



This MOU TEMPLATE is being provided as a resource by D. Stafford & Associates for NON SWORN College and University Departments of Public Safety that are interested in developing an MOU with their local police agency(s). This is not intended to be legal guidance and institution officials should review the final MOU that they develop with their local police agency(s) with the appropriate legal office affiliated with the College/University.

**BLANK COLLEGE DEPARTMENT OF PUBLIC SAFETY
LOCAL POLICE DEPARTMENT
MEMO OF UNDERSTANDING**

Number: M-01

Date: May 2013

This Information Sharing Agreement is entered into this ____ day of January, 2013 between ??? NON SWORN DPS AT ??? INSTITUTION (the Institution) and the City of ??? Police Department. The purpose of this Agreement is to implement a Memorandum of Understanding between the ??? College Department of Public Safety (DPS) and LOCAL Police Department (?PD) to enhance the parties' ability to effectively address alleged crimes of violence. This includes sharing information about INSTITUTION'S students and employees who are the victim of, a witness to, or an alleged perpetrator of an offense of violence or sex offense. This MOU also establishes a standard procedure for handling incidents and reports of Sexual Assaults and issuing Timely Warnings and Emergency or Immediate Notifications. Federal Laws provide specific requirements relative to these processes as outlined by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and Title IX of the Higher Education Amendments of 1972.

GOALS

Compliance with the terms of this Memorandum of Understanding should achieve the following goals:

- A. To ensure felonies committed on institution property are promptly and effectively reported, investigated and prosecuted.
- B. To enhance communication and cooperation between local law enforcement and ??? College/University in providing services and assistance to students and employees of the College/University who are victims of or witnesses to a crime.
- C. To enhance the institution's ability to alert the campus community about crimes of a serious nature that pose a serious or on-going threat to public safety.

GENERAL POLICIES

1. The information and records shared under this MOU may, when appropriate, include any information or records permitted to be released under any exception to the privacy protections of the Family Educational Rights and Privacy Act (FERPA), including the Health and Safety Emergency exception and/or records/information otherwise protected by LIST ANY OTHER STATE LAWS OR LOCAL ORDINANCES HERE. It should be noted that FERPA applies only to records created by the Institution and to information derived from tangible records. FERPA does not protect the confidentiality of information in general and, therefore, does not apply to the disclosure of information derived from a source other than an education record, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation and not from an education record is not protected from disclosure under FERPA. Thus, a verbal report of an offense of



violence or sexual assault can and must be reported to the appropriate LOCAL police agency. The parties agree to keep all information confidential unless the release is authorized by the party disclosing the information or is otherwise required by law.

2. ??PD and DPS will exchange, in as timely a manner as is practicable, police investigatory information and copies of police/incident reports reporting any alleged offense of violence or sex offense - including non-public information (e.g., the name of uncharged suspects).
3. The Institution will include and LOCAL PD will provide a representative for the Institution's monthly meetings of those persons with primary responsibility for addressing student sexual assault under Title IX.
4. In those instances when a student is an alleged perpetrator of a crime of violence or sex offense, the Institution will provide to LOCAL PD the name of the student found responsible for violating the Institution's Code of Student Conduct; the Code of Student Conduct violation (e.g., Section ???), and the final results of the disciplinary proceedings.
5. In the event there is a concern that some information/record regarding sexual assault may not be shared under the terms of this MOU because of FERPA constraints, the **Office of General Counsel?** will be consulted.
6. Participating parties agree, within the statutory authority of each agency/institution, that every effort will be made to share information, so as to provide a safe educational setting at ???Institution.
7. It is understood that Institution officials are not agents of the LOCAL police agency and that the LOCAL police agency is not an agent of the Institution. Institution officials retain the sole prerogative to impose disciplinary sanctions for infractions of institution rules and policies in addition to any police involvement or investigation that may be warranted.

