

RESOLUTION NO. 2021- 2774

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF SURFSIDE AND THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES FOR THE SHARING OF FLORIDA CRIMINAL HISTORY AND LOCAL CRIMINAL HISTORY INFORMATION FOR CHILD PROTECTIVE INVESTIGATIONS AND EMERGENCY CHILD PLACEMENT; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 39.306, Florida Statutes, the Florida Department of Children and Families (“DCF”) is tasked with entering into agreements with jurisdictionally responsible local police departments that assume the lead in conducting potential criminal investigations arising from allegations of child abuse, abandonment, or neglect; and

WHEREAS, the Town of Surfside (“Town”) Police Department is the jurisdictionally responsible local police department in the Town’s boundaries tasked with conducting child protective investigations; and

WHEREAS, in order to protect the health, safety, and welfare of the Town’s minors, the Town and DCF wish to enter into a Memorandum of Understanding to coordinate, cooperate, and share Florida criminal history and local criminal history information for child protective investigations and emergency child placement, in substantially the form attached hereto as Exhibit “A” (the “MOU”); and

WHEREAS, the Town Commission wishes to approve the MOU and finds that this Resolution is in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval. The MOU, in substantially the form attached hereto as Exhibit “A,” is hereby approved.

Section 3. Authorization. That the Town Manager and/or Chief of Police are hereby authorized to execute the MOU in substantially the form attached hereto as Exhibit “A”, subject

to any changes as may be approved by the Town Manager and Town Attorney as to legal sufficiency.

Section 4. Implementation. The Town Manager, Chief of Police and/or designees are authorized to take any and all action necessary to implement the purposes of this Resolution and the MOU.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption.

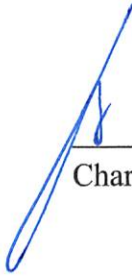
PASSED AND ADOPTED this 13th day of April, 2021.

Motion By: Commissioner Kesl

Second By: Commissioner Velasquez

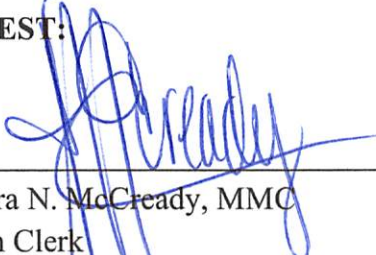
FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	<u>Yes</u>
Commissioner Eliana R. Salzhauer	<u>Absent</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>



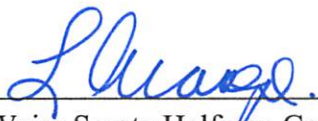
Charles W. Burkett, Mayor

ATTEST:



Sandra N. McCready, MMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

MEMORANDUM OF UNDERSTANDING

This **MEMORANDUM OF UNDERSTANDING (MOU)** is made and entered into by the **FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES** (hereinafter, “DCF”); and

Surfside Police Department, the jurisdictionally responsible local police department, (hereinafter, Law Enforcement Agency [LEA]);

WHEREAS, the Parties seek to make the most efficient use of their powers by cooperation with other entities on a basis of mutual advantage and otherwise to comply with section 39.306, F.S.

NOW THEREFORE, the Parties agree as follows:

1. INITIAL TERM AND INTEGRATION

The initial term begins the latter of the date set forth herein or the date the MOU is signed by all Parties. The MOU and any attached or incorporated documents are the entire agreement between the Parties, superseding all prior discussions, representations, or agreements of the Parties related hereto.

2. PURPOSE

This MOU achieves the Parties’ duties under §39.306, F.S.

3. DEFINITIONS

Unless otherwise provided, definitions utilized in this agreement are found in §39.01, F.S.

“Criminal conduct” is defined in §39.301(2)(b), F.S.

4. THE PARTIES AGREE:

- a. The safety of the victim is of primary concern.
- b. To conduct joint investigations and share information on an on-going and continuous basis.
- c. To develop, implement, and provide training on joint investigative protocols and protocols for the assessment of family violence and sexual violence during abuse investigations and the assessment of abuse during investigations.
- d. To collaborate when a child is missing to timely ensure the child’s entry as a missing child in the Florida Crime Information System and the National Crime Information System, and exert due diligence in the child’s safe recovery. DCF and the LEA shall contemporaneously share information to aid in a safe recovery of the missing child.

