

COOPERATIVE AGREEMENT

BETWEEN

THE JUVENILE COURT OF CLAYTON COUNTY

THE CLAYTON COUNTY PUBLIC SCHOOL SYSTEM

THE CLAYTON COUNTY POLICE DEPARTMENT

THE RIVERDALE POLICE DEPARTMENT

THE JONESBORO POLICE DEPARTMENT

THE FOREST PARK POLICE DEPARTMENT

**THE CLAYTON COUNTY DEPARTMENT OF FAMILY &
CHILDREN SERVICES**

**THE CLAYTON CENTER FOR BEHAVIORAL HEALTH
SERVICES**

ROBERT E. KELLER, DISTRICT ATTORNEY

AND

THE GEORGIA DEPARTMENT OF JUVENILE JUSTICE

FINAL DRAFT
JUNE 15, 2004

1. PURPOSE OF AGREEMENT

This agreement is entered into between the Juvenile Court of Clayton County (hereinafter referred to as the Court), Clayton County Public School System (hereinafter referred to as the School System), Clayton County Police Department (hereinafter referred to as the Police), Forest Park Police Department (hereinafter referred to as the Police), Riverdale Police Department (hereinafter referred to as the Police), Jonesboro Police Department (hereinafter referred to as the Police), the Clayton County Department of Family and Children Services (hereinafter referred to as DFCS), Robert E. Keller (hereinafter referred to as the District Attorney), and the Georgia Department of Juvenile Justice (hereinafter referred to as DJJ) for the purpose of establishing a cooperative relationship between community agencies (hereinafter referred to as the Parties) involved in the handling of juveniles who are alleged to have committed a delinquent act on school premises. The Parties acknowledge that certain delinquent acts against public order and other misdemeanor delinquent acts defined herein can be handled by the School System in conjunction with other Parties without the filing of a complaint in the Court. The Parties acknowledge that the commission of a delinquent act does not require the finding that a student is a delinquent child and therefore not in need of treatment or supervision (OCGA 15-11-65). The parties acknowledge that the law requires the Court to make a preliminary determination that a petition be certified in the best interest of the child and the community before it can be filed with the Court (OCGA 15-11-37) The parties

acknowledge that the Court has the authority to give counsel and advice to a juvenile without the filing of a petition and to delegate such authority to public or private agencies (OCGA 15-11-68 & 15-11-69).

The Parties acknowledge that the law expressly prohibits the detention of a student for punishment, treatment, satisfy the demands of the victim, police or the community, allow parents to avoid their legal responsibility, provide more convenient administrative access to the child, and to facilitate further interrogation or investigation (OCGA 15-11-46.1 (c)). The law allows for the detention of a student who is a flight risk, presents a risk of serious bodily injury, or requests detention for protection from imminent harm (OCGA 15-11-46.1 (b)).

The parties acknowledge and agree that decisions affecting the filing of a complaint against a student and whether to place restraints on a student and place a student in secure detention should not be taken lightly, and that a cooperative agreement delineating the responsibilities of each party when involved in making a decision to place restraints on a student and to file a complaint alleging the child is a delinquent child would promote the best interest of the student and the community.

The parties acknowledge and agree that this Agreement is a cooperative effort among the public agencies named herein to establish guidelines for the handling of school related delinquent acts against public order. The parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of

delinquent acts against public order 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 that the manner in which each case or incident is handled by SROs, school administrator, and/or the Juvenile Court is dependent upon the many factors unique to each child that includes, but is not limited to, the child's background, present circumstances, disciplinary record, academic record, general demeanor and disposition toward others, mental health status, and other factors. Therefore, 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.

Finally, the parties acknowledge that a Cooperative Agreement has previously been entered into by the Juvenile Court of Clayton County, Georgia Department of Juvenile Justice, Clayton County Department of Family and Children Services, and The Clayton Center for Behavioral Health Services to coordinate intake services to ensure that children who do not present a high risk to re-offend are not detained using a Detention Screening Instrument (DSI) and that children presenting a low to medium risk are returned home or appropriately placed in a non-secured or staff-secured setting. The parties acknowledge that the prior Agreement remains in full force and effect and is interrelated to this Agreement as part of the Juvenile Detention Alternative Initiative and Collaborative of Clayton County, Georgia.

