

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into effective, 2016, by and between the State of Minnesota by and through its Board of Trustees of the Minnesota State Colleges and Universities on behalf of Southwest Minnesota State University hereinafter referred to as “University” and the City of Marshall, Minnesota, hereinafter referred to as “City”. The City and the University may, from time to time herein, be collectively referred to as “the Parties.”

WHEREAS, the City of Marshall and the Southwest State University have a long history of cooperation regarding their shared mutual interests in a strong, safe, and vibrant community;

WHEREAS, the City has a department, the Marshall Police Department (MPD), that is the principal law enforcement agency in the City of Marshall, Minnesota, that exercises such authority and jurisdiction granted by the laws of the State of Minnesota; and

WHEREAS, the Minnesota Legislature recently passed legislation, Minn. Stat. § 135A.15, 2015 Minn. Laws, Ch. 69, Art. 4, Sec. 2, addressing campus sexual assault that, among other things, requires postsecondary institutions and local law enforcement agencies to enter into a Memorandum of Understanding (MOU) that delineates responsibilities and requires certain information sharing, in accordance with applicable state and federal privacy laws, about certain crimes.

WHEREAS, the recently passed legislation also requires that local law enforcement agencies cooperate with postsecondary institutions by entering into and honoring the memoranda of understanding required by the new legislation, Minn. Stat. §626.891, 2015 Minn. Laws, Ch. 69, Art. 4, Sec. 3.

WHEREAS, the University has an administrator that serves as the Title IX Coordinator and is responsible for investigating complaints of discrimination and sexual harassment, which includes sexual assault, domestic violence, dating violence and stalking;

WHEREAS, the City and the University agree that crimes occurring on campus and in certain areas off campus are a serious problem that warrant the parties’ continued cooperation, collaboration, and communication, to the extent allowable under law, and further agree to assist crime victims and ensure appropriate prosecution of responsible persons when a crime affecting a University student or employee occurs in the City;

WHEREAS, in recognition of the University's obligations under federal law and acknowledgment that the City may, but is not legally required to, provide information to the University, the purpose of this MOU is to acknowledge shared interests between the City of Marshall and the Southwest Minnesota State University and to promote and maintain a continued, harmonious working relationship and cooperative effort between the parties. It is not intended to make one entity responsible or liable for the actions or omissions of any personnel from the other entity, and any such liability or responsibility is expressly denied by the parties; and

WHEREAS, the parties desire to clarify further how the parties may cooperate in the future in certain circumstances as more fully described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. Sexual Assault and other forms of Sexual Violence. As set forth herein, the parties agree to confer and cooperate, to the extent permitted by law, regarding incidents of sexual violence involving a University student-victim or student-suspect. For purposes of this MOU sexual violence means a continuum of conduct that includes sexual assault, sexual battery, dating and relationship violence, stalking, as well as aiding acts of sexual violence. Nothing in this MOU shall be construed as requiring MPD to share information with the University if MPD reasonably believes that doing so would jeopardize its criminal investigation.

a. The University and MPD will communicate regularly during their respective investigations, to the extent permitted by law. The parties recognize the need to balance the interests of the criminal process and the University's obligations under state and federal law.

b. If necessary to prevent interference with its criminal investigation, MPD will provide the University a report of sexual violence involving a University student-victim. MPD will provide University with the victim's name and basic information about the incident upon the written consent of the victim(s). In some cases, the University may need to take immediate interim action to protect the victim(s) and keep the campus safe. However, upon MPD's request, University will delay taking action to the extent reasonably possible to prevent interference with the criminal investigation. Upon such notice by MPD, the University will limit information regarding the incident to only those administrative units with a need to know to protect the campus community. In such cases, MPD will notify University when it has completed its initial investigation and notification to the parties by University will not interfere with the criminal investigation.

c. When Southwest Minnesota State University receives a report of sexual violence, it will inform the victim of its coordination with MPD and will make the victim aware of the victim's right to make a criminal report, if the victim desires. If the victim requests, the University will coordinate and assist the victim in contacting MPD.

d. The University will provide MPD with a copy of SMSU's Sexual Assault policy regarding the University's administrative complaint process, protective measures, campus resources, and information provided to victims regarding preservation of evidence. MPD agrees that its investigators will strive to provide this information to student-victims interviewed in cases involving sexual violence.

e. Upon request, the parties will provide one another with information and records to the extent allowed or required by law and in accordance with applicable policy and Minnesota Government Data Practices Act (MGDPA).

