



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 APR 14 PM 6:19

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Sean Whent
Chief of Police

SUBJECT: SMU OPD Information Sharing MOU

DATE: April 4, 2016

City Administrator
Approval

Date

4/14/16

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Understanding (MOU) With Samuel Merritt University (SMU) And Sutter East Bay Hospitals DBA Alta Bates Summit Medical Center (ABSMC) For The Purpose Of Establishing Information Sharing Protocols Related To The Gathering Of Evidence From Sexual Assault, Violence And Hate Crimes; And To Protect Victims' Confidential Information.

EXECUTIVE SUMMARY

The Oakland Police Department (OPD) requests adoption of a resolution to authorize an MOU between SMU and OPD to establish crime victim information sharing protocols, to better ensure the privacy of crime victims. These protocols will align with local, state, and federal laws and ensure that OPD receives critical information to support crime investigations.

BACKGROUND AND LEGISLATIVE HISTORY

OPD has a vital interest in ensuring that information from Part 1 violent crimes¹, hate crimes, and sexual assaults are collected and documented immediately, or as soon as practicably possible, and that victims' identities are protected. OPD also has a vital interest in supporting efforts to collect physical evidence, especially in cases of sexual assault. OPD collaborates with hospitals and other medical institutions to accomplish these goals since such institutions routinely encounter crime victims. Similarly, hospitals and other medical institutions are required by law to disclose information regarding crimes to law enforcement - as specified in the California Education Code (Ed. Code). Ed. Code Sections 67383 (a) 67381 d. requires that institutions of higher learning, both public, and private, such as ABSMC and SMU, must implement written policies and procedures to ensure that reports of Part 1 violent crimes, hate crimes, and sexual assaults are immediately, or as soon as practicably possible, disclosed to

¹ According to the FBI, Type 1 crimes are murder and non-negligent homicide, forcible rape, robbery, aggravated assault, burglary, motor vehicle theft, larceny-theft, and arson.

Item: _____
Public Safety Committee
April 26, 2016

local law enforcement.

Numerous state and federal laws provide specific requirements for institutions like SMU and ABSMC that treat crime victims to gather evidence. These requirements are outlined in Ed. Code sections 67380, 67381, 67386 and the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"). Title IX of the Higher Education Amendments of 1972 ("Title IX") and the California Penal Code and other state laws related to health and confidentiality/privacy also govern evidence gathering related to crime victims. The Clery Act requires SMU to issue timely warnings for crimes on- and off-campus that pose a serious threat to students and employees. The Clery Act also requires emergency notifications for situations involving immediate threats to the health or safety of students or employees on campus.

ANALYSIS AND POLICY ALTERNATIVES

ABSMC has served as the parent organization of SMU since the merger of Summit Medical Center and Alta Bates Medical Center in 1999. A resolution authorizing the City Administrator or designee to enter into a MOU with SMU and ABSMC will facilitate the issuance of Clery Act-required timely warnings and emergency notifications by ABSMC and SMU. The MOU between OPD and SMU follows recommendations from the California Attorney General that medical schools enter into agreements with local law enforcement. OPD is supporting SMU's efforts to comply with this State-level recommendation.

OPD, SMU and ABSMC will be able to coordinate information sharing related to Part 1 Crimes, hate crimes and sexual assault through this MOU. Pursuant to Ed. Code Sections 67380(a)(6)(A) and 67383(a), SMU will report immediately, or as soon as practicably possible, all reports received by a Campus Security Authority of any Part 1 violent crime, sexual assault, or hate crime, committed on or off campus. This reporting includes reports victims make directly to Campus Security Authorities and reports victims make to other SMU employees that are conveyed to SMU security authorities. Victim support and police investigations will be furthered by increasing communication and collaboration between the parties that treat victims of violent crimes, hate crimes, or sexual assaults investigations.

Communication and Evidence Gathering in Sexual Assault Cases

SMU and OPD agree that in the immediate aftermath of a sexual assault, a victim should be directed to, and receive assistance (including transportation where appropriate) to access services, including referrals to counseling and a health examination. Sexual assault forensic examinations (SAFE), should be available to victims, at no cost, and irrespective of whether the victim engages with law enforcement, whenever the victim consents.

SMU and OPD agree that victims' rights and police investigations are furthered by increasing communication and collaboration between the parties. This MOU between SMU and OPD will not create additional reporting requirements for Oakland and OPD, but will create protocols for SMU to disclose information about sexual assault and hate crimes to OPD – the names of victims (if the victims consent to such disclosures) and name of the alleged perpetrator (if

known) while protecting the identity of the victim from public disclosure. In the MOU, SMU will agree to follow proper standard evidence collection protocols, including for a crime scene or a SAFE exam, when the victim has made a report to a law enforcement Party and collection of evidence will not violate a victim's request for confidentiality. Additionally OPD will continue to follow policies already established that ensure the privacy of victims.

SMU is agreeing to document all notifications from SMU to OPD in their record system, and SMU will maintain a public crime log documenting the "nature, date, time, and general location of each crime" and its disposition, if known. SMU is prepared to make this crime log accessible, while respecting confidentiality, to the public during normal business hours. Additionally, pursuant to the Clery Act, SMU must report aggregate data concerning certain enumerated crimes. To fulfill this requirement, OPD will make general statistics available to SMU to the best extent possible.

