

OPERATIONAL AGREEMENT

between the

CITY OF ALBANY POLICE DEPARTMENT

and the

UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT, BERKELEY

A. PURPOSE

This Operational Agreement reflects the ongoing cooperative and professional association between the City of Albany Police Department (APD) and the University of California Police Department, Berkeley (UCPD), and establishes guidelines and procedures for the exercise of concurrent policing jurisdiction. This Operational Agreement serves to meet the statutory requirements established by AB 1433 (Gatto, 2014) (Government Code 67380 – 67386), requiring covered institutions to adopt and implement written policies and procedures to ensure that reports of Part 1 violent crimes, hate crimes, or sexual assaults are immediately, or as soon as practicably possible, disclosed to local law enforcement. Additionally, this Operational Agreement serves to promote collaboration between the City of Albany Police Department (APD) and the University of California Police Department, Berkeley (UCPD) to enhance the reporting, investigation, and appropriate response to sexual assault and other covered crimes.

The purpose of this association has been, and continues to be, the effective and collaborative provision of public safety services and the mutual promotion of common law enforcement goals in areas of shared jurisdiction and interest. To this end, each agency adopts the jurisdictional protocols and operational procedures described in this document.

B. LEGAL AUTHORITIES AND JURISDICTION

Sworn officers employed by both agencies have peace officer authority pursuant to California Penal Code §830.1 or §830.2. Additionally, UCPD's primary jurisdiction is described in Education Code §92600. This agreement is not intended to abrogate or exceed the legal authority or jurisdiction of either agency.

Pursuant to the 2003 Jurisdictional Consent agreement of the Alameda County Chiefs of Police and Sheriff's Association, both agencies recognize the ability for police officers from either agency to exercise peace officer powers and to enforce state and local laws at any time within the jurisdiction each agency represents, to the extent allowed by law.

APD officers do not have the authority to enforce administrative rules established by the University, but they may forward information or reports of such violations to UCPD for investigation and action.

This Operational Agreement is maintained in compliance with Education Code §67381 (The Kristin Smart Campus Safety Act of 1998).

C. DEFINITIONS

Administrative Responsibility – the duty of an agency to fulfill legal and ethical obligations including organizational oversight and internal discipline.

Campus Security Authority – an individual who is responsible under the Clery Act for reporting specified crimes to UCPD. Campus Security Authorities include police officers, as well as other officials on campus designated as having a responsibility for security and officials who have significant responsibility for student activities.

Clery Act – the federal law that requires universities that participate in federal financial aid programs to record and disclose information about crime on and near campus (20 U.S.C. § 1092(f)).

Geographic Responsibility – a physical location or area where an agency is identified as having operational responsibility.

Operational Responsibility – the duty of an agency to exercise jurisdictional authority as the primary provider or manager of law enforcement and public safety services in a particular area or situation.

D. ADMINISTRATIVE RESPONSIBILITIES

1. Ongoing communication and exchange of reports and statistical data

APD and UCPD acknowledge the importance of timely, regular communication at all levels, and commit to implement procedures to ensure this continues.

APD and UCPD should exchange copies of crime reports or reports of significant contacts with possible criminal suspects whenever such reports may be of benefit or interest to the other agency. When appropriate, immediate notification should be made to expedite the sharing of important information.

Each agency will be primarily responsible for statistical accounting and statutory reporting of criminal offenses occurring in their respective jurisdiction. Each agency will, upon request, provide the other with relevant information to facilitate accurate and comprehensive administrative tracking.

APD and UCPD criminal investigators should confer regularly on any case, or regarding subjects, of mutual interest. APD and UCPD supervisory and command staff should confer periodically to ensure high levels of cooperation and coordination between the two agencies.

This Agreement is not intended to in any way restrict the provision of general assistance or the lawful and necessary sharing of information between agencies in the course of normal law enforcement activity, in accordance with industry standards and professional courtesy.

2. Administrative investigations

Allegations of misconduct arising out of joint police operations will be investigated by the agency against whose employee the allegation is made.

3. Reporting Obligations

UCPD and APD agree to the following procedures through which each department will transmit reports it receives to the other. These reports shall comply with the confidentiality requirements described in Subsection 5 below, and shall not identify the victim or the alleged assailant unless the victim has consented to being identified.

a. UCPD Reports to APD

UCPD will report immediately or as soon as practicably possible to APD all reports received by a Campus Security Authority of any Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, which occurred in the City of Albany. This includes reports victims make directly to Campus Security Authorities (CSAs) as well as reports victims make to other Campus employees that are then conveyed to the CSAs. Such reports will include, where authorized:

- The name and characteristics of the victim;
- The name and characteristics of the perpetrator if known;
- Description of the incident, including location and date and time; and
- Any report number assigned to the police report documenting the investigation being conducted by the jurisdictional agency.

