



Privacy Advisory Commission
November 26, 2018 5:00 PM Oakland
City Hall
Hearing Room 2
1 Frank H. Ogawa Plaza, 1st Floor
Special Meeting Agenda

Commission Members: District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Vacant, District 7 Representative: Robert Oliver, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Heather Patterson

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum
2. 5:05pm: Review and approval of November meeting minutes
3. 5:10pm: Open Forum
4. 5:15pm: Surveillance Equipment Ordinance – Unapproved Use of UAV by OPD during exigent circumstances – presentation of revised staff report and take possible action
5. 5:25pm: Review and take possible action on a Federal Task Force MOU with the U.S. Marshals Service (USMS)
6. 5:35pm: Review and take possible action on a Federal Task Force MOU with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
7. 5:45pm: Surveillance Equipment Ordinance – Cell Site Simulator draft Use Policy – review and take possible action on revised staff policy.
8. 7:00pm: Adjournment



Privacy Advisory Commission
November 1, 2018 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Vacant, District 7 Representative: Robert Oliver, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Heather Patterson*

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum

Members Hofer, Karamooz, Jaquez, Patterson, Katz, Suleiman, and Oliver were present.

2. 5:05pm: Review and approval of October meeting minutes

The minutes were approved with one correction.

3. 5:10pm: Open Forum

There were no Open Forum Speakers.

4. 5:15pm: Surveillance Equipment Ordinance – discussion with staff and take action to adopt sequence of impact analysis and use policy writing for existing Fire Department equipment

Staff identified three surveillance technology items:

- Thermal Imaging Cameras (TIC):*** *used by Engine Companies to check for heat signatures while inspecting for heat during emergency response. The Commission asked that staff clarify if these have Gait Analysis Technology.*
- Forward Looking Infrared Cameras (FLIR):*** *on 2 aircraft rescue units. The Commission asked for clarification if these are the same as those that already have a policy in place from before the PAC was created.*

c. **Emergency Operations Center live video feed:** from OFD Communications van and joint OFD/OPD Command Van. The Commission asked that staff from the EOC present in December to clarify how this technology works and is used.

5. 5:20pm: Surveillance Equipment Ordinance – Unapproved Use of UAV by OPD during exigent circumstances – presentation of staff report and take possible action

The Commission had questions regarding the sequence and timing of events in which the Sheriff's Office was asked to assist in the exigent circumstance and whether the suspect was caught and if the UAV contributed to the capture. Also, the Commission would like to know what data was captured. Further, questions arose regarding whether and how often OPD would seek support from the Sheriff's Office in these circumstances and if it warrants developing a more formal agreement for PAC consideration.

Staff will return with an edited report addressing these concerns at the next meeting.

6. 5:30pm: Review and discuss Federal Task Force MOU with Drug Enforcement Agency – take possible action

The Commission spent considerable time discussing proposed amendments to the MOU that were developed by the ad hoc working group that are listed below:

The Oakland Police Department's Task Force Officer will not participate in any enforcement action relating to the cultivation, sale, possession, or use of marijuana unless such action violates California law and/or City of Oakland ordinance(s).

The DEA Special Agents assigned to the Task Force Group (Oakland) agree to adhere to the following state or local laws, policies, or procedures, when performing as part of the Task Force Group (Oakland), unless existing DEA policies or procedures are more restrictive:

- *SB 54 – California Values Act (Cal. Gov. Code §7284 et seq.)*
- *SB 31 – California Religious Freedom Act (Cal. Gov. Code §8310.3 et seq.)*
- *Oakland Sanctuary City Ordinance (code pending)*
- *Oakland Police Departmental General Order M-17, Section V "Professional Standards"*
- *Oakland Police Departmental General Order M-19, Sections III and VIII (A, C)*

Since the DEA indicated they were not willing to agree to the additions related to their agents abiding by state and local laws, policies, and procedures, the Commission was conflicted over what to recommend to the City Council. Ultimately the Commission voted to forward the ad hoc committee's revised MOU and ask that the Council support this version instead of the version the DEA had agreed to.

7. 5:50pm: Surveillance Equipment Ordinance – Cell Site Simulator Impact Analysis and draft Use Policy – review and take possible action.

The Commission made several editing suggestions to staff that were supported and staff agreed to bring back a revised draft at the next meeting for final approval.

8. Adjournment

The meeting adjourned at 6:35pm but a Special Meeting was proposed for November 26th.



AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: OPD-US Marshals MOU

DATE: November 6, 2018

City Administrator
Approval

Date

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The United States Marshals Service (USMS) To Allow Oakland Police Department (OPD) Participation In The Northern District Of California Regional Fugitive Taskforce For The Purpose Of Locating And Apprehending Fugitives.

EXECUTIVE SUMMARY

The Marshals Service is a federal law enforcement agency within the United States Department of Justice with a mandate to apprehend fugitives and the execution of federal warrants. The USMS Task Forces does not conduct independent investigation of possible criminal activity, but rather works with local and state law enforcement agencies to apprehend individuals with active arrest warrants. The Northern District of California United States Marshals Service Task Force (USMS TF) primary mission is the apprehension of violent fugitives wanted by local, state, federal, and international law enforcement agencies. Eighty percent of the Northern California TF cases stem from criminal activity in Oakland.

Oakland's Ceasefire Strategy benefits from support of the USMS apprehending individuals who continue with criminal and illegal firearm activity and/or break the provisions of their probation or parole restrictions. OPD does not have a fully staffed fugitive unit – the USMS TF fulfills this critical need for OPD. USMS TF participation allows OPD overtime expenses related to USMS operations to be reimbursed by the USMS. OPD previously signed an MOU with the USMS in 2011. The City Charter requires City Council approval for such partnerships.

BACKGROUND AND LEGISLATIVE HISTORY

The USMS is responsible for enforcing federal court orders and serves as the administrative custodian of all federal warrants until they are executed or dismissed. The USMS also manages warrant information, investigates fugitive matters and executes arrest warrants.