The Department of Public Safety personnel will immediately report the following alleged offense of violence or sex offenses to the LOCAL police agency. These report(s) are mandatory based upon the nature of the incident. The Department of Public Safety personnel shall not refrain from notifying the LOCAL police agency of a reportable incident based solely upon the named victim's intent or desire not to proceed with further investigation or prosecution. It is understood that the Institution cannot force the victim to report the crime to the LOCAL police agency, but the Institution will report the incident to the LOCAL police agency. The Institution will notify the victim of his/her right to report the incident to the LOCAL police agency and will document that notification in the DPS Incident Report.

SUGGESTED Reportable Alleged Offense of Violence or Sex Offenses: (ADD THOSE CRIMES OF VIOLENCE THAT YOUR DPS AND LOCAL AGENCY AGREE TO):

1. Criminal Homicide
2. Forcible Sex Offenses
3. Robbery
4. Crimes Against Minors
5. Crimes Against Elderly/Disabled Persons
6. Medically Unattended Death



RESPONDING TO AND INVESTIGATING INCIDENTS OF SEXUAL VIOLENCE AND DISTRIBUTING BLANK INSTITUTION TIMELY WARNING NOTICES AND EMERGENCY NOTIFICATIONS

Responding to and Investigating Incidents of Sexual Assault:

Procedure:

The dual mission of the Department of Public Safety (DPS) with regard to incidents of sexual assaults will be the safety and emotional well-being of the victim and the employment of proper investigatory techniques in order to preserve evidence and obtain information that may lead to the apprehension of a suspect should the victim decide to cooperate with prosecution.

Types of Reports

The Department of Public Safety may receive reports in several different ways (the common scenarios are listed below) and the manner in which the report is received will affect the response procedures for DPS.

1. A complainant may call the Department of Public Safety Communications Center to report a sexual assault.
2. A complainant may report a sexual assault directly to a member of the Department of Public Safety.
3. A complainant may report a sexual assault to a "Campus Security Authority" (as defined by the Clery Act) or to a "Responsible Employee" (as defined by Title IX) and the campus security authority/responsible employee may subsequently report the incident to the Department of Public Safety. Campus security authorities and responsible employees on campus are governed by Institution Policy and they are asked to immediately report any crimes reported to them to the Department of Public Safety for the purpose of assessing the crime for the potential distribution of a timely warning notice.
4. A complainant may call the LOCAL Police Department directly to report a sexual assault. For purposes of this MOU, we are focused on reports involving a member of the BLANK Institution Community or a reported incident that occurred on BLANK Institution owned, leased or controlled property.
 - A. Report of a Recent Incident versus a Delayed Report
 - a. If a complainant calls the Communications Center or reports a sexual assault directly to a member of the Department of Public Safety or a Campus Security Authority/Responsible Employee calls the communications center to report a sexual assault that was reported to him/her:
 - i. The DPS staff member should immediately attempt to determine if the assault occurred in the past 96 hours or if the report is a Delayed Report (for purposes of this MOU, a delayed report is defined as an incident that occurred more than 96 hours from the time of the report).
 - ii. The DPS staff member should attempt to determine the location where the assault occurred and if the complainant is calling from the location where the assault occurred.
 - iii. If the report is being made by a Campus Security Authority/Responsible Employee, the DPS staff member should determine if the complainant is willing to report the incident to a DPS officer.



This information will affect the response of the Department of Public Safety and the potential involvement of the LOCAL Police Department. For example, if the complainant is reporting an incident that occurred six months ago, there would likely be no physical evidence to process and she/he may not want to file a police report about the incident or if the incident occurred on Spring Break while away from the campus, the LOCAL Police Department would not have jurisdiction in the case. If the complainant reported the incident to a Campus Security Authority/Responsible Employee, and is not willing to report it to and identify themselves to the Department of Public Safety, the LOCAL PD will not have the ability to interview the complainant or conduct an investigation. In these types of incidents, the Director of Public Safety or his/her designee will report the incident to the LOCAL Police Department without providing the name of the complainant. When in doubt, the Director of Public Safety (or designee) will confer with the Chief of the LOCAL Police Department.

