

OPERATIONAL AGREEMENT

between the

CITY OF EMERYVILLE 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 Emeryville Police Department (EPD) 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 Emeryville Police Department (EPD) 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.

EPD 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

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

EPD 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.

EPD and UCPD criminal investigators should confer regularly on any case, or regarding subjects, of mutual interest. EPD 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 EPD 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 EPD

UCPD will report immediately or as soon as practicably possible to EPD 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 Emeryville. 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.

If the victim has not consented to being identified, his or her personally identifying information and the identity of the perpetrator will not be disclosed. All such notifications to EPD 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. EPD Reports to UCPD

Pursuant to the Clery Act, UCPD must report aggregate data concerning certain enumerated crimes. To enable UCPD to fulfill this requirement, EPD 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 EPD acted as a first responder in areas where UCPD has geographic responsibility.

EPD 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 UCPD's areas of geographic responsibility. 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 EPD records.

EPD 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 committed on the Clery geography of the university that is considered by the institution to represent a serious or continuing threat to students and employees. Emergency notifications are required for any significant emergency or dangerous situation occurring on the campus involving an immediate threat to the health or safety of students or employees.

To facilitate the issuance of Clery Act-required timely warnings and emergency notifications, UCPD and EPD agree to coordinate the sharing of information as described above. EPD 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 EPD about such warnings as soon as practicable.

5. Confidentiality Requirements

UCPD and EPD 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 EPD 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 EPD 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.

E. GEOGRAPHIC RESPONSIBILITIES

UCPD has geographic responsibility within two properties in the City of Emeryville, 5885 Hollis Street and 3800 San Pablo Avenue.

Within 5885 Hollis Street, the Lawrence Berkeley National Lab (LBNL) leases space on the third and fourth floors. UCPD has geographic responsibility for the LBNL leased spaces on the third and fourth floors of the building. EPD has geographic responsibility for all other floors and outdoor space at the property.

The property at 3800 San Pablo Avenue will be known as “The Intersection.” The ground floor consists of commercial space and the upper floors consist of student housing. UCPD has geographic responsibility for the entire property. EPD has geographic responsibility for the city sidewalk.

EPD has geographic responsibility for all other areas within the City of Emeryville.

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

The agency that receives the first or simultaneous report of a public safety emergency or in-progress crime within the City of Emeryville should respond and take initial action as appropriate for the situation. Reports of public safety emergencies or in-progress crimes in UCPD’s areas of geographic responsibility should immediately be relayed to UCPD if received by EPD. Reports of public safety emergencies or in-progress crimes in EPD’s areas of geographic responsibility should immediately be relayed to EPD 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. Response to Intrusion alarms

UCPD is responsible for any necessary response to facilities or locations in UCPD's area of geographic responsibility.

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

Emergency (9-1-1) telephone routing should correspond with the division of EPD/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.

6. Medical or Fire Department response to University property

EPD 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.

7. 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.

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 EPD, 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.

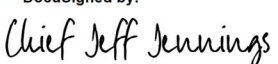
H. OPERATIONAL/JURISDICTIONAL CONFLICT, RESOLUTION

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, EPD 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.

DocuSigned by:

 2CDADD1E9311459... 11/18/2021
 Jeffrey Jennings (date)
 Chief of Police
 Emeryville Police Department

DocuSigned by:

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 Margo Bennett (date)
 Chief of Police
 University of California Police Department

Approved As To Form:

DocuSigned by:

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City Attorney