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The US Marshals have a long history of providing assistance and expertise to other law enforcement agencies in support of fugitive investigations. USMS Task Forces do not conduct independent investigations of criminal activity. The USMS only seeks to apprehend individuals with active arrest warrants issued related to crimes that have targeted local residents. These crimes include: murder, rape, child molestation, robbery, felony assault, and large scale fraud. USMS Task Forces work by leveraging information from local police and other data sources (such as interviews of associates and family members).

ANALYSIS AND POLICY ALTERNATIVES

The Northern District of California USMS TF has a primary mission of apprehending violent fugitives wanted by local, state, federal and international law enforcement agencies. The USMS TF in the Bay Area has 25 personnel assigned to three different geographical regions: San Jose, San Francisco, and Oakland. Investigative efforts are made to determine possible locations of a fugitive. Once a possible location is determined the team shifts from an investigative process to an operational and tactical mode for a safe apprehension. The Task Force Officer (TFO) communicates directly with OPD, allowing for safety measures to be implemented to keep the residents of Oakland safe whenever a fugitive is apprehended.

In Oakland, the USMS is a valuable partner for investigations of violent criminal behavior. Oakland's Ceasefire Strategy benefits from support from the USMS. Ceasefire is a data-driven violence-reduction strategy coordinating law enforcement, social services, and the community. The major goal is to reduce gang/group-related homicides and shootings. Ceasefire brings social services and community partners to help gang/group members ready to cease violent activity; partners such as the USMS are critical to locating individuals who continue with criminal and illegal firearm activity and/or break the provisions of their probation or parole restrictions. Results of a recent Oakland Ceasefire study, "Oakland Ceasefire Impact Evaluation: Key Findings," dated August 10, 2018 find that an approximate 30 percent drop in gun-related homicides since 2013 to Ceasefire¹. The USMS helps OPD with its Ceasefire implementation and criminal investigations by locating and arresting violent offenders and sexual predators with warrants for their arrest.

In order to apprehend individuals who have committed crimes in Oakland, law enforcement personnel are sometimes required to seek these individuals outside of California. The USMS TF has the capability and resources to track fugitives across state lines as well as internationally. The USMS TF focuses on violent Oakland gang/group members who are involved in committing homicides, robberies, aggravated assaults, and shootings as well as lesser crimes. The USMS TF arrested 79 fugitives between July 2017 and June 2018. These operations recovered nine firearms and over a kilogram of cocaine. The firearms were related to the ongoing violence plaguing West Oakland and East Oakland communities.

¹¹ <http://www2.oaklandnet.com/w/OAK071457>

USMS MOU Alignment with OPD Policies

The MOU between OPD and the USMS shall state that each member shall comply with their agencies' guidelines concerning the use of firearms, deadly force, and less-lethal devices. In the event of a shooting involving task force personnel, the incident will be investigated by the agency of the involved personnel.

Council Approval and Privacy Advisory Commission (PAC) Review

OPD first entered into a MOU with the USMS to participate in the TF in April 29, 2011. However, Article IV, Section 401(6) of the City Charter requires that the City Council authorize the City Administrator or designee to enter into an agreement between the City and other agency or organization. This MOU was signed by OPD without realizing the requirement of Council approval for all interagency agreements; OPD now recognizes that it cannot continue its partnership with the USMS TF without City Council approval.

Ordinance No. 13457 C.M.S., passed June 29, 2017, requires that OPD submit a "proposed MOU and any orders, policies, and procedures relevant to the subject matter of the MOU for discussion and public comment at an open meeting of the Privacy Advisory Commission" before execution of said agreement. Therefore, OPD plans to bring the USMS TF MOU for review at their special November 26, 2018 meeting; staff will provide a supplemental report to this report with a summary of the PAC's recommendation. OPD recommends that the City Council approve this resolution authorizing the USMS TF MOU.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this report beyond the standard City Council agenda noticing requirements.

COORDINATION

OPD consulted with the Budget Bureau and the Office of the City Attorney in the development of this report and accompanying resolution.

FISCAL IMPACT

Any reimbursements for overtime expenses made by the USMS to OPD shall be deposited into Fund 2999, Org 102310, Account 46129, Project TBD, and Program PS03.

SUSTAINABLE OPPORTUNITIES

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

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

Social Equity: OPD's collaboration with USMS helps OPD apprehend wanted criminal suspects and convicted felons. These law enforcement actions help remove dangerous individuals from the streets of Oakland. All residents and visitors benefit from efforts to improve public safety.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The United States Marshals Service (USMS) To Allow Oakland Police Department (OPD) Participation In The Northern District Of California Regional Fugitive Taskforce For The Purpose Of Locating And Apprehending Fugitives.

For questions regarding this report, please contact Lieutenant James Beere, Felony Assault Section, CID, Bureau of Investigations, at (510) 238-3728.

Respectfully submitted,

Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
James Beere, Lieutenant
OPD, CID, Bureau of Investigations

Timothy Birch, Police Services Manager I
OPD Training Division, Research and Planning

Prepared by:
Bruce Stoffmacher, Legislation Manager
OPD Training Division, Research and Planning

Attachments (1):

A – Memorandum of Understanding between the Oakland Police Department and the United States Marshals Service

Item: _____
Public Safety Committee
December 4, 2018

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR
DESIGNEE TO ENTER INTO A MEMORANDUM OF
UNDERSTANDING (MOU) WITH THE UNITED STATES MARSHALS
SERVICE (USMS) TO ALLOW OAKLAND POLICE DEPARTMENT (OPD)
PARTICIPATION IN THE NORTHERN DISTRICT OF CALIFORNIA
REGIONAL FUGITIVE TASKFORCE FOR THE PURPOSE OF
LOCATING AND APPREHENDING FUGITIVES**

WHEREAS, the primary mission of USMS task forces (TF) is to investigate and arrest, as part of joint law enforcement operations, persons who have active state and federal warrants for their arrest; and

WHEREAS, in the City of Oakland each year scores of individuals face warrants for their arrest due to proven and/or suspected criminal activity including violent crimes against persons, weapons offenses; felony drug offenses, failure to register as a sex offender, and crimes committed by subjects who have a criminal history involving violent crimes, felony drug offenses, and/or weapons offenses; and

WHEREAS, OPD does not have a fully staffed fugitive unit to independently investigate and apprehend the many fugitives who must be apprehended each year to protect the safety of Oakland residents and visitors; and