B. General: Report of a Recent Incident

1. When the Department of Public Safety receives a report of an alleged sexual assault or an attempted sexual assault, the Director of Public Safety (or his/her designee in his/her absence) will be notified immediately.
2. Upon receiving a complaint that a rape or sexual assault has been attempted or has occurred, the communications officer shall dispatch a supervisor and/or officer to the location of the complainant to take an initial incident report and to secure the crime scene, if the complainant is calling from the scene of the crime.
3. If the complainant is not at the scene of the crime, the communications officer will provide several options to the complainant in order to protect her/his privacy, to the extent possible and the communications officer should explain that if a DPS Officer responds to her/his current location, her/his friends and bystanders will be curious about why the officers are there—which may reduce her/his privacy in the matter. The communications officer should then inform the complainant of the following options: (1) DPS can dispatch an officer to her/his location to take a report; (2) the complainant can respond to the DPS HQ to file a report; (3) DPS can pick the complainant up at an agreed upon location to provide an escort to the DPS HQ to file a report.
4. In all cases listed above, radio communications concerning the incident should be kept to a minimum, and if practical, communications should be made either in person or via phone.
5. **As soon as the responding officer receives confirmation of a sexual assault (defined for this MOU as: rape, sodomy, sexual assault with an object or forcible fondling (as defined by the FBI NIBRS Manual) and determines the report to be a good faith report, the LOCAL Police Department will be immediately notified without further delay. Once the LOCAL PD is notified, the DPS Supervisor or Officer must cease their preliminary investigation and questioning and await the arrival of the LOCAL PD officers/investigators.**

C. General: Delayed Report

1. Whenever the Department of Public Safety receives a report (even if it is a delayed report) of an alleged sexual assault or an attempted sexual assault, the Director of Public Safety (or his/her designee in his/her absence) will be notified immediately.
2. The communications officer will provide several options to the complainant in order to protect her/his privacy, to the extent possible and the communications officer should explain that if a DPS Officer responds to her/his current location, her/his friends and bystanders will be curious about why the officers are there—which may reduce her/his privacy in the matter. The communications officer should then inform the complainant of the following options: (1) DPS can dispatch an officer to her/his location to take a report; (2) the complainant can



respond to the DPS HQ to file a report; (3) DPS can pick the complainant up at an agreed upon location to provide an escort to the DPS HQ to file a report.

- 3 Radio communications concerning the incident should be kept to a minimum, and if practical, communications should be made either in person or via phone.
- 4 The Director of Public Safety will determine if the LOCAL Police Department should be notified to take a report in cases involving a delayed report. When in doubt, the Director of Public Safety will confer with the Chief of the LOCAL Police Department. OR
- 5 The Director of Public Safety or his/her designee will report the incident to the LOCAL Police Department without providing the name of the complainant. When in doubt, the Director of Public Safety will confer with the Chief of the LOCAL Police Department.

D. Notification

1. The Supervisor or Senior Officer On-Duty will ensure the following Institution Officials are notified:
 - a. The on-call DPS Director.
 - b. The on-call Residence Life Staff Member.
 - c. A counselor or staff member from the SEXUAL ASSAULT ADVOCACY GROUP; if necessary and deemed appropriate by on-call administrators.