PUBLIC OUTREACH / INTEREST

This resolution will allow for a MOU between OPD and a local hospital so that information sharing protocols can be established. The sharing of information regarding Part 1 violent crimes, hate crimes, and sexual assaults will benefit the public in two key ways: 1) OPD will receive critical information to further investigations which ultimately improves public safety; and 2) OPD and SMU will agree to protocols that protect the identities of crime victims.

COORDINATION

The Office of the City Attorney collaborated with OPD on this report.

FISCAL IMPACT

There are no immediate fiscal impacts connected to this report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

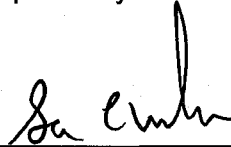
Social Equity: Greater collaboration between police and hospital to promote both criminal investigations while protecting crime victim identities in order to further the rights of crime victims.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Understanding (MOU) With Samuel Merritt University (SMU) And Sutter East Bay Hospitals DBA Alta Bates Summit Medical Center (ABSMC) For The Purpose Of Establishing Information Sharing Protocols Related To The Gathering Of Evidence From Sexual Assault, Violence And Hate Crimes; And To Protect Victims' Confidential Information.

For questions regarding this report, please contact Bruce Stoffmacher, Management Assistant, Office of the Chief of Police, Research and Planning, at (510) 238-6976.

Respectfully submitted,



Sean Whent
Chief of Police
Oakland Police Department

Reviewed by:

Jill Encinias, Lieutenant
OPD, Special Victims Unit

Prepared by:

Bruce Stoffmacher, Legislation Manager
OPD, Research and Planning, OCOP

Riccia Nunez
City Attorney's Office

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 APR 11 PM 6:19
OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH SAMUEL MERRITT UNIVERSITY (SMU) AND SUTTER EAST BAY HOSPITALS DBA ALTA BATES SUMMIT MEDICAL CENTER (ABSMC) FOR THE PURPOSE OF ESTABLISHING INFORMATION SHARING PROTOCOLS RELATED TO THE GATHERING OF EVIDENCE FROM SEXUAL ASSAULT, VIOLENCE AND HATE CRIMES; AND TO PROTECT VICTIMS' CONFIDENTIAL INFORMATION.

WHEREAS, ABSMC serves as the parent organization of SMU, since the merger between Summit Medical Center and Alta Bates Medical Center in 1999; and

WHEREAS, the Oakland Police Department (OPD) has a vital interest in ensuring that Part 1 violent crimes, hate crimes, or sexual assaults are immediately, or as soon as practicably possible, disclosed; and

WHEREAS OPD has a vital interest in ensuring that evidence from such crimes is preserved whenever possible so as to support crime investigations; and

WHEREAS OPD also has a vital interest in ensuring that crime victim's identities are protected; and

WHEREAS, the California Education Code (Ed. Code, Sections 67383(a) and 67381) requires "covered institutions," such as ABSMC and SMU to adopt and implement written policies and procedures to ensure that reports of Part 1 violent crimes, hate crimes, and sexual assaults are immediately, or as soon as practicably possible, disclosed to local law enforcement; and

WHEREAS, numerous state and federal laws provide specific requirements related to institutions, such as ABSMC that have opportunities to treat such, as outlined in California Education Code sections 67380, 67381, 67383, and 67386; the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"); and Title IX of the Higher Education Amendments of 1972 ("Title IX"); as well as the California Penal Code and applicable state laws related to health and confidentiality/privacy; and

✓
FOW

WHEREAS, the Clery Act requires SMU to issue timely warnings for Clery crimes on-and off-campus that pose a serious 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; and

WHEREAS, victims' rights and police investigations are furthered by increasing communication and collaboration between the parties that treat victims of violent crimes, hate crimes, or sexual assaults and conduct related investigations; and

WHEREAS, that pursuant to California Education Code sections 67380(a)(6)(A) and 67383(a), SMU will report immediately or as soon as practicably possible to OPD all reports received by a Campus Security Authority of any Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, including reports victims make directly to Campus Security Authorities as well as reports victims make to other SMU employees that are then conveyed to SMU security authorities; and

WHEREAS, OPD will endeavor to make every effort to notify SMU of any Part 1 violent crime, sexual assault, or hate crime, committed on or near campus that OPD refers to ACDA for charges to be filed; now, therefore, be it

RESOLVED: that the City Council authorizes the City Administrator to enter into MOU with SMU and ABSMC for the purpose of establishing information sharing protocols related to the gathering of evidence from sexual assault, violence and hate crimes; and to protect victim's confidential information; and be it

FURTHER RESOLVED: that the City Administrator, or designee, is authorized to conduct all negotiations, applications, agreements, and related actions which may be necessary to administer the aforementioned program and MOU; and be it

FURTHER RESOLVED: that the final MOU and all amendments shall be submitted to the City Attorney's Office for review as to form and legality, and copies of all fully executed MOU and any amendments shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California