WHEREAS, the USMS has created numerous regional fugitive taskforces (TF) to investigate and apprehend local, state and federal fugitives; and

WHEREAS, Federal fugitive cases referred to the task force for investigation by any participating agency such as OPD are entered into the National Crime Information Center (NCIC) by the USMS or originating agency, as appropriate; and

WHEREAS, in Oakland, the USMS is a valuable partner for investigations of violent criminal behavior; and

WHEREAS, Oakland's Ceasefire Strategy, a data-driven violence-reduction effort that coordinates law enforcement, social services, and the

community; the major goal of Ceasefire is to reduce gang/group-related homicides and shootings; Ceasefire brings social services and community partners to help gang/group members ready to cease violent activity; partners such as the USMS are critical to locating individuals who continue with criminal and illegal firearm activity and/or break the provisions of their probation or parole restrictions; and

WHEREAS, the USMS helps OPD with its Ceasefire implementation and criminal investigations by locating and arresting violent offenders and sexual predators with warrants for their arrest; and

WHEREAS, recovering fugitives who have committed crimes in Oakland usually can lead to out of state pursuits; the TF has the capability and resources to track fugitives across state lines and those criminals attempting to flee the Country; and

WHEREAS, most the offenders assigned to the USMS are violent Oakland gang/group members who are involved in committing homicides, robberies, aggravated assault and shootings as well as lesser crimes; and

WHEREAS, the MOU between OPD and the USMS shall state that each member (such as OPD) shall comply with their agencies' guidelines concerning the use of firearms, deadly force, and less-lethal devices, and in the event of a shooting involving task force personnel, the incident will be investigated by the agency of the involved personnel; and

WHEREAS, the MOU between OPD and the USMS shall state that each agency that shall be responsible for the acts or omissions of its employees, and that participating agencies or their employees shall not be considered as the agents of any other participating agency; and

WHEREAS, Article IV, Section 401(6) of the City Charter requires that the City Council authorize the City Administrator or designee to enter into an agreement between the City and other agency or organization;

WHEREAS, OPD previously signed an MOU authorizing OPD participation in the USMS TF on April 29, 2011 but shall not participate in the USMS TF without Council approval; therefore be it

RESOLVED: that City Council does hereby authorize the City Administrator or designee to enter into a MOU with the USMS to allow OPD to participate in the Northern District of California Regional Fugitive Taskforce for the purpose of locating and apprehending fugitives; and be it

FURTHER RESOLVED: that all members of the USMS TF shall comply with their agencies' guidelines concerning the use of firearms, deadly force, and less-lethal devices; and be it

FURTHER RESOLVED: that if the USMS receives asset forfeiture funding for either 1) overtime incurred by state and local investigators who provide full time support to USMS TF; or 2) travel, training, purchase or lease of police vehicles, fuel, supplies ,or equipment for state and local investigators in direct support of state and local investigator, the USMS shall, pending availability of funds, reimburse participating agencies for the expenses incurred, depending on which category of funding is provided; and be it

FURTHER RESOLVED: that any asset forfeitures attributable to the JTTF investigations may be distributed among participating JTTF agencies at the discretion of the FBI; and be it

FURTHER RESOLVED: that any reimbursements for overtime expenses made by the USMS to OPD shall be deposited into Fund 2999, Org 102310, Account 46129, Project TBD, and Program PS03; and be it

FURTHER RESOLVED: that this MOU shall be in effect unless either party notifies the other party of its intent to end participation in the USMS TF with 30 days' written notice; and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to execute, modify, extend and/or amend the MOU without returning to the City Council; and be it

FURTHER RESOLVED: That in accordance with Article IV, Section 401(6) of the City Charter, the MOU authorized by this resolution shall be approved by as to form and legality before execution, and a copy of the fully executed agreement 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,
GIBSON MCELHANEY AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

United States Marshals Service
Regional Fugitive Task Force - Memorandum of Understanding

PARTIES AND AUTHORITY:

This Memorandum of Understanding (MOU) is entered into by the
Oakland Police Department

and the United States Marshals Service (USMS) pursuant to 28 U.S.C. § 566(e)(1)(B). As set forth in the Presidential Threat Protection Act of 2000 and directed by the Attorney General, the USMS has been granted authority to direct and coordinate permanent Regional Fugitive Task Forces consisting of Federal, state, and local law enforcement authorities for the purpose of locating and apprehending fugitives. The authority of the USMS to investigate fugitive matters as directed by the Attorney General is set forth in 28 USC § 566. The Director's authority to direct and supervise all activities of the USMS is set forth in 28 USC § 561(g) and 28 CFR 0.111. The authority of United States Marshals and Deputy U.S. Marshals, "in executing the laws of the United States within a State . . . [to] exercise the same powers which a sheriff of the State may exercise in executing the laws thereof" is set forth in 28 USC § 564. Additional authority is derived from 18 USC § 3053 and Office of Investigative Agency Policies Resolutions 2 & 15. (See also) "Memorandum for Howard M. Shapiro, General Counsel, Federal Bureau of Investigation" concerning the "Authority to Pursue Non-Federal Fugitives", issued by the U.S. Department of Justice, Office of Legal Counsel, dated February 21, 1995. (See also) Memorandum concerning the Authority to Pursue Non-Federal Fugitives, issued by the USMS Office of General Counsel, dated May, 1, 1995. (See also) 42 U.S.C. § 16941(a)(the Attorney General shall use the resources of federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements).

MISSION:

The primary mission of the task force is to investigate and arrest, as part of joint law enforcement operations, persons who have active state and federal warrants for their arrest. The intent of the joint effort is to investigate and apprehend local, state and federal fugitives, thereby improving public safety and reducing violent crime.

Each participating agency agrees to refer cases for investigation by the RFTF (Regional Fugitive Task Force). Cases will be adopted by the RFTF at the discretion of the RFTF Chief Inspector. Targeted crimes will primarily include violent crimes against persons, weapons offenses, felony drug offenses, failure to register as a sex offender, and crimes committed by subjects who have a criminal history involving violent crimes, felony drug offenses, and/or weapons offenses. Upon receipt of a written request, the RFTF may also assist non-participating law enforcement agencies in investigating, locating and arresting their fugitives. Task force personnel will be assigned federal, state, and local fugitive cases for investigation. Investigative teams will consist of personnel from different agencies whenever possible. Participating agencies retain responsibility for the cases they refer to the RFTF.