Officer Response: Report of a Recent Incident

1. The primary concern of the DPS officer(s) on the scene shall be the medical needs of the victim and the preservation of evidence. If the victim is seriously injured, hysterical, or in a state of shock, the victim shall immediately be transported to the LOCAL Hospital. Any special requests made by the victim at this time, such as having a friend present, should be honored whenever practical. The LOCAL PD would then be notified while en route to the hospital with the victim.
2. Depending on the condition of the victim and the probability of affecting the apprehension of the alleged suspect(s) if still in the vicinity, but with full recognition that the mental and emotional well-being of the victim is paramount, the officer on the scene may secure some preliminary information from the victim regarding the physical description of the alleged suspect(s), time of occurrence, location of occurrence, wounds, type of weapon used or mentioned, if any, vehicle description, if any, suspect's direction of flight, etc. Additionally, the LOCAL PD is to be immediately notified and all preliminary information is to be shared with the responding LOCAL PD officers.
3. If the complainant contacted DPS from the scene of the reported crime, the DPS officer(s) on the scene shall also preserve and secure the scene of the crime and await the arrival of local law enforcement authorities. If the scene of the crime is an off campus location or a location that is owned, leased or controlled by BLANK Institution, the DPS officers should immediately report that information to the responding LOCAL PD officers, as they will need to determine if they intend to obtain a search warrant for the location of the crime. *NOTE: In this situation, under your current policies, could an Institution official respond to the room, have everyone removed from the room and secure the room until a warrant can be obtained? Would DPS secure and monitor the room until LOCAL PD arrived with the warrant? If so, add that information here.*
4. Any and all witnesses should be identified by DPS and asked to await the arrival of the LOCAL PD . All witnesses should be requested not to discuss the incident with anyone prior to being interviewed, and if practical, these witnesses should be kept separate from each other during this waiting period.
5. The DPS officer shall write a preliminary report and immediately alert other units and local law enforcement units of pertinent information, should a suspect be at large.



Officer Response: Report of a Delayed Incident

1. The primary concern of the DPS officer(s) taking a delayed report of an alleged sexual assault shall be the emotional and physical well-being of the victim. Any special requests made by the victim at this time, such as having a friend present during the interview, should be honored whenever practical.
2. The DPS officer shall gather the basic details about the incident, including but not limited to: the date and time of occurrence, location of occurrence, reported injuries, the type of weapon used or mentioned, if any, vehicle description, if any, and a general synopsis of what occurred. The officer shall advise the victim of his/her right to make a report with the LOCAL PD, provide contact information for both off and on campus medical and mental health resources, and ask the victim if they need any support services at this time.

SPECIAL NOTES:

- **Once the LOCAL Police Department has been notified of the report of a recent incident, responding Public Safety Officers should focus on ensuring the victim's safety and well-being, preserving and securing the crime scene, securing physical evidence, identifying witnesses for future questioning, and keeping onlookers away from the scene. Once the LOCAL PD has been summoned and becomes involved with the investigation of the crime, all subsequent interviews and law enforcement functions shall be conducted by the LOCAL PD. The preservation of the crime scene includes the victim's clothing and body. Victims should be encouraged not to change clothing or shower in order to preserve evidence that may be obtained from the victim's person.**
- **Pursuant to Title IX requirements and this Memo of Understanding (MOU) between DPS and the Local PD, Local Police will be given a specified period of time to initiate their criminal investigation. Under Title IX, once DPS and/or a responsible employee of the Institution becomes aware of an incident of sexual violence or harassment, the Institution must take immediate and appropriate action to investigate or otherwise determine what occurred. This action would be separate from any LOCAL PD initial criminal investigation. The Institution will not wait until the completion of a criminal investigation, nor will it wait until charges are filed. Institutional investigatory obligations under Title IX are time sensitive and require prompt follow-up. However, the Institution will wait a reasonable amount of time (usually 7 to 10 business days) to allow LOCAL PD to initiate its initial fact finding and the gathering of evidence in the criminal investigation. The DPS Director or designee and LOCAL PD Chief or designee will regularly confer on the status of an active investigation to ensure compliance with federal requirements while maintaining the integrity of any active criminal process.**
- **If sexual violence has occurred, BLANK Institution is required to:**
 - **Take prompt and effective steps to end the sexual violence,**
 - **Prevent its recurrence, and**
 - **Address its effects, whether or not the sexual violence is the subject of a criminal investigation.**
 - **The institution must additionally take steps to protect the complainant as necessary, including interim steps to protect the complainant which must be taken prior to the final outcome of the investigation.**
 - **When a complainant informs DPS that he/she has been the victim of sexual violence, misconduct, or harassment, in addition to the above response protocols, the DPS officer must inform the complainant of his/her right to report the incident to the Title IX officer(s) of the institution. Such a report can be made on-line using the Institution's on-line reporting form, via phone, or in person. The DPS officer who takes the initial report will notify the complainant of the name(s)**



and contact information (including email address, phone number and location of the office) of the Title IX officer(s) and will document that the notification was made in the narrative of the DPS incident report