II. DEFINITIONS

As used in this Agreement, the term:

- A. "Student" means a child under the age of 17 years.
- B. "Juvenile" means a child under the age of 17 years, which term is used interchangeably with "Student."
- C. "Regional Youth Detention Center" or also known as RYDC means a secure detention facility for the housing of juveniles detained by authorization of Intake and awaiting adjudication and/or disposition of their case.
- D. "Intake" means the division of the Juvenile Court responsible for making reviewing complaints to determine which complaints may be handled informally and by diversion, which complaints may be forwarded to the District Attorney's Office for a petition to be drawn, and which juveniles should be detained in the RYDC, or placed at another location, or returned home.
- E. "Detention Screening Instrument" or known also as "DSI" means a risk assessment instrument used by Intake to determine if the juvenile should be detained or release. The DSI measures risk according to the juvenile's present offense, prior offenses, prior runaways or escapes, and the juvenile's current legal status such as probation, commitment, etc.
- F. "Detention Assessment Questionnaire" or known also as "DAQ" means a document used to determine if the juvenile presents any mental health disorders, aggravating circumstances, or mitigating circumstances. The DAQ assists Intake in making a final decision regarding detention or release.
- G. "Citation" means a document or form used by the SRO to place a student on notice that he or she may be referred to the Court upon the commission of another similar delinquent act involving a misdemeanor against public order or to refer a child and parent to a Court Diversion Program in lieu the filing of a formal complaint.
- H. "Diversion" means an educational program developed by the Court for those juveniles who have been charged with less serious delinquent acts, and Intake believes is not a delinquent child and most likely does not require probation or commitment to DJJ.
- I. "Informal Adjustment" means informal supervision in which the juvenile is required to comply with conditions established by Intake of the judge for up to 90 days and is dismissed upon successful completion.
- J. "Bully" is a student who has three (3) times in a school year willfully attempted or threatened to inflict injury on another person, when accompanied by an apparent present ability to do so or has intentionally displayed force such as would give the victim reason to fear or expect immediate bodily harm.

III. TERMS OF AGREEMENT

A. Procedure for Detention Decision.

Upon charging a juvenile with a delinquent act, the police officer may release the juvenile to a parent or contact Intake for a decision to place the juvenile in the RYDC, or other placement as determined by Intake. The police officer does not require approval from Intake to release to a parent if the police officer, in his or her discretion, believes the juvenile does not pose a serious risk of injury to the person or property of others. If the police officer believes the child may pose serious injury, or is not sure and requires a decision from Intake, the police officer shall contact Intake by phone to provide the necessary information for Intake to determine if the juvenile requires detention. If the juvenile does not require detention, the police officer shall release to the parent or the school. Under no circumstances shall the police officer transport the juvenile to the RYDC or to Intake unless bona fide attempts to locate the parent are unsuccessful and Intake has given permission for the transport of the juvenile to Intake or the RYDC or Intake has found special circumstances for the transport of the juvenile to Intake or the RYDC.

Upon receiving a call from a police officer regarding a detention decision, Intake shall respond immediately and provide a detention decision within ten (10)

minutes of receipt of the call. If unforeseen circumstances arise that cause a delay in the response to the police officer, Intake shall contact the police officer before the expiration of the ten (10) minutes to explain the delay and give an estimated time for the decision. Under no circumstances shall the decision be delayed for more than twenty (20) minutes. Any delays should be reported by the police officer to the Intake Supervisor or the Chief Probation Officer. The police officer shall not contact the judge for a detention decision unless the police officer cannot contact Intake. The parties acknowledge that the judge does not always have immediate access to the information required to make an appropriate and fair detention decision, and that all juveniles shall be afforded the same assessment procedure to ensure equity and fair treatment of all juveniles coming in contact with law enforcement, public school system, and the Court.