Federal fugitive cases referred to the task force for investigation by any participating agency will be entered into the National Crime Information Center (NCIC) by the USMS or originating agency, as appropriate. State or local fugitive cases will be entered into NCIC (and other applicable state or local lookout systems) as appropriate by the concerned state or local agency.

SUPERVISION:

The RFTF will consist of law enforcement and administrative personnel from federal, state, and local law enforcement agencies. Agency personnel must be approved by the RFTF Chief Inspector prior to assignment to the RFTF. Agency personnel may be removed at any time at the discretion of the RFTF Chief Inspector.

Direction and coordination of the RFTF shall be the responsibility of the USMS RFTF Chief Inspector. Administrative matters which are internal to the participating agencies remain the responsibility of the respective agencies. Furthermore, each agency retains responsibility for the conduct of its personnel.

A Task Force Advisory Committee, consisting of representatives of participating agencies and USMS RFTF personnel, may be established at the discretion of the RFTF Chief Inspector and will meet and confer as necessary to review and address issues concerning operational matters within the RFTF.

PERSONNEL:

In accordance with Homeland Security Presidential Directive 12, personnel assigned to the task force are required to undergo background investigations in order to be provided unescorted access to USMS offices, records, and computer systems. The USMS shall bear the costs associated with those investigations. Non-USMS law enforcement officers assigned to the task force will be deputized as Special Deputy U.S. Marshals.

Task force personnel may be required to travel outside of the jurisdiction to which they are normally assigned in furtherance of task force operations. State or local task force officers (TFOs) traveling on official business at the direction of the USMS shall be reimbursed directly by the USMS for their travel expenses in accordance with applicable federal laws, rules, and regulations.

REIMBURSEMENT:

If the Marshals Service receives Asset Forfeiture funding for either 1) overtime incurred by state and local investigators who provide full time support to USMS RFTF joint law enforcement task forces; or 2) travel, training, purchase or lease of police vehicles, fuel, supplies or equipment for state and local investigators in direct support of state and local investigators, the USMS shall, pending availability of funds, reimburse your organization for expenses incurred, depending on which category of funding is provided.

Reimbursement of overtime work shall be consistent with the Fair Labor Standards Act. Annual overtime for each state or local law enforcement officer is capped at the equivalent of 25% of a GS-1811-12, Step 1, of the general pay scale for the RUS. Reimbursement for all types of qualified expenses shall be contingent upon availability of funds and the submission of a proper request for reimbursement which shall be submitted quarterly on a fiscal year basis, and which provides the names of the investigators who incurred overtime for the RFTF during the quarter; the number of overtime hours incurred, the hourly regular and overtime rates in effect for each investigator, and the total quarterly cost.

The request for reimbursement must be submitted to the RFTF Chief Inspector, who will review the request for reimbursement, stamp and sign indicating that services were received and that the request for reimbursement is approved for payment. Supporting documentation must accompany requests for reimbursement for equipment, supplies, training, fuel, and vehicle leases.

VEHICLES:

Pending the availability of Asset Forfeiture funding, the USMS may acquire vehicles to be utilized by state and local investigators assigned to the RFTF. Vehicles provided by the USMS remain in the control of the USMS and must be used solely in support of RFTF operations. The vehicles must be available for exclusive use of the TFOs assigned to the RFTF by the undersigned participant agency for the duration of the agency's participation on the task force. If the agency is no longer a participating member of the RFTF, any vehicle provided to TFOs from the agency must be returned to the USMS. Operators of USMS provided vehicles must adhere to USMS policy regarding the use of government owned vehicles. Any violation of the USMS vehicle policy may result in the vehicle being repossessed by the USMS and the operator and/or agency forfeiting the opportunity to utilize a USMS provided vehicle in the future. Vehicles provided to state and local investigators may be subject to additional regulations or restrictions pursuant to USMS lease agreements. Replacement or removal of any vehicle provided by the USMS will be at the discretion of the USMS and/or subject to lease agreement terms.

EQUIPMENT:

Pending the availability of Asset Forfeiture funding, the USMS may purchase equipment for state and local investigators assigned to the RFTF. Equipment purchased by the USMS using Asset Forfeiture funding must be used solely in support of RFTF operations. The equipment must be available for exclusive use of the TFOs assigned to the RFTF by the undersigned participant agency for the duration of the agency's participation on the task force. If the agency is no longer a participating member of the RFTF, any equipment purchased with Asset Forfeiture and provided to TFOs from the agency may be retained by the agency.

Equipment provided by the USMS that is not purchased using Asset Forfeiture funding remains the property of the USMS and will be issued to state and local investigators for exclusive use in support of the RFTF. If the investigator or agency is no longer a participating member of the RFTF, any equipment issued that was not purchased with Asset Forfeiture funding will be returned to the USMS.

RECORDS AND REPORTS:

Original reports of investigation, evidence, and other investigative materials generated, seized, or collected by the RFTF shall be retained by the agency in the RFTF responsible for the case. However, evidence may be turned over to other law enforcement agencies as appropriate. Copies of investigative reports and other materials may be provided to other agencies in accordance with applicable laws, rules, and regulations. Task force statistics will be maintained in the USMS Justice Detainee Information System (JDIS) - Warrant Information Network (WIN). Statistics will be made available to any participating agency upon request.

INFORMANTS:

Pending the availability of funds, the USMS may provide funding for the payment of informants. However, all payments of informants utilizing USMS funding shall comply with USMS policy.