2. Domestic Violence and Stalking. The University agrees to provide MPD information about campus resources for victims of domestic violence and/or stalking. MPD agrees that its investigators will strive to provide this information to student-victims as appropriate.

3. Collection of Crime Statistics. The University is required by federal law to collect and publish statistics for reports of certain crimes, including crimes that occur on and around campus. As part of that obligation, the University must request crime statistics from MPD annually. MPD agrees to cooperate with the University and undertake reasonable efforts to respond to the University's request for crime statistics in accordance with applicable MPD policies and MGDPA.

4. Emergency Notification and Crime Alerts.

a. The parties acknowledge that the University is required by federal law to have an emergency notification process to alert the campus community about significant emergencies or dangerous situations that pose an immediate threat to the health or safety of students or employees occurring on campus. The University is also required by federal law to issue timely warnings to alert the campus community about crimes that pose a serious or continuing threat to safety when a crime is ongoing or may be repeated.

b. If MPD is aware of a significant emergency, dangerous situation, or ongoing crime that poses an immediate threat to the health and safety of the University's students, faculty or staff, MPD may notify the University so that the University can determine whether an emergency notification or timely warning should be issued by the University.

5. Training. The parties agree to collaborate to provide education and training opportunities of interest to the parties. Specific education and training opportunities will be separately agreed to by the parties, and may include the following.

a. The parties agree to share information about education and training opportunities that may be of interest to the other party and to share information from training sessions of mutual interest.

b. The University agrees to provide training to MPD personnel regarding the University's obligations under federal law, including Title IX, to respond to incidents of sexual violence involving members of the University community. This training may include information about University policies and procedures, the differences between the University's administrative process and the criminal process, University resources, and other information that would be of value to MPD.

c. MPD agrees to provide training to University employees, including those with responsibility for investigating and responding to matters of sexual violence and those providing support services to parties involved in matters of sexual violence on agreed upon topics such as preservation of evidence.

d. Upon mutual agreement by the representatives of the parties who are coordinating an education or training program, the parties may extend invitations to community partners to participate in the program.

6. Periodic Meetings. The parties agree to meet quarterly at agreed upon times, or as otherwise agreed to by the parties, to discuss matters relating to this MOU, including:

a. Critically evaluate and discuss the effectiveness of the cooperation of the parties pursuant to this MOU and identify areas for improvement;

b. Review and confirm the accuracy of the information contained on materials (such as the information sheet and victim resource card) handed out pursuant to this MOU; and

c. Discuss any other matters of importance to the parties.

7. Term. This MOU is effective on July 1, 2016 or upon the date the final required signature is obtained by University, whichever occurs later, and shall remain in effect until December 31, 2019. The parties shall endeavor to examine this MOU as the end date approaches to ensure compatibility and effectiveness with any changes in laws, policies, or circumstances.

8. Termination. Either party to the MOU may terminate it upon 30 days' prior written notice without necessity of demonstrating cause; provided, however, that either party may terminate this MOU immediately upon written notice to the other party in the event that such action is necessary for significant health or safety issues or to comply with applicable law.

9. Modification. This MOU may be modified only in a writing signed by both parties.

10. Severability. If any provision of this MOU is held by a court of competent jurisdiction to be illegal or unenforceable, the remaining provisions of this MOU shall not be affected and shall be read as if the MOU did not contain the particular provision held to be invalid, unless to do so would contravene the present valid and legal intent of the parties.

11. Assignment. Neither party may assign nor transfer any rights or obligations under this MOU without the prior written consent of the other party.

12. Liability. Each party is responsible for its own acts and behavior and the results thereof. College/University's liability is governed by the Minnesota Tort Claims Act, Minn. Stat. §3.736, and other applicable law.

13. No Third Party Beneficiary. This MOU is not intended to benefit any third party, nor shall any person who is not now or in the future a party hereto be entitled to enforce any of the rights or obligations of a party under this MOU.

14. **Government Data Practices Act.** The Parties must comply with the Minnesota Government Data Practice Act, Minnesota Statutes Chapter 13, as it applies to this MOU.

15. **Applicable Law.** This MOU shall be governed and interpreted in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the undersigned hereto have executed this Memorandum of Understanding this ___ day of _____, 2016.

THE CITY OF MARSHALL

By: Robert J. Byrnes
Its: Mayor

ATTEST:

By: Jane DeVries
Its: City Clerk

SOUTHWEST MINNESOTA STATE UNIVERSITY

By: _____
Its: _____