All such notifications to APD will be documented in UCPD records. In addition, UCPD will maintain a public crime log documenting the "nature, date, time, and general location of each crime" and its disposition, if known. The log should be accessible to the public during normal business hours.

b. APD Reports to UCPD

Pursuant to the Clery Act, UCPD must report aggregate data concerning certain enumerated crimes. To enable UCPD to fulfill this requirement, APD shall provide statistics on at least an annual basis to UCPD on all crimes listed in 20 U.S.C. § 1092(f)(1)(F) for which APD acted as a first responder or had geographic responsibility that occurred in the University Village and mixed-use parcels.

APD will promptly notify UCPD when students or employees are identified as the victims or suspects of any Part 1 violent crime, sexual assault, or hate crime that occurs within APD's jurisdiction in the University Village and mixed-use parcels, and/or when APD acts as first responder to an incident in the Village. Such reports will include, where authorized:

- The name and characteristics of the victim;
- The name and characteristics of the perpetrator if known;
- Description of the incident, including location and date and time; and
- Any report number assigned to the police incident report documenting the investigation being conducted by the jurisdictional agency.

All such notifications to UCPD will be documented in APD records.

APD will promptly notify UCPD if it has referred the incident to the Alameda County District Attorney (ACDA) for charges to be filed, and of any charging decisions made by ACDA.

4. Clery Warnings

The Clery Act requires UCPD to issue timely warnings for Clery crimes on- and off-campus that pose a serious or continuing threat to students and employees and emergency notifications for a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on campus.

To facilitate the issuance of Clery Act-required timely warnings and emergency notifications, UCPD and APD agree to coordinate the sharing of information as described above. APD acknowledges that UCPD need not obtain the approval of an outside law enforcement agency to issue any warnings/notifications, nor is UCPD required to seek preclearance of the content of any warning/notification. However, UCPD will inform APD about such warnings as soon as practicable.

5. Confidentiality Requirements

UCPD and APD will comply with applicable law and guidance regarding anonymous and confidential reporting of sexual violence, including when, how, and what information can or must be disclosed to each other.

UCPD and APD agree that if a victim requests confidentiality regarding a reportable incident, each department will take all reasonable steps to comply with the victim's request or inform the victim when the department cannot ensure confidentiality. Neither department will disclose the name of the victim to the other unless the victim provides consent to being identified after being informed of their right to have identifying information withheld.

UCPD and APD agree to inform the victim that they can agree to engage with law enforcement and participate in the investigation and prosecution using a pseudonym (*i.e.*, Jane or John Doe) instead of their legal name. In that case, the name of the alleged perpetrator may be disclosed to other law enforcement (if known) while protecting the identity of the victim from public disclosure.

6. Collaboration on Campus Community Training

UCPD and APD agree to collaborate to provide outreach and training for the campus community within the City of Albany in the University Village about the awareness, prevention, intervention, investigation, and response to sexual assaults and other crimes of violence and to work with community or campus-based resources and experts, including victim advocates, to provide these programs.

E. GEOGRAPHIC RESPONSIBILITIES

Generally, UCPD has geographic responsibility in the buildings and on the grounds of the Gill Tract, the University Village of Albany (UVA), and UVA sports fields.

Generally, APD has geographic responsibility for all other areas within the City of Albany, including non-affiliate entities occupying mixed-use parcels.

Within these respective geographic areas (which are outlined in the following pages), each agency will be responsible for the prevention of crime, the preservation of peace and order, the enforcement of criminal laws, and for providing such other police services as the regulations, policies, or orders of the respective Departments may require.

Officers of both agencies may provide routine law enforcement services in either area of geographic responsibility as described, but should share information and coordinate efforts with the other agency as appropriate for the situation and as described elsewhere in this document.

F. OPERATIONAL RESPONSIBILITIES

1. Response to public safety emergencies and in-progress crimes

Reports of public safety emergencies or in-progress crimes in UCPD's area of geographic responsibility should immediately be relayed to UCPD if received by APD.

The agency that receives the first or simultaneous report of a public safety emergency or in-progress crime near UVA should respond and take initial action as appropriate for the situation. For purposes of this agreement, "UVA" is roughly the area bounded by Ohlone Avenue on the north, West End Way on the west, Red Oak Avenue on the southwest, Monroe Avenue on the southeast, and San Pablo Avenue on the east (as shown below in yellow). Reports of public safety emergencies or in-progress crimes outside of this area should immediately be relayed to APD if received by UCPD.



Regardless of location, an on-duty peace officer of either agency who on-views or discovers a public safety emergency or in-progress crime should take responsibility for the initial response to the situation. If occurring in the other agency's area of

geographic responsibility, the duty to manage the incident shall remain with the initiating officer/agency until officially transferred to the other agency for their completion and/or investigation.