Upon receiving a call from a police officer for a detention decision, Intake shall immediately follow the procedure set forth by the policy on detention decision-making in delinquent cases that require the completion of the Detention Screening Instrument (DSI) and the Detention Assessment Questionnaire. The parties acknowledge and agree that a juvenile scoring low risk shall be released without conditions unless there sufficient aggravating circumstances exist to impose conditions or detention. The parties further acknowledge and agree that a juvenile scoring medium risk shall be released with conditions unless sufficient mitigating factors exist to release without conditions or sufficient aggravating factors exist to detain the juvenile. The parties further acknowledge and agree that a juvenile

scoring high risk shall be detained unless sufficient mitigating factors exist to release the juvenile. The parties further acknowledge and agree that the Court has several alternative detention programs for the monitoring of juveniles who require a conditional release pending the next hearing that include, and may not be limited to, electronic monitoring, wrap-around services, Behavior Aide in the home, and Evening Reporting Centers. The Parties acknowledge and agree that absent a juvenile posing a risk of serious bodily injury to others, express threat to flee the jurisdiction of the court, or a request by the juvenile to be detained for his or her own protection due to threats by others in the community, it is illegal and not a method of best practice to incarcerate a juvenile in a secure facility.

B. Treatment of Elementary Age Students.

Any situation involving violence to the extent that others are placed at risk of serious bodily injury shall constitute an emergency and warrant immediate action by police to protect others and maintain school safety. O.C.G.A. §15-11-150 et seq. sets forth procedures for determining if a juvenile is incompetent also provides for a mechanism for the development and implementation of a competency plan for treatment, habilitation, support, supervision for any juvenile who is determined not to be mentally competent to participate in an adjudication or disposition hearing. Generally, juveniles of elementary age do not possess the requisite knowledge of the nature of court proceedings and the role of the various players in the courtroom to assist his or her defense attorney and/or grasp the seriousness of juvenile proceedings, including what may happen to them at the disposition of the case. The parties acknowledge that the Court will make diligent

efforts to avoid the detention of juveniles who may be mentally incompetent upon reasonable suspicion, unless they pose a high risk of serious bodily injury to others. Furthermore, it is a fundamental best practice of detention decision-making to prohibit the intermingling of elementary age juveniles from adolescent youth and to treat elementary age students according to their age and level of development. Furthermore, the parties acknowledge that the commission of a delinquent act does not necessitate the treatment of the child as a delinquent, especially elementary age juveniles in whom other interventions may be made available within the school and/or other agencies to adequately respond to and address the delinquent act allegedly committed by the juvenile. The Court shall make its diversion, intervention, and prevention programs available to the juvenile without the filing of a complaint upon a referral from the school social worker. Intake shall respond to any and all referrals made by elementary school staff within 24 hours of receipt of the referral. Any delay shall be communicated to the official making the referral within 24 hours with an explanation for the delay. Intake shall respond no later than 72 hours or the matter shall be referred to the Intake Supervisor or the Chief Probation Officer. In the event an elementary age student is taken into custody and removed from the school environment for the safety of others, the decision to detain said child shall be made by the Intake Officer pursuant to law. The parties acknowledge that taking a child into protective custody is not a detention decision, which is a decision solely reserved for a juvenile judge or his or her intake officer and therefore requiring law

enforcement to immediately contact the Court to determine if the child should be detained or released and under what conditions, if any, if so released.

C. Citation and Referral Prerequisites to Complaint in Certain Cases.

Misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (not involving resisting arrest), and criminal trespass (not involving damage to property) shall not result in the filing of a complaint alleging delinquency unless the student has committed his or her third or subsequent similar offense during the school year and the Principal or designee has reviewed the behavior plan with the appropriate school and/or system personnel to determine appropriate action. In accordance with O.C.G.A. §20-2-735, the school system's Student Codes of Conduct will be the reference documents of record.

The parties agree that the response to the offenses against public order should be determined using a system of graduated sanctions, disciplinary methods, and/or educational programming before a complaint is filed with the Juvenile Court. The parties agree that a student must receive a citation and a subsequent referral to the School Conflict Diversion Program before a complaint may be filed in the Juvenile Court, except in cases involving delinquent acts that do not include offenses against public order and the SRO has followed the procedures set forth by his or her supervisor in determining if a complaint should be filed. An SRO shall not serve a citation or make a referral to the School Conflict Diversion

Program without first consulting with his or her supervisor if the standard operating procedures of the SRO Program of which the SRO belongs requires consultation.