Distribution of Timely Warnings (called Campus Safety Alerts at THIS CAMPUS):

Procedure:

The Institution must, in a manner that is timely and will aid in the prevention of similar crimes, provide information to the campus community about Clery Act crimes that have been reported to campus security authorities or state or local police that are considered to represent a serious or continuing threat to the Institution's community. These warnings, which the Department of Public Safety issues as "Campus Safety Alerts", shall be issued in accordance with the procedures described below.

The following procedures shall be followed when initiating Campus Safety Alerts:

- 1. Criteria for a Campus Safety Alert.** The Director of Public Safety or his/her designee will develop Campus Safety Alerts for the institution's community to notify members of the community about Clery Act crimes that have occurred on campus, on non-campus property or public property running through or immediately adjacent to the campus, when it is determined that the incident may pose a serious or ongoing threat to members of the Institution's community. Campus Safety Alerts are typically issued for the following crimes: major incident of arson, criminal homicide, motor vehicle theft and robbery. Alerts for the crimes of aggravated assault, burglary and sex offenses are considered on a case by case basis and depend upon a number of factors. These include the nature of the crime, the continuing danger to the campus community -- such as whether the perpetrator was apprehended or the threat has been mitigated. Campus Safety Alerts may be distributed for other serious crimes if deemed warranted by the Director or his or her designee in the Director's absence. Campus Safety Alerts will be distributed in a timely manner and will be issued as soon as pertinent information is received and it is determined that the reported incident may pose a serious or on-going threat to the community..

Campus Officials not subject to the timely warning reporting requirement include licensed or certified professional counselors and recognized pastoral counselors who are functioning in the role of providing confidential counseling to members of the Institution's community on behalf of the institution.

- 2. Preparation of a Campus Safety Alert.** The DPS Shift supervisors/senior officers are responsible for notifying the Director or his/her designee of any reported incident that may necessitate the issuance of a Campus Safety Alert. Campus Safety alerts are generally written and distributed to the campus community by the Director of Public Safety or a designee and they are routinely reviewed and approved by the Vice President for College Life and Dean of Students or a designee prior to distribution. The Director of Public Safety has the authority to issue a Campus Safety Alert without such consultation if consultation time is not available.



The Campus Safety Alert must include information with sufficient specificity to allow recipients to take an appropriate response and to potentially aid in the prevention of similar crimes.

A Campus Safety Alert will include:

- Title of the crime reported;
- Date and time the Campus Safety Alert was released;
- Accurate date, time and location of the incident;
- A succinct description of the incident;
- Tips for maintaining personal safety; and
- A request for information and where to direct information.

A Campus Safety Alert may also include:

- Physical description of the suspect, if known;
- Information about possible connection to previous incidents;

- 3. Dissemination of the Campus Safety Alert.** The Director of Public Safety or his or her designee has primary responsibility for the distribution of Campus Safety Alerts. All campus-wide Campus Safety Alerts will be sent by the Director of Public Safety or his/her designee through the campus email system and will be posted on the Department's webpage for at least 30 days. Additional supplemental methods for disseminating Campus Safety Alerts include, but are not limited to, the following means: posting of flyers, text messaging, the campus newspaper, and related news media announcements. The method or methods used will depend on the severity, location, and type of incident and the ongoing nature of the threat. However, the blast campus email is the primary and preferred method of distribution. Campus Safety Alerts may be issued for other crime classifications as deemed necessary.

If a crime is reported directly to the LOCAL Police Department that could pose a serious or ongoing threat to the BLANK Institution community, a representative of the LOCAL PD will notify the Department of Public Safety as soon as practicable about the crime and will provide sufficient detail to allow the DPS to assess the crime and determine if a Timely Warning Notice should be distributed to the BLANK Institution community. The LOCAL Police Department will assist the Institution in their response to a crime that affects the Institution community, as deemed appropriate and as resources permit.

Emergency Notifications:

In the event of an emergency or incident that poses a potential immediate threat to the health and safety of the campus community, an effective campus-wide communications process is vital in order to provide the greatest safety possible for the campus community. As part of its Emergency Management Operations Plan (CHANGE NAME FOR YOUR INSTITUTION), the Institution has adopted a formalized procedure for issuing emergency alerts to the campus community.

Procedure:

When on-duty Public Safety officers become aware of a situation which may warrant issuing an emergency alert, the on-duty Public Safety Officer confirms that there is a potential threat to the health and safety of the community and then immediately contacts the Director of Public Safety or his/her designee, who quickly evaluates the situation to determine if an alert is warranted, the content of the notification message and the appropriate segment or segments of the campus community who will receive the notification. In situations where an imminent threat is present, the Director of Public Safety or his/her designee has the ability and authority to issue an alert without



further consultation with any other Institution official. In situations lacking the presence of an imminent threat, the Director of Public Safety or his/her designee consults with (WHO) and/or other members of the Campus Emergency Response Team (CERT) prior to an alert being issued. The Institution, based on the judgments of members of the Department of Public Safety and the CERT team will endeavor to immediately notify the campus community (or appropriate segments) upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus. A threat is imminent when the need for action is instant, overwhelming and leaves no time for deliberation. Such situations may include, but are not limited to, a hazardous materials incident requiring sheltering in place or evacuation, a hostage/barricade situation, a riot, suspicious package with confirmation of a device, a tornado, a fire/explosion, suspicious death, structural damage to Institution owned or controlled facility, biological threat, a gas leak, an active shooter on or near campus, or a shooting incident on or near the campus.

When the emergency mass notification system (EMNS) is activated using the siren and/or cell-phone text/voice messaging, college officials will notify campus community members of the emergency situation, its exact location, and will most likely request community members to protect themselves by evacuating the affected area if it is safe to do so and/or by employing the "shelter-in-place" concept.

"Shelter-in-place" means to take immediate shelter wherever you happen to be at the time of a "shelter-in-place" notification - in campus housing, in privately owned housing near campus, in an academic or administrative building, etc. Community members should remain in a "shelter-in-place" status until the all clear is communicated by emergency response personnel via an emergency rapid communications system(s). Institution authorities may instruct campus community members to "shelter-in-place" if a condition exists that is potentially life threatening and has an immediate threat to the health and personal safety of the campus community.

If an emergency or incident is reported directly to the LOCAL Police Department that could pose an immediate threat to the health and safety BLANK Institution community, a representative of the LOCAL PD will notify the Department of Public Safety as soon as practicable about the incident/situation and will provide sufficient detail to allow the DPS to assess the incident/situation to determine if an emergency alert should be distributed to the BLANK Institution community. The LOCAL Police Department will assist the institution in responding to an emergency on campus, as deemed appropriate and as resources permit.

RESPONDING TO AND INVESTIGATING INCIDENTS OF ARSON

The Clery Act requires the College/University to investigate any fire that is not immediately known to be accidental. The Department of Public Safety does/does not have officers/investigators trained to conduct basic arson investigations. The LOCAL Police Department agrees to provide the necessary resources to support DPS in conducting an investigation of a fire that is not immediately known to be accidental, if DPS needs investigative support to meet their investigative obligations under the Clery Act. If the LOCAL Police Department assists in conducting the investigation, they will provide a summary of the investigation with a final determination (i.e. arson, suspicious fire or unknown cause) to DPS for their records.