5. THE LEA AGREES:

- a. Upon receipt of a written report of an allegation of criminal conduct from DCF, to review the written report to determine if criminal investigation is warranted. If the LEA pursues criminal investigation, it shall coordinate its investigative activities with DCF. The LEA shall immediately notify DCF in writing if it does not accept the case for criminal investigation.
- b. If the LEA pursues criminal investigation, to notify DCF when a protective investigator may interview the alleged perpetrator. The results of LEA interviews resulting from the criminal investigation shall be shared with DCF.
- c. To have procedures for accepting DCF information and transferring it to other appropriate law enforcement entities.
- d. Upon notice that a child is missing, to immediately inform all on-duty law enforcement officers of the missing child report, communicate the report to every appropriate law enforcement entity, and within 2 hours of receipt, transmit the report for inclusion within the Florida Crime Information Center and the National Crime Information Center database pursuant to section 937.021(4)(a), F.S. A court order is not a precondition for the acceptance of the report. Id.

6. DCF AGREES:

- a. To immediately forward allegations of criminal conduct to the LEA.
- b. To coordinate the protective investigation with the LEA.
- c. To immediately orally notify the LEA and provide a written report within three business days thereafter, upon learning:
 - i. The immediate safety or well-being of a child is endangered;
 - ii. The family under investigation is likely to flee;
 - iii. A child died as a result of abuse, abandonment, or neglect;
 - iv. A child is a victim of aggravated child abuse as defined in s. 827.03; or
 - v. A child is a victim of sexual battery or of sexual abuse.
- d. If requested by the LEA, DCF will not interview the alleged perpetrator except as authorized per 5.b.
- e. To assess the immediate safety of the children and take the necessary actions to ensure their continued safety. DCF will determine and implement the necessary services to support the family.
- f. To refer “false reports” to the LEA upon the consent of the person originally identified as the alleged perpetrator pursuant to section 39.205(8), F.S.
- g. To report all child-on-child sexual allegations to the LEA within 48 hours of receipt pursuant to section 39.201(2)(c)1., F.S.
- h. To timely provide records and any requested information to the LEA when a child has been reported missing.

7. SUSPENSION AND TERMINATION

Any Party may, at its sole discretion, suspend any or all activities under the MOU and may terminate the MOU with 30 days advance written notice to the other Parties.

8. NOTICES

All notices required under the MOU must be delivered in writing to the designated contact person in a manner identified by the DCF. The initial designated contact person for each party is their signatory to this MOU. A designated contact person may be changed by notice.

9. COMPLIANCE WITH LAWS

The Parties will comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of the MOU, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Parties will comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status.

10. DISPUTE RESOLUTION

Any dispute concerning the MOU will be discussed among the Parties. Unless resolved by the Parties, the matter will be decided by the Department's designated contact person, who will reduce the decision to writing and deliver a copy to the Parties.

11. ASSIGNMENT

Except for transfers of the Department's responsibilities due to a Department statutory reorganization, such as a transfer under section 20.06, Florida Statutes, the Parties will not sell, assign, or transfer any of their rights, duties, or obligations under the MOU without the prior written notice to and approval of the other Parties.

12. MODIFICATION AND SEVERABILITY

The MOU may only be modified by written agreement between the Parties.

13. INDEMNIFICATION

To the extent permitted by Florida law, each Party agrees to indemnify, defend, and hold the other Party and their officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the other Party, their employees, agents, subcontractors, assignees, or delegates related to the MOU. The MOU does not constitute a waiver of sovereign immunity or consent by LEA, DCF, the State of Florida, or its subdivisions, to suit by third parties.

EACH PARTY AGREES TO THIS MOU BY SIGNATURE BELOW.

AGREED AND ACKNOWLEDGED this _____ day of _____ 2021

Andrew Hyatt
Town Manager
Town of Surfside, Florida

Raeann Bacchus, M.S.
Florida Department of Children
and Families
Regional Managing Director
Southern Region

Julio Yero
Chief of Police
Town of Surfside, Florida

Sandra Nova
Town Clerk
Town of Surfside, Florida

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Wiess, Sorota, Helfman, Cole &
Bierman, P.L.
Town Attorney,
Town of Surfside, Florida