



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: LeRonne L. Armstrong
Chief of Police

SUBJECT: OPD Outside Law Enforcement
Partnerships Report

DATE: October 20, 2021

City Administrator 
Approval

Date Oct 28, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive A Report From The City Administrator Regarding The Presence And Operations Of Outside Law Enforcement Agencies, Including The Federal Bureau Of Investigation (FBI) And California Highway Patrol (CHP), In The City Of Oakland; Including Any Information Related To The Recent Killing Of Michael Jonathan Cortez By An FBI Agent, The Existence Of Any Contracts Or Use Of Public Dollars To Support These Outside Agencies, How Investigations Concerning These Agencies' Activities Are Being Handled, And The City's Public And Media Communications Policy With Regards To How These Entities Operate In Our Community

EXECUTIVE SUMMARY

The Oakland Police Department's (OPD) collaboration with numerous law enforcement agencies acts as a force multiplier, allowing OPD to leverage the resources of other agencies. Together these agreements and taskforces are greater than the sum of the individual agencies and individual investigative capacities. Some of these agreements are codified through agreements which have been authorized through City Council adoption of resolutions. These agreements or memorandum of understandings (MOU) stipulate rules for participation; some agreements delineate ways in which OPD can be reimbursed for the overtime costs of assigning personnel to the related taskforce(s). None of these taskforces or collaborations costs OPD or the City of Oakland additional funds beyond the standard personnel costs of OPD employees.

There were two cases in 2020 and 2021 where CHP (2020) and FBI (2021) personnel shot and killed members of the public, which are further detailed in this report.

BACKGROUND AND LEGISLATIVE HISTORY

OPD partners with different local, state, and federal law enforcement agencies in support of public safety in Oakland. In some instances, these partnerships serve to support mission-driven taskforces with a particular focus. For example, the OPD-ATF¹ Taskforce focuses on firearms-

¹ ATF = The Bureau of Alcohol, Tobacco, Firearms, And Explosives

related crimes and the tracing of those firearms; the taskforce agreement established procedures and responsibilities for the ATF and OPD and sets forth reimbursement criteria for OPD personnel assigned to the taskforce. The purpose of the OPD-Alameda County District Attorney's Office (ACDAO) Human Exploitation and Trafficking (HEAT) Taskforce is to bring together local, state, and other partners to in support sex-trafficking and labor-trafficking investigations.

Some of these partnerships are codified through MOUs which stipulate how and when personnel will be dedicated to the taskforce or partnerships. OPD currently has formal agreements with the following agencies:

- ACDAO
 - HEAT Taskforce
 - Sexual Assault Felony Enforcement (SAFE) Task Force
- Alameda County Narcotics Taskforce
- Alameda Health System: Sexual Assault Response and Recovery Team
- Alameda County Regional Auto Theft Taskforce (ACRATT, multiple agencies)
- ATF
- United States Drug Enforcement Administration (DEA)
- Federal Bureau of Investigation (FBI)² Safe Streets Taskforce
- United States Marshals Service (USMS)
- United Sates Secret Service
- Veterans Affairs Administration

ANALYSIS AND POLICY ALTERNATIVES

OPD participates in several inter-agency taskforces to support specific law enforcement endeavors. The only cost associated to OPD and the City of Oakland for participation in interagency taskforces is the standard personnel cost of the officer who is assigned to the taskforce. There are no other costs. However, in some cases the local, state, or federal agency partners reimburse OPD for the personnel costs.

OPD follows internal procedures for disseminating information to public media and provides information to the public when there is an event of public concern and/or interest. SB 1421 (2018), the "Right to Know Act" requires that certain records relating to police misconduct and serious uses of force be made available to the public. Furthermore, Oakland Municipal Code 9.72.010 "City Participation in Federal Law Enforcement Activities" requires that OPD produce annual reports to the Privacy Advisory Commission and City Council for all taskforces with federal law enforcement agencies; OPD has provided annual reports for the ATF, DEA, and USMS taskforces for 2019 and 2020.

² OPD does not participate in the FBI Joint Terrorism Taskforce (JTTF) in accordance with the restriction against this Taskforce as adopted by the City Council on October 20, 2021 through Resolution No. 88346 C.M.S.

California Highway Patrol (CHP) in Oakland

The CHP has law enforcement authority throughout the State of California; CHP therefore has concurrent jurisdiction in Oakland. However, CHP's primary jurisdiction is along state highways. Local state highways include the raised highways 13, 24, and 980. State Route (SR) 185 is also a state highway; SR 185 runs along sections of Mission Boulevard in Hayward, East 14th Street in San Leandro and International Boulevard in Oakland. The CHP's Golden Gate Division maintains an office in North Oakland on Telegraph Blvd to serve the cities of Oakland, Berkeley, Piedmont, Emeryville, Albany, El Cerrito and Richmond. CHP therefore operates within Oakland borders without any agreement with the City of Oakland as they already have jurisdictional authority to provide public safety services along these highways and corridors.