1. **First Offense.** A student may receive a citation upon the commission of an offense against public order warning the student that his or her behavior is a violation of the criminal code and school policy, and that further similar conduct will result in a referral to the Juvenile Court to attend a diversion program. The SRO shall have the discretion not to issue a citation and in the alternative may admonish and counsel or take no action.

2. **Referral to School Conflict Diversion Program.** Upon the commission of a second or subsequent similar offense against public order in a school year, the student may be referred to Intake using a citation to require the student and parent to attend the School Conflict Diversion Program, Mediation Program, or other program sponsored by the Court. However, a student who has committed a second “bullying” act shall be referred to the School Conflict Diversion Program to receive law related education and conflict resolution programming, and may also be required to participate in the mediation program sponsored by the Court for the purpose of resolving the issues giving rise to the acts of aggression and to hold the student accountable to the victim(s). Intake shall make contact with the parent of the child within ten (10) business days of receipt of the citation

to schedule the parent and child to attend the School Conflict Diversion Program, or other program of the Court appropriate to address the student's conduct. Intake shall forward to the school where the child attends a confirmation of the child's successful participation in the diversion program. A child's failure to attend shall be reported to the School Resource Officer to determine if a complaint should be filed or other disciplinary action taken against the child.

3. **Complaint.** A student receiving his or her third or subsequent delinquent offense against the public order may be referred to the Court by the filing of a complaint. If the student has attended a diversion program sponsored by the Court in any previous school year and the student has committed a similar offense against the public order, the student may receive a citation warning that the next similar act against the public order may result in a complaint filed with the juvenile court. A student having committed his or her third "bullying" act shall be referred to the Juvenile Court on a juvenile complaint and the Court shall certify said petition provided probable cause exists and if adjudicated shall proceed to determine if said student is delinquent and in need of supervision. The school system shall proceed to bring the student before a tribunal hearing and if found to have committed acts of bullying shall in the least, with consideration given to special education laws, expel said child from the school and place in an alternative educational setting, unless expulsion from the school system is warranted. All acts of bullying shall be

reported by school personnel and addressed immediately to protect the victims of said acts of bullying.

D. Emergency Shelter Care In Event Parent Cannot Be Located.

The Clayton County Juvenile Court, Georgia Department of Juvenile Justice, and The Clayton County Department of Family and Children Services previously entered into an agreement that establishes a protocol for the handling of youth who are charged on a delinquent offense and present a high risk using the Detention Assessment Instrument and a parent, guardian or custodian cannot be located or refuses to take custody of the youth. The protocol set forth in said agreement is incorporated herein and made a part hereof and shall continue in full force and effect. Nothing in this agreement shall be construed to alter or modify the prior agreement. Reference is made to said agreement reflect the relationship and continuity between the agreements as it relates to the handling of school related offenses described herein.

III. DURATION AND MODIFICATION OF AGREEMENT

This Agreement shall become effective immediately upon its execution by signature and shall remain in full force and effect until such time as terminated by any party to the Agreement. The Agreement may be modified at any time by amendment to the Agreement. The parties acknowledge and agree to meet quarterly to provide oversight of the Agreement and make recommendations to the heads of each agency on any modifications to the Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to cooperate with one another, have hereunder set their hands on the date set forth below.

K. Van Banke, Chief Judge
Juvenile Court of Clayton County

Cathy Ratti, Director
Clayton County Department of Family and Children Services

Dr. Barbara Pulliam, Superintendent
Clayton County Public School System

Neal Kaltenecker, Regional Director
Georgia Department of Juvenile Justice

Darrell Partain, Chief
Clayton County Police Department

Robert E. Keller, District Attorney
Clayton Judicial Circuit

Dwayne Hobbs, Chief
Forest Park Police Department

Jimmy Wiggins, Director
The Clayton Center for Behavioral Health Services

Robert Thomas, Chief
Jonesboro Police Department

Greg Barney, Chief
Riverdale Police Department