2. Response to non-emergency incidents and late-reported crimes

The agency that receives the first or simultaneous report of a non-emergency incident or late-reported crime occurring within the other agency's area of geographic responsibility should relay that call or information to the other agency for response.

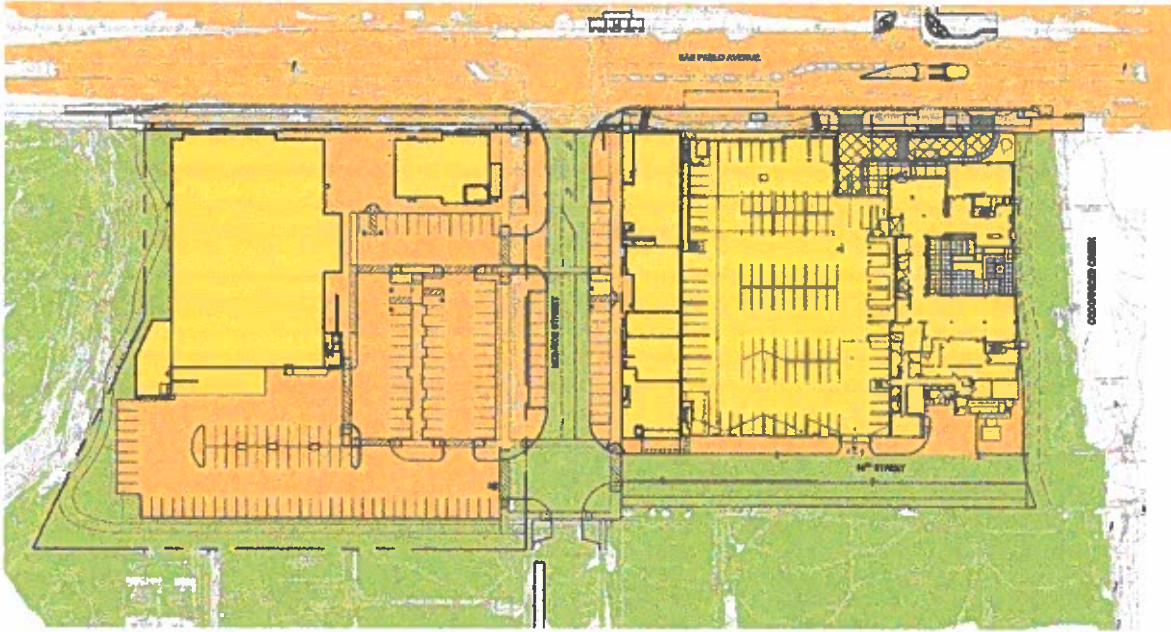
An on-duty peace officer of either agency who on-views or discovers a non-emergency incident or late-reported crime in the other agency's area of geographic responsibility shall either ensure prompt notification of the other department for response or take appropriate initial action to resolve, investigate and/or document the situation. In the latter case, the handling officer / agency should ensure the other agency is notified of the incident and its resolution, and should forward to the other agency a copy of any arrest, crime or incident report that results.

3. Communication during emergency events of mutual impact

Each agency's communications center should, without unnecessary delay, inform the other of any public safety emergency or in-progress crime to which the staff of that agency is responding, if that situation appears likely to affect or to require the deployment of resources from the other agency. Field supervisors, commanders and communications center staff should continue to share updated information including ongoing actions or plans and should facilitate any necessary communication and coordination between responding field units until the situation is resolved.

4. Mixed-Use parcels near Monroe Street and San Pablo Avenue

Two mixed-use parcels on UC lands have been leased to private non-affiliate entities. The parcels and lease agreements include the buildings and associated on-street parking stalls. Within the yellow and orange areas below, APD has jurisdiction for the areas. UCPD has jurisdiction for the UC lands surrounding the properties, such as the path and open space north of the façade of Sprouts Market, the roadway of Monroe Street, and the roadway and east sidewalk area of Tenth Street. The UC lands are below in green.



5. Response to Intrusion alarms

Aside from the areas within the mixed-use parcels, UCPD is responsible for any necessary response to facilities or locations in UCPD's area of geographic responsibility.

6. Response to emergency (9-1-1) telephone calls

Emergency (9-1-1) telephone routing should correspond with the division of APD/UCPD geographic responsibility as described above, to the extent this is possible.

Regardless of routing status, 9-1-1 calls that require an emergency response should be handled by the receiving agency as described above.

7. Medical or Fire Department response to University property

APD communications center staff should notify UCPD without delay after dispatching medical or fire personnel to a location in UCPD's area of geographic responsibility, if that call for service did not originate from the UCPD communications center.