USE OF FORCE:

All members of the RFTF will comply with their agencies' guidelines concerning the use of firearms, deadly force, and less-than lethal devices, to include completing all necessary training and certification requirements. All members of the RFTF and their parent agencies will read and adhere to the DOJ Policy Statement on the Use of Less-Than-Lethal Devices, dated May 16, 2011. Copies of all applicable firearms, deadly force, and less-than-lethal policies shall be provided to the RFTF Commander and each concerned TFO. In the event of a shooting involving task force personnel, the incident will be investigated by the appropriate agency(s). Additionally, in the event of a shooting, the required reporting for the FBI National Use of Force Data Collection (NUOFDC) should be accomplished by the involved task force personnel's employing agency when the TFO is inside their primary/physical jurisdiction and by the USMS when the TFO is outside their employing agency's primary/physical jurisdiction. If the employing agency wishes to submit such NUOFDC entries regardless of the physical location of the event, that is allowed under this MOU with prior written notice to the USMS.

NEWS MEDIA:

Media inquires will be referred to the RFTF Commander. A press release may be issued and press conference held, upon agreement and through coordination with participant agencies' representatives. All press releases will exclusively make reference to the task force.

RELEASE OF LIABILITY:

Each agency shall be responsible for the acts or omissions of its employees. Participating agencies or their employees shall not be considered as the agents of any other participating agency. Nothing herein waives or limits sovereign immunity under federal or state statutory or constitutional law.

EFFECTIVE DATE AND TERMINATION:

This MOU is in effect once signed by a law enforcement participant agency. Participating agencies may withdraw their participation after providing 30 days advanced written notice to the RFTF Commander.

RFTF:

Pacific Southwest RFTF

United States Marshal or RFTF Commander:

Print Name:	Signature:	Date:
Donald M. O'Keefe		

Participant Agency:

Name:	Phone:
Oakland Police Department	510-238-3365
Location (City and State):	
Oakland, CA	

Participant Agency Representative:

Print Name and Title:	Signature:	Date:
Anne Kirkpatrick, Chief of Police		

Assistant Director, Investigative Operations Division:

Print Name:	Signature:	Date:



AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: OPD ATF MOU

DATE: November 5, 2018

City Administrator
Approval

Date

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The Bureau Of Alcohol, Tobacco, Firearms, And Explosives (ATF) And The Oakland Police Department (OPD) For The Purpose Of Reimbursement Of Overtime Salary And Other Costs Related To OPD Participation In The ATF Taskforce, For The Period Of July 27, 2016 Through September 30, 2021.

EXECUTIVE SUMMARY

ATF has staff and resources that help OPD investigate crimes involving illegal drug trafficking, firearms, and use of violence. The ATF has created task forces (TF) in high crime areas such as Oakland to help coordinate criminal investigations. OPD's Criminal Investigations Division (CID) can better investigate criminal networks engaged in these illegal and violent activities through TF participation. Additionally, the ATF can reimburse OPD for the payroll costs of one OPD officer officially attached to the TF with the signing of the TF MOU. OPD signed the ATF MOU in July 27, 2016. However, the City Charter requires that the City Council approve interagency agreements.

BACKGROUND AND LEGISLATIVE HISTORY

OPD first entered into an MOU with the ATF to form a local ATF TF in 2008. On July 27, 2016 OPD again entered into an MOU with ATF; this later MOU will expire on September 30, 2021. Article IV, Section 401(6) of the City Charter requires that the City Council authorize the City Administrator or designee to enter into an agreement between the City and other agency or organization. This MOU was signed by OPD without realizing the requirement of Council approval for all interagency agreements; OPD now recognizes that it cannot continue its partnership with the ATF TF without City Council approval.

Ordinance No. 13457 C.M.S., passed June 29, 2017, requires that OPD submit a "proposed MOU and any orders, policies, and procedures relevant to the subject matter of the MOU for discussion and public comment at an open meeting of the Privacy Advisory Commission" before execution of said agreement. Therefore, OPD plans to bring the ATF TF MOU for review at their

Item: _____
Public Safety Committee
December 4, 2018

special November 26, 2018 meeting; staff will provide a supplemental report to this report with a summary of the PAC's recommendation. OPD recommends that the City Council approve this resolution authorizing the ATF TF MOU to continue through September 30, 2021.

Oakland continues to suffer from the highest per-officer crime rate of any large U.S. city, with the following levels homicides, aggravated assaults and robberies in 2017:

- 72 homicides;
- 2,807 aggravated assaults (including 277 shootings with injuries and 192 shootings related to an occupied home or vehicle);
- 2,585 robberies (including 980 involving firearms); and
- 151 cases of arson.

ATF TF Officers (TFOs) conduct investigations related to firearms violations which include narcotics, social media threats to the residents of Oakland, organized crime related to the City and cases of arson. The ATF TF also provides law enforcement operating in Oakland with access to the San Francisco Crime Gun Intelligence Center (CGIC). The CGIC utilizes the National Integrated Ballistic Information Network (NIBIN), which provides crucial intelligence about firearm-related crimes committed in Oakland and the San Francisco Bay Area. The ATF Special Agents compile NIBIN leads which have been linked to hundreds of violent crimes in our community. ATF Special Agents and TFOs frequently respond to assist law enforcement agencies and OPD to conduct investigations of individuals or groups who victimize Oakland residents.

The following examples highlight the types investigations enabled by OPD's involvement with the ATF TF:

- 85TH Ave Investigation – In 2018 TFOs concluded a large-scale operation in the 8500 block of International Blvd. This area is well known for the sale of narcotics and related gang and group violence. Due to the large number of narcotics sold in this area, rival dealers have attempted to control area sales by any means to facilitate drug sale activity, including using firearms to shoot at rivals. In 2017, a homicide occurred in the 1400 block of 85th Ave. TFOs began an undercover operation to stem this violent activity. ATF and OPD TF members assisted in the long-term investigation. Narcotics and guns were purchased from local dealers and confidential informants on the streets of East Oakland. The investigation led to the identification of individuals who were dealing narcotics and suspected to be involved in multiple shootings. This operation led to the arrest of 16 defendants. The ATF Oakland Office recovered 6 firearms and large quantities of narcotics from the East Oakland neighborhood. Additionally, numerous people assisted OPD's Criminal Investigations Division (CID) in identifying witnesses and possible suspects in several shootings and Homicides from the area.
- Lake Merritt - ATF Task Force Officer initiated an investigation into a well-known narcotics trafficker who was supplying the Lake Merit area with cocaine base (for resale). A Federal Search Warrant was conducted at the suspect's residence and approximately one pound of cocaine was recovered. The suspect was also in possession of a firearm at the time of his arrest.