The City of Oakland at times has asked the CHP for additional traffic safety-related support along SR 185 (International Boulevard) given OPD's limited resources in its Traffic Operations Section. In fact, OPD currently does not have dedicated traffic patrol units and relies upon grant funding such as the State of California, Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) grant to fund traffic safety operations. Recently, Chief Armstrong and Mayor Schaaf were successful in having the CHP use their own funding to support extra police services along International Boulevard³. This support consisted of additional CHP support on Saturdays and Sundays along International Blvd. The CHP conducted traffic safety enforcement along Oakland's High Injury Network (HIN) (see **Attachment A**) and supported some sideshow enforcement efforts. This CHP support concluded on September 26, 2021, and did not require use of City funds.

2020 CHP Officer-Involved Shooting

In 2020 there was a CHP officer involved shooting (OIS). On June 6, 2020, just before 10:46 PM, CHP officers advised they were in the area of East Oakland conducting follow-up investigation regarding a shooting that occurred the night before on freeway 580. While in the area of East Oakland officers advised that they observed a Dodge Challenger SRT Hellcat 2018, 2 door, red sedan, driving recklessly. CHP officers conducted a check of the license plate and were alerted of a lost/stolen plate that did not match the Dodge Hellcat. As the OPD Press Release from June 9, 2020, explains (see **Attachment B**):

"CHP officers advised they exited their vehicles to conduct a vehicle stop at which time the driver of the Dodge Hellcat began ramming CHP vehicles. Three CHP officers discharged their firearms in the direction of the driver of the Dodge Hellcat, which was also occupied by a female passenger. The driver sustained multiple gunshot wounds and later succumbed to his injuries. The driver was later identified as Erik Salgado, 23 years old. The female adult passenger sustained gunshot wounds and was transported to a local hospital for medical treatment. She is listed in stable condition. At this time investigators are not releasing her name."

³ Press Release here: <https://www.oaklandca.gov/news/2021/mayor-schaaf-announces-collaboration-with-chp>

OPD was the primary investigating agency regarding the CHP OIS. The Alameda County District Attorney Office is currently reviewing this case. Staff therefore cannot provide additional information.

OPD U.S. Marshals Service (USMS) Partnership

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 Northern District of California United States Marshals Service Task Force's (USMSTF) primary mission is the apprehension of violent fugitives wanted by local, state, federal and international Law Enforcement Agencies. The City Council adopted Resolution No. 87701 C.M.S. on May 21, 2019, to authorize OPD participation in the USMSTF. The USMSTF does not conduct independent investigations of possible criminal activity, but rather works with local and state law enforcement agencies to apprehend individuals with active arrest warrants. Most of the offenders assigned to the USMSTF from OPD are violent gang/group members who are involved in committing homicides, robberies, aggravated assault, and shootings as well as lesser crimes. 80 percent of the cases assigned to the Northern District of California USMSTF stemmed from criminal activity in Oakland at the time of the Council authorization in 2019.

Oakland's Ceasefire Strategy benefits from support from the USMS by helping to apprehend 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 Taskforce fulfills this critical need for OPD. Furthermore, Taskforce participation allows OPD overtime expenses related to USMS operations to be reimbursed by the USMS. **Tables 1 and 2** below provides data related to the OPD-USMS Taskforce during the 2019-2020 years.

Table 1: Fugitives Arrested by USMS Marshals for Oakland-Based Crimes: January 1, 2019-December 31, 2020

Crime Type	#
Homicide	104
Robbery	51
Burglary	24
Probation Violation	35
Parole Violation	132
Assault	31
Lewd or Lascivious Acts with a Minor	5
Dangerous Drugs	20
Aggravated Assault	9
Failure To Register As A Sex Offender	9
Failure To Appear in Court	26
Vehicle Theft	5
Sex Offense	4
Possession Stolen Vehicle	4
Total Closed Cases	593

Table 2: Evidence Seized During Arrests by USMS Marshals for Oakland-based crimes: January 1, 2019-December 31, 2020

Evidence Type	#
Total Guns:	139
Total Drugs:	90 kg
Total Money:	\$414,970
Total Ammo:	4,117

FBI Michael Jonathan Cortez Shooting

On Sept. 13, 2021, an FBI agent shot and killed *Michael Jonathan Cortez* inside a store in East Oakland. The shooting took place in the Fruitvale neighborhood shortly before 3:30 p.m. The FBI agent was working with the USMSTF and serving an arrest warrant. The FBI collaborates with the USMSTF and supports the USMSTF investigations. FBI personnel can provide investigative leads related to fugitive investigations where warrants have been issued by judges for their arrest related to specific felony crime cases.

