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FLORIDA SHERIFFS ASSOCIATION

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May 2, 2018

VIA UNITED STATES
and ELECTRONIC MAIL
(scasey@flssheriffs.org)

Mr. Steve Casey
Executive Director
Florida Sheriffs Association
2617 Mahan Drive
P.O. Box 12519
Tallahassee 32317-2519

Re: School Safety Act Funding of School Resource Officers

Dear Director Casey:

You requested a legal opinion on the issue of whether the individual school districts are obligated to fund the mandated school safety services under the “Marjory Stoneman Douglas High School Safety Act” (“Act”), Chapter 2018-3, Laws of Fla, including any shortfall that may arise if the state-allocated funds are insufficient to fund the school resource officers (“SRO”). It is my opinion based on the plain wording of the Act as well as principles of statutory construction that school districts are required to fund any shortfall.

Initially, it should be noted that the Act requires the school districts to, among other things, assign a school safety officer to each school, which may include a SRO, a school guardian, or a school safety officer employed by the school district. Ch. 2018-3, §26. Section 26 amends Section 1006.12, F.S., to require the school districts to provide any combination of safety officer, guardian or SRO assigned to each school. Specifically, section 1006.12 now provides:

“Safe School officers at each public school – For the protection and safety of school personnel, property, students, and visitors, each school district school board and school superintendent shall partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district....”

To this end, the Act provides a threshold level of annual funding through the General Appropriations Act allocated specifically to school districts exclusively for the “hiring or contracting

for school resource officers” *Id.* at §42.¹

However, it is readily apparent that the \$97,500,000 appropriated is insufficient to fully fund the assignment of SROs to each school, particularly if no school guardian or school safety officer is utilized. The specific issue is whether school districts are required to fund the SROs as required by the Act. For the reasons set forth below, it is apparent that the Act requires school districts to fund any General Appropriations shortfall either through reallocating funds under their respective budgets or, accessing their reserved funds, or raising their millage rates.

Initially, it is important to note that the Act amends Section 1011.62(15) authorizing district school boards to use certain categorical appropriations for school safety. A plain reading of the Act places the responsibility for funding SROs upon the school district:

(15) Safe Schools Allocation -- A safe schools allocation is created to provide funding to assist school districts in their compliance with s. 1006.07, with priority given to implementing the district’s school resource officer program pursuant to s. 1006.12. *Each school district shall receive a minimum safe schools allocation in an amount provided in the General Appropriations Act.* Of the remaining balance of the safe schools allocation, two thirds shall be allocated to school districts based on the most recent official Florida Crime Index provided by the Department of Law Enforcement and one third shall be allocated based on each school district’s proportionate share of the state’s total unweighted full-time equivalent student enrollment. Any additional funds appropriated to this allocation in the 2018-2019 fiscal year to the school resource officer program established pursuant to s. 1006.12 shall be used exclusively for employing or contracting for school resource officers, which shall be in addition to the number of officers employed or contracted for in the 2017-2018 fiscal year.

(Emphasis added).

Accordingly, it is the school district that receives the minimum safe schools allocation from the state to fund school resource officers. Since its passage, some school districts have indicated that they will provide their state allocations directly to their sheriffs’ offices to hire and manage the SROs. While the Act does not expressly prohibit this practice, this manner of implementation does not then legally substitute the sheriffs or their county boards as the funding entity for any budgetary shortfall. The Act does not authorize any school district to relinquish its funding responsibilities by merely transferring the funds to a sheriff.

¹ Sections 40 and 42 of the Act provide that the State’s funding for the guardian program and SROs is being provided to the individual school districts and not the sheriffs. Importantly, Section 42 provides that “[E]ach school district *must use these funds exclusively for hiring and contracting for school resource officers* pursuant to s. 1006.12, Florida Statutes.” (Emphasis added). Therefore, school districts are not permitted to use these funds for any other district purpose.

This conclusion is further buttressed by section 1011.62(6) entitled Categorical Funds, which places the burden of funding directly on the school districts. Section 1011.62(6)(b) Categorical Funds, states:

If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction or *improve school safety the school board may consider and approve an amendment to the school district operating budget transferring the identified amounts of the categorical funds to the appropriate account for expenditure.*

(Emphasis added).

Thus, the Act authorizes school districts to adjust their budgets if they determine that additional funds are needed for school safety, which would necessarily include SROs. By implication, the Legislature has given school districts the authority to make up the difference in any shortfall for funding SROs to ensure that a school safety officer is assigned to each school. Additionally, school districts are empowered to raise their millage rates to meet increased budget demands.²

The doctrine of *in pari materia* requires that “statutes relating to the same subject or object be construed together to harmonize the statutes and to give effect to the Legislature’s intent.” *Fla. Dep’t of State v. Martin*, 916 So. 2d 763, 768 (Fla. 2005). In reading the above provisions of the Act together, the obvious intent of the Legislature to place the funding responsibility upon school districts can be readily discerned.

Likewise, the principle of statutory construction *expressio unius est exclusio alterius*, (which means “the mention of one thing implies the exclusion of another”) would suggest that the Legislature intended that the district boards fund SROs since Sheriffs are omitted from the Act’s funding provisions related to SROs. *See Moonlit Waters Apartments, Inc. v. Cauley*, 666 So. 2d 898, 900 (Fla. 1996). The funding requirements as set forth in section 1011.62, which are amended under the Act, make no reference to Sheriffs or county boards as having any responsibility to appropriate funds for school safety services, including the hiring and compensation of SROs. Rather, these provisions address only school districts and their obligations. Because of the Legislature’s consistent reference to school districts and its omission of sheriffs and county boards in these processes, school districts are obligated to fund their respective school safety services, including appropriating additional funds for any budgetary shortfall.

In conclusion, the Act requires the school districts, rather than sheriffs or the county commissions, to fund the SROs contemplated under the Act. To the extent that the Legislature’s

² Art. VII § 9(a), Fla. Const.; §§1011.71, 1011.73, Fla. Stat.

May 2, 2018
Page 4

appropriations fall short of fully funding these officers, then the responsibility nonetheless remains with the school districts to address the shortfall.

Sincerely,

A handwritten signature in dark ink, appearing to read 'WE', followed by a long, horizontal, wavy line that extends to the right.

Wayne Evans
General Counsel, FSA

cc: Sheriff Michael Adkinson
Sheriff Tom Knight
Sheriff Robert Gualtieri