- Operation Jamo¹ – This operation targeted a prolific cocaine dealer in East Oakland. ATF Task Force Officers purchased a quarter pound of crack cocaine in the area of 85th Avenue and International Boulevard. OPD suspected the target of this investigation was supplying large quantities of cocaine in East Oakland. The suspect's arrest deterred ongoing sales of narcotics in the area.
- Federal Firearm Licensing (FFL)² Crew – During the summer of 2016, a string of burglaries occurred at gun stores throughout Northern California. OPD officers identified several vehicles stolen in the City of Oakland, which were used to crash into the stores. After ramming the stolen cars into the stores, the suspects would steal numerous firearms. The ATF Oakland Field Office later identified the suspects responsible for these burglaries. The suspects were also selling the stolen firearms. The suspects were members and associates of violent Oakland criminal gangs (the 69th Avenue Village (69 MOB)), Case Boys, and Acorn (Kane City Stain City)). The investigation resulted in several arrests and approximately 16 federal search warrants were executed. To date 107 firearms have been recovered, eight suspects have been found guilty in Federal court, and two suspects have been convicted in Placer County Juvenile Court. Information cultivated during this investigation is currently helping OPD's Ceasefire Unit with ongoing gang prosecutions.
- Adopted Case³ - The ATF Oakland Field Office also adopted firearm related arrests by OPD. Due to these suspects' violent nature they are of concern to the City of Oakland. In one instance, the ATF Oakland Field Office has obtained a federal indictment for a suspect responsible for the injuring of two OPD officers during a high-speed pursuit.
- Norteño Gang Member Arrest - An OPD TF officer reviewed an arrest report of a documented Norteño gang member, arrested in possession of a stolen vehicle, possession of a stolen firearm and narcotics. The officer knew the gang member from previous contacts. This gang member was a recruiter and enforcer for the Norteño gang; he was known to recruit young Hispanic males from the Fruitvale District into the gang. This individual plead guilty to Federal charges and received 84 months in prison.
- Ghost Ship Fire - TF officers assisted Federal, State and local detectives assigned to "the Ghost Ship" Fire investigation. The ATF National Response Team and the ATF Oakland Field Office conducted witness interviews, recovered surveillance video, and reviewed the footage to provide leads and to identify victims. The legal prosecution related to the fire is ongoing.
- 89th Ave - The TF investigated the area in and around the 8900 block of B Street. This location is known for areas frequented by members of the "Dirty people" gang and the "Trill Youngin's" gang. Several transactions of firearms and narcotics were conducted in this area. As a result, the ATF Task Force has recovered 11 firearms. One AR 15 rifle and two machine guns were procured during this operation. Approximately 3000 pills of suspected ecstasy, 20 pounds of marijuana, and several ounces of both powder and crack cocaine. Three defendants have been arrested to date. This is an ongoing case. Three federal search warrants were granted during this investigation.

¹ Name provided by the ATF

² Name provided by the ATF

³ An "adopted case" refers to when the ATF charges suspects for alleged crimes in Federal Court after reviewing evidence following arrests by OPD.

ANALYSIS AND POLICY ALTERNATIVES

OPD relies upon collaboration with ATF for local investigations of crimes and criminal networks involving firearms. OPD officers assigned to the ATF TF are utilized in an undercover officer capacity to purchase firearms and or narcotics. Ninety-five percent of the Task Force's focus is in the City of Oakland. TFOs conduct undercover surveillance, informant management, and operational support during undercover narcotics purchase operations. TFOs are required to be on-scene during operations to ensure the safety of Oakland residents as well as outside partners. TFOs conduct and assist with interviews of the suspected criminals who have been recently arrested by OPD officers or Alameda County Sheriff's Office personnel. OPD officers assigned to the ATF TF assist Federal prosecutors with researching court documents, interviewing witnesses and collecting evidence needed prosecution. Assigned officers review firearms arrests made by OPD officers and evaluate if these cases meet the standards for a Federal prosecution.

The ATF Oakland Field Office targets violent Oakland street gang members who are actively involved in shootings throughout the city. By focusing on these gang members, the ATF seeks to indict those individuals driving the violence. If these gang members are convicted on Federal charges, they will receive longer sentences, effectively removing them from the streets of Oakland; OPD believes the imprisonment of gang members actively involved in illegal drug trafficking and related gun crimes will decrease the number of gang related shootings and homicides occurring in Oakland.

The ATF Oakland Field Office also investigates large scale trafficking of firearms, including machine guns, into the city of Oakland. Firearm traffickers supply hundreds of firearms from neighboring States such as Nevada and Arizona. These firearms make it into the hands of Oakland gang members, where they are used to commit robberies, shootings, and murders throughout the area.

ATF and OPD can best solve violent firearm-related crimes in Oakland through collaborations that combine resources and knowledge. Through this MOU, OPD can also request reimbursement for OPD payment of overtime expenses related to OPD personnel assigned to ATF Taskforce cases; OPD can similarly request reimbursement for other costs, such as travel, fuel, training, and equipment, with prior approval of ATF. OPD will not be able to request such reimbursement without a current MOU.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this report beyond the standard City Council agenda noticing procedures. OPD continues to collaborate with the PAC for all federal MOUs.

COORDINATION

OPD consulted with the Budget Bureau and the Office of the City Attorney in the development of this report and accompanying resolution.

Item: _____
Public Safety Committee
December 4, 2018

FISCAL IMPACT

Any reimbursements for overtime expenses made by the ATF to OPD shall be deposited into Fund 2999, Org 102310, Account 46129, Project TBD, and Program PS03.

SUSTAINABLE OPPORTUNITIES

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

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

Social Equity: OPD's collaboration with ATF helps OPD to solve violent gun-related crimes in Oakland. All residents and visitors benefit from these efforts to investigate and prosecute violent criminals.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The Bureau Of Alcohol, Tobacco, Firearms, And Explosives (ATF) And The Oakland Police Department (OPD) For The Purpose Of Reimbursement Of Overtime Salary And Other Costs Related To OPD Participation In The ATF Taskforce, For The Period Of July 27, 2016 Through September 30, 2021.