The FBI has stated publicly that Michael Jonathan Cortez was armed at the time of the September 13, 2021 incident. The FBI has stated that the arrest warrants were both federal and from the Hayward Police Department. The incident is now under investigation by the FBI's Inspection Division. The Oakland Police Department and the Alameda County District Attorney's Office are conducting an independent investigation.

FBI Safe Streets Taskforce

The mission of the San Francisco Violent Crime Safe Streets Task Force (SFVC-SSTF) is to identify and target for prosecution, criminal enterprise groups and individuals responsible for crimes of violence such as murder and aggravated assault, bank robbery, and other serious crimes, as well as the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The SFVC-SSTF enhances the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigatory/prosecutive avenues by which to convict and incarcerate dangerous offenders.

The City Council adopted Resolution No. 85640 C.M.S. which authorized OPD participation in the SFVC-SSTF on June 2, 2015. Through the SFVC-SSTF, the FBI dedicates approximately 10 FBI agents to collaborate directly with OPD's Criminal Investigations Division (CID) to expand OPD's current investigations capacity – this support is critical to OPD's capacity to investigate violent crimes that occur in Oakland; OPD CID investigators already have a high workload given the large number of violent crimes that must be investigated⁴ - CID's capacity to investigate these crimes would be diminished without this federal support. This agreement has

⁴ The OPD 2nd Quarter Crime Data Report, presented to the Public Safety Committee on October 12, 2021 listed, for January-June 2021: 96 187(a)PC homicides (37 percent increase over 2020 year to date (YTD)); 2,641 aggravated assaults (12 percent increase YTD); and 1,902 robberies (14 percent increase over 2020 YTD).

also allowed the FBI to pay for the buildout of additional workspace at the Police Administration Building (PAB) to support this enhanced investigative operation.

ACDAO HEAT Taskforce

The purpose of the HEAT Taskforce is to bring local, state, federal government and non-governmental agencies together to improve the safety and recovery outcomes for victims of sex-trafficking and labor-trafficking and hold traffickers accountable through on-going multi-systemic cross agency training and technical assistance, strategic investigations and prosecution of traffickers, and the coordination of necessary support and services for victims. The goal of the HEAT Taskforce is to improve strategies to identify, intervene in, investigate, and prosecute sex-trafficking and labor-trafficking cases while supporting and protecting victims of or potential victims of human trafficking. The HEAT Taskforce Participating Agencies are:

- ACDAO
- Alameda County (AC) Medical Center (Highland Hospital)
- AC Public Defender's Office
- AC Social Services Agency
- Alameda Labor Council
- Asian Pacific Islander Legal Outreach
- Bay Area Women Against Rape
- California Labor Commission
- Catholic Charities of the East Bay
- Centro Legal de la Raza
- Community Health for Asian Americans
- Department of Industrial Relations
- East Bay Refugee Forum
- Fremont Police Department
- Hayward Police Department
- International Institute of the East Bay
- International Rescue Committee
- Legal Aid at Work
- Lao Family Community Development, Inc.
- Motivating, Inspiring, Supporting and Serving Sexually Exploited Youth, Inc. (MISSEY, Inc.)
- Narika
- OPD
- Oakland Unified School District
- Polaris Project
- Ruby's Place
- San Francisco Mexican Consulate
- South Bay Coalition to End Human Trafficking
- SHADE Project

The City Council adopted Resolution No. 87034 C.M.S. which authorized OPD participation in the HEAT Taskforce on January 16, 2018.

Alameda County Sexual Assault Felony Enforcement (Safe) Taskforce

The mission the SAFE Taskforce is to reduce violent sexual crimes in Alameda County through proactive enforcement focused on predatory sex offenders. SAFE Taskforce members include:

- ACDAO
- AC Sheriff-Coroner
- California Department of Corrections and Rehabilitation
- AC Probation Department
- Hayward Police Department
- OPD

The purposes of the Taskforce are:

1. Establish an Alameda County SAFE Taskforce composed of personnel from municipal, county, and state law enforcement officers and agents to conduct proactive enforcement that targets predatory sex offenders as identified by the California Department of Justice;
2. Enhance the lines of formal and informal communications between the agencies participating in the taskforce;
3. Monitor the activities of known sexual predators through records research and short-term oversight; and
4. Ensure that registered sex offenders are in compliance with current laws and parole / probation restrictions.

OPD benefits from SAFE Taskforce participation through the leveraging of resources and sharing of information. CID investigators can share information related to sexual assault crimes and learn about related regional investigations through this collaboration. The City Council adopted Resolution No. 87473 C.M.S. which authorized OPD participation in the SAFE Taskforce on December 11, 2018.

Alameda Health System: Sexual Assault Response and Recovery Team (SARRT)

The SARRT allows for better victim advocacy, victim support and referral, training, support for sexual assault forensic examination, and crisis intervention and follow-up services. The AHS SAART has been operating at Highland Hospital's Emergency Department since 1994. The program is available 24 hours a day to assist sