in the SOC. Revocations of consent to participate or non-participation in the SOC by the student should be noted on any discipline documentation and may result in referral for formal charges at the discretion of the SRO.

### C. Removal of a Student from Campus

The parties acknowledge there may be situations that warrant removal of a student from the campus to maintain the safety of others. The SRO and administrator shall always utilize least restrictive measures to remove a student from campus beginning with parental/guardian contact to retrieve their child, if applicable.

If this attempt is unsuccessful, and the behavior justifies a juvenile criminal charge, the SRO shall contact the Juvenile Intake Worker for consultation. The Intake Worker shall employ least restrictive measures that coincide with statutory determinations as to the appropriate use of juvenile detention. The utilization of an objective Detention Risk Assessment Instrument (DRAI) will be utilized by the Intake Worker to ensure the jurisdictional intent of the use of juvenile detention is always considered.

For students who are charged as an adult, SROs will follow La Crosse Police Department policy.

Per La Crosse Police Department policy, SROs will use professional discretion when determining whether to use handcuffs to remove a student from school. Factors that may influence that decision include the SROs determination of risk of escape, and the level of risk to the physical safety of the student, other students, school staff, or the officer. The use of handcuffs on students should be considered a last resort

### D. Special Education

The parties agree that students with disabilities may exhibit behavior that is a manifestation of their disability and that the student's IEP should be consulted when appropriate before responding, especially in circumstances in which a referral to the juvenile court is considered. Therefore, the following guidelines should be considered when addressing Focus Acts committed by a special education student:

- Consultation with the student's case manager.
- Review the student's IEP behavioral intervention plan.

#### E. Bullying

Per School District of La Crosse policy, bullying behavior is prohibited in all schools, buildings, property, and educational environments, including any property or vehicle owned, leased, or used by the school district. Educational environments include, but are not limited to, every activity under school supervision.

If it is determined that a student participated in bullying behavior in violation of district policy, the principal and/or designee may take disciplinary action, from a verbal warning up to and including: suspension, recommendation for expulsion, and/or referral to law enforcement officials for possible legal action as appropriate.

#### F. Court Involved Students

The parties acknowledge that education is a protective buffer against delinquent conduct and also serves to rehabilitate youth adjudicated to be a delinquent child in need of supervision. The parties agree there is a presumption to maintain court involved youth connected to school unless their presence presents a serious risk to the safety of others. The parties further acknowledge that those supervising court involved youth have supports and services available to them. Therefore, if the student is under the supervision of the court or a deferred prosecution agreement, the SRO shall, when circumstances permit, consult with the student's social worker to determine if an offense can be addressed using any school-based interventions, whether a special circumstance referral to the SOC is warranted, or an alternative response is available to the student's social worker.

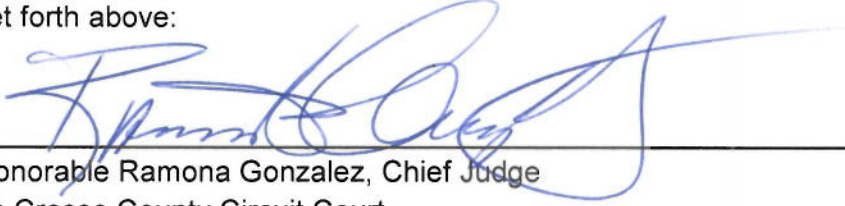
#### G. Law Enforcement Discretion

The parties acknowledge that some non-Focus Act 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. The parties agree that the SRO shall have the discretion and when allowed by policy to determine if an offense can be addressed using any school-based interventions or whether a special circumstance referral to the SOC is warranted.

### III. DURATION AND MODIFICATION

This Agreement shall become effective immediately upon its execution by signature of duly authorized representatives of the parties and shall remain in full force and effect until such time as terminated by any party to the Agreement. The agreement may be terminated with 30 day written notice to all parties within the agreement. The Agreement may be modified at any time by written amendment to the Agreement. The parties acknowledge and agree to meet at least annually to review this agreement and make any modifications deemed just and appropriate.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, intending to cooperate with one another, having caused the agreement to be executed as of the date first set forth above:



Honorable Ramona Gonzalez, Chief Judge  
La Crosse County Circuit Court



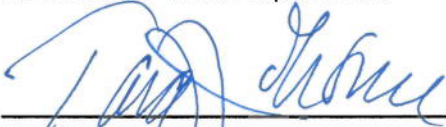
Tim Gruenke, District Attorney  
La Crosse County District Attorney's Office



Randy Nelson, Superintendent of Schools  
School District of La Crosse



Ronald Tischer, Chief of Police  
La Crosse Police Department



Tara Johnson, County Board Chair  
La Crosse County



Jason Witt, Director  
La Crosse County Human Services

<sup>1</sup> Gary Sweeten, "Who will graduate? Disruption of high school education by arrest and court involvement," Justice Quarterly, Volume 23, No. 4.

<sup>2</sup> Terrance Thornberry, David Huzinga, and Rolf Loeber, "the causes and correlates studies: Findings and Policy Implications," Juvenile Justice, Vol. 9, No. 1; David s. Kirk and Robert J. Sampson, "Juvenile arrest and collateral damage in the transition to adulthood," American Sociological Association.

<sup>3</sup> Jay N. Giedd, Jonathan Blumenthal, Neal O. Jeffries, F. X. Castellanos, Hong Liu, Alex Zijdenbos, Tomas Caron Paus, Alan C. Evans & Judith L. Rapoport, "Brain development during childhood and adolescence: a longitudinal MRI study," Nature Neuroscience 2, 861-863 (1999).

<sup>4</sup> James C. Howell, Mark Lipsey, and John J. Wilson, A Handbook for Evidence-Based Juvenile Justice Systems, (Longond, Lexington Books, 2014) 99. 47-48 and p. 135, which states "Judge Teske's Georgia Clayton County School Referral Reduction Protocol (reviewed earlier) is an ideal solution to excessive school suspensions and expulsions.