For questions regarding this report, please contact Lieutenant James Beere, Felony Assault Section, CID, Bureau of Investigations, at (510) 238-3728.

Respectfully submitted,

Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
James Beere, Lieutenant
OPD, CID, Bureau of Investigations

Timothy Birch, Police Services Manager I
OPD, Training Division – Research and Planning

Prepared by:
Bruce Stoffmacher, Legislation Manager
OPD Training Division, Research and Planning Unit

Attachments (1):

A – Memorandum of Understanding between the Oakland Police Department and the Bureau of Alcohol, Tobacco, Firearms, and Explosives

Item: _____
Public Safety Committee
December 4, 2018

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR
DESIGNEE TO ENTER INTO A MEMORANDUM OF
UNDERSTANDING (MOU) WITH THE BUREAU OF ALCOHOL,
TOBACCO, FIREARMS, AND EXPLOSIVES (ATF) AND THE OAKLAND
POLICE DEPARTMENT (OPD) FOR THE PURPOSE OF
REIMBURSEMENT OF OVERTIME SALARY AND OTHER COSTS
RELATED TO OPD PARTICIPATION IN THE ATF TASKFORCE, FOR
THE PERIOD OF JULY 27, 2016 THROUGH SEPTEMBER 30, 2021**

WHEREAS, the mission of ATF is to protect communities from violent criminals, criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products; and

WHEREAS, Oakland continues to suffer from some of the highest per-capita crime rates of any large U.S. city, with the following levels of crime for the year 2017:

- 72 homicides;
- 2,807 aggravated assaults (including 277 shootings with injuries and 192 shooting related to an occupied home or vehicle); and
- 2,585 robberies (including 980 with firearms);
- 151 cases of arson; and

WHEREAS, ATF has resources that can help OPD investigate violent crimes involving firearms as well as suspected criminals who use stolen firearms and or traffic in firearms used for violent crime; and

WHEREAS, OPD has limited resources to investigate crimes in suspected criminals involving the use of firearms; and

WHEREAS, ATF is prepared to support OPD by investigating local firearm-involved violent crimes; and

WHEREAS, ATF and OPD can best solve violent firearm-related crimes in Oakland through collaborations that combine resources and knowledge; and

WHEREAS, ATF and OPD previously signed a MOU in July 27, 2016 executing the MOU through September 30, 2021; and

WHEREAS, Article IV, Section 401(6) of the City Charter requires that the City Council authorize the City Administrator or designee to enter into an agreement between the City and other agency or organization; therefore, be it

RESOLVED: That the City Administrator or designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to execute, modify, extend and/or amend the MOA with the ATF without returning to the City Council; and be it

FURTHER RESOLVED: that the initial duration period of the MOU between OPD and the ATF shall be July 27, 2016 through September 30, 2021; and be it

FURTHER RESOLVED: either party may terminate this MOA with 60 days' written notice; and be it

RESOLVED: that OPD shall assign one or more officers to coordinate with ATF personnel on the ATF Taskforce; and be it

RESOLVED: that OPD may request reimbursement for payment of overtime expenses and other costs, such as travel, fuel, training, and equipment, with prior approval of ATF; and be it

FURTHER RESOLVED: that any reimbursements for overtime expenses made by the ATF to OPD shall be deposited into Fund 2999, Org 102310, Account 46129, Project TBD, and Program PS03; and be it

RESOLVED: that the MOA authorizing participation the MOA between the ATF and OPD shall have a duration period of July 1, 2016 through September 30, 2021, unless either party wishes to nullify this MOA with 60 days' written notice; and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to execute, modify, extend and/or amend the MOA without returning to the City Council; and be it

FURTHER RESOLVED: That in accordance with Article IV, Section 401(6) of the City Charter, the MOA authorized by this resolution shall be approved by as to form and legality before execution, and a copy of the fully executed agreement 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,
GIBSON MCELHANEY AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226
www.atf.gov

MEMORANDUM OF AGREEMENT

**Between the
Bureau of Alcohol, Tobacco, Firearms and Explosives
and
City of Oakland Police Department
for
Reimbursement of Overtime Salary Costs
associated with
ATF TASK FORCE**

This Memorandum of Agreement (MOA) is entered into by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the City of Oakland Police Department for the purpose of reimbursement of overtime salary costs and other costs, with prior ATF approval, including but not limited to travel, fuel, training, and equipment, incurred by the City of Oakland Police Department in providing resources to assist ATF.

Payments may be made to the extent they are included in ATF's Fiscal Year Plan and the monies are available to satisfy the request(s) for reimbursable overtime expenses.

I. DURATION OF THIS MEMORANDUM OF AGREEMENT

This MOA is effective with the signatures of all parties and terminates at the close of business on September 30, 2021, subject to Section VII of the MOA.

II. AUTHORITY

This MOA is established pursuant to the following provisions:

1. Title 28, U.S.C., Section 524(c), the Department of Justice, Asset Forfeiture Fund, which provides for the reimbursement of certain expenses of local, county, or State law enforcement agencies incurred as participants in joint operations/task forces with a Department of the Justice law enforcement agency.

2. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, which provides for the reimbursement of overtime salary costs of local, county, or State law enforcement agencies incurred while assisting ATF in joint law enforcement operations.
3. Title 31, U.S.C., Section 9703, the Treasury Forfeiture Fund Act of 1992, which provides for the reimbursement of certain expenses of local, county, or State law enforcement agencies incurred as participants in joint operations/task forces with a Federal law enforcement agency.

If available, the funding for fiscal years 2017, 2018, 2019, 2020 and 2021 is contingent upon annual appropriation laws, Title 28, U.S.C., Section 524(c), annual appropriations, and Title 31, U.S.C., Section 332.

If available, funding allocations for reimbursement of expenses will be transmitted through a separate document.

This Memorandum of Agreement (MOA) is not a funding allocation document.

III. PURPOSE OF THIS MEMORANDUM OF AGREEMENT

This MOA establishes the procedures and responsibilities of both the City of Oakland Police Department and ATF for the reimbursement of certain overtime and other pre-approved expenses incurred pursuant to the authority in Section II.