8. Special event notifications

The agency with knowledge or information of any large public gathering, demonstration or other group act of civil disobedience, or special event planned on or occurring in their area of geographic responsibility which appears likely to affect or to require the deployment of resources from the other agency should notify the other agency at the earliest practical opportunity.

9. City or University-owned vehicle collisions

If a City of Albany or University-owned vehicle is involved in a traffic collision, the agency with geographic responsibility will respond, investigate and document the incident in a manner and format consistent with SWITRS procedures and that agency's report writing policy. However, if the vehicle involved is driven by an on-duty employee of UCPD or APD in the other agency's area of geographic responsibility and the collision involves injuries or fatalities, either agency may opt to contact the California Highway Patrol for investigation and documentation assistance.

10. Ticketed or paid-admission events

On-duty employees from either agency should not enter the venue of a ticketed or paid-admission event (including sporting events, lectures, concerts and other performances) outside their area of geographic or operational responsibility unless assigned or specifically requested, or in response to an emergency or a criminal investigation in progress. Nothing in this agreement is intended to restrict the ability of an off-duty employee to enter an event venue according to the same procedures as the public.

G. JOINT POLICING OPERATIONS

1. Incident command and control

When operating jointly, the ranking officer of the Department with operational responsibility will have command and control responsibility for the incident, except as described elsewhere in this Agreement or as required by law or policy. However, incident command and control may be shared or transferred by mutual agreement of agency supervisors or managers if doing so is in the interest of public safety or law enforcement effectiveness.

During a joint operation, employees of each agency remain subject to the policies, orders and procedures established by their own Department, and shall not take action(s) that conflict with such policies, orders or procedures. Employees should notify a supervisor without delay if they anticipate or encounter such a conflict.

When responding to an "Officer Needs Help" (11-99) broadcast, the responding agency should act at the direction of the requesting agency, regardless of geography.

When a formal Incident Command Structure has been established, both agencies will participate in the incident response in accordance with standard SEMS/NIMS protocols.

2. Use of outside agency police radio channels

Employees of either department should only utilize the other agency's radio channels to directly coordinate response and share relevant information during emergencies, in-progress crimes and other urgent situations. Non-emergency and routine information should be handled via the communication center or telephone. When broadcasting on

the other agency's radio channels, staff should identify themselves by department and badge number.

This provision is not intended to restrict other approved and appropriate shared use of police department or common radio channels by employees of either agency.

3. Joint crowd management activity

Each Department is responsible for response to crowd situations occurring within their respective areas of geographic responsibility. Both Departments should provide their officers with crowd management and control training of similar content and philosophy to the Alameda County standard, so to facilitate effective joint operations.

Each Department will maintain close communications with the other regarding crowd situations likely to require a police response from both Departments. Where there is advance knowledge of a potential crowd situation likely to require a joint agency response, representatives from each Department will be designated to act as liaisons.

The senior ranking officer of the agency having geographic responsibility at the scene of any crowd situation shall have overall responsibility for police action. It is expected that, whenever possible, the senior ranking officer from the lead agency will consult with the senior ranking officer from the other agency before any joint action is taken.

Where individual or organizational sponsors of events are known in advance, the lead agency will attempt to contact and work with crowd/event leaders to identify and resolve potential problems.

4. Explosive ordinance investigation and disposal

UCPD will provide explosive ordinance investigation and disposal expertise and assistance to the other agency, as available and requested.

When a suspected explosive device is reported to either agency, the Communication Center of the agency having operational responsibility should handle the report according to department policy and procedures.

H. OPERATIONAL/JURISDICTIONAL CONFLICT, RESOLUTION

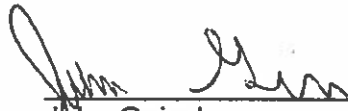
If during the course of field activity a dispute arises between the agencies regarding administrative, geographic or operational responsibility, and it cannot be resolved by referring to the terms of this agreement, the agency with initial responsibility for the situation shall retain that responsibility. The other agency should provide reasonable cooperation and resources in support of the situation, consistent with its other policing priorities and constraints. The agency with responsibility for the situation should accommodate a request from the other agency to conduct a parallel or joint response and/or criminal investigation.

As soon as necessary, or within five (5) business days, involved personnel from each agency should communicate the issue(s) in dispute to their respective Chief of Police.

At the earliest opportunity following notification, APD and UCPD Chiefs of Police or their designated representatives shall review the disputed case to clarify responsibility for similar situations in the future.

I. AUTHORIZATION OF AGREEMENT

We, the undersigned, as authorized representatives of our respective agencies, do hereby approve this document on the date(s) indicated. It will remain in effect until amended, revised, or terminated by mutual agreement.



John Geissberger
Chief of Police
Albany Police Department

10/26/10
(date)



Margo Bennett
Chief of Police
University of California Police Department

10/28/2010
(date)