IV. NAME OF JOINT OPERATION/TASK FORCE (if applicable)

The name of this joint operation/task force: ATF TASK FORCE

V. CONDITIONS AND PROCEDURES

- A. The City of Oakland Police Department shall assign officer(s) to assist ATF in investigations of Federal, state, and local laws. To the maximum extent possible, the officer(s) will be assigned on a dedicated, rather than rotational basis. The City of Oakland Police Department shall provide ATF with the name(s), title(s), and employee identification number(s) of the officer(s) assigned to the investigation.
- B. The City of Oakland Police Department shall provide ATF, within ten (10) calendar days of the signing of this MOA, with a contact name, title, telephone number and address. The City of Oakland Police Department shall also provide the name of the official responsible for providing audit information under paragraph VI of this MOA, and the name of the official authorized to submit an invoice to ATF under paragraph V, subparagraph E.

- C. The City of Oakland Police Department shall provide ATF, within ten (10) calendar days of the signing of this agreement, with the financial institution where the law enforcement agency wants the Electronic Funds Transfer (EFT) payment deposited for reimbursement. The mechanism for this is the Unified Financial Management System (UFMS) Vendor Request Form. Within the UFMS Vendor Request form, the DUNS Number should be provided (DUNS – Data Universal Numbering System, identifies business entities on a location-specific basis) under section 12. When completed, forward this form to the appropriate ATF field office address:

ATF, ATTN: Jill A Snyder, 5601 Arnold Rd., Suite 400, Dublin, CA 94568.

- D. The City of Oakland Police Department may request reimbursement for payment of overtime expenses and other costs with prior ATF approval, including but not limited to travel, fuel, training, and equipment, directly related to work performed by its officer(s) assigned as members of a joint operation/task force with ATF for the purpose of conducting an official investigation.

- E. Invoices submitted to ATF for the payment of expenses must be submitted on the appropriate forms as provided by ATF. The invoice shall be signed by an authorized representative of the City of Oakland Police Department and submitted to ATF field office for signature and verification of the invoice.

- F. The City of Oakland Police Department will submit all requests for reimbursable payments, together with the appropriate documentation to ATF by the 10th day of each subsequent month that the agency is seeking reimbursement.

(1) If the reimbursement request is not received by the ATF field office by the 10th of the subsequent month, the ATF field office will advise the agency, in writing, that the reimbursement request is late, and if the reimbursement request is not received within the next 10 working days, the overtime costs will not be reimbursed.

(2) No waivers or extensions will be granted or honored. The City of Oakland Police Department will submit the request for reimbursement via fax, email or mail to the following address:

ATF, ATTN: Jill A Snyder, 5601 Arnold Rd., Suite 400, Dublin, CA 94568.

- G. The ATF Supervisor shall be responsible for certifying that the request is for overtime expenses incurred by the City of Oakland Police Department for participation with ATF during the joint operation/task force. The responsible State or local official shall also certify that requests for reimbursement of expenses have not been made to other Federal law enforcement agencies.

- H. The City of Oakland Police Department acknowledges that they remain fully responsible for their obligations as the employer of the officer(s) assigned to the joint operation/task force and are responsible for the payment of the overtime earnings, withholdings, insurance coverage, and all other requirements by law, regulations, ordinance or contract regardless of the reimbursable overtime charges incurred.
- I. All reimbursable hours of overtime work covered under this MOA must be approved in advance by the ATF supervisor.
- J. All sworn State, county and local law enforcement officers cannot exceed the fiscal year reimbursement cap, which is the equivalent of 25 percent of a GS-12, Step-1 salary. Sworn law enforcement officers in the State, county or local law enforcement agency assigned to cover when a TFO/Special Deputy or other sworn law enforcement officer, has been called away on an ATF matter, shall not be reimbursed with SLOT funds.
- K. Any Sworn State, county and local law enforcement officer receiving funding from multiple sources, such as Organized Crime Drug Enforcement Task Force (OCDETF) or High Intensity Drug Trafficking Area (HIDTA), cannot exceed the fiscal year salary cap when all funding is combined; it is the RAC/GS's responsibility to ensure that the officer does not receive double funding in excess of the fiscal year cap.
- L. The ATF supervisor will forward all approved reimbursement requests to the Division Chief, Asset Forfeiture & Seized Property Division for payment.
- M. **This document (MOA) does not obligate funds.** Funding authority, with maximum reimbursement costs to any one law enforcement officer during the fiscal year (October 1 – September 30); will be provided through other documents. The agency will receive an allocation confirmation from the field division.

VI. **PROGRAM AUDIT**

This MOA and its procedures are subject to audit by ATF, the Department of Justice, Office of Inspector General, the Government Accountability Office, and other auditors authorized by the Federal government. The City of Oakland Police Department agrees to permit such audits and agrees to maintain all records relating to these transactions for a period of not less than three years; and in the event of an on-going audit, until such time as the audit is completed.

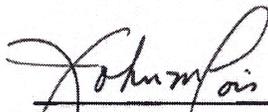
These audits include reviews of any and all records, documents, reports, accounts, invoices, receipts, or expenditures relating to this agreement; as well as, the interview of any and all personnel involved in these transactions.

VII. REVISIONS

The terms of this MOA may be amended upon written approval by the original parties, or their designated representatives. Any amendment to this MOA becomes effective upon the date of approval as stated in the amendment. Either party can cancel this MOA upon 60-calendar day's written notice to the other party. The ATF will only process request for overtime for overtime incurred before the date of cancellation, absent a specific written agreement to the contrary.

VIII. NO PRIVATE RIGHT CREATED

This is an internal Government agreement between ATF and the City of Oakland Police Department and is not intended to confer any right or benefit to any private person or party.



(for) David E. Downing
Assistant Chief of Police
City of Oakland Police Department

Date: 27 Jul 16

Jill Snyder
Special Agent in Charge
San Francisco Field Division
ATF

Date: _____



Melissa L. McCoy
Deputy Chief Financial Officer
Office of Management
ATF

Date: 7/25/16



William P. McMullan
Deputy Assistant Director (West)
Field Operations
ATF

Date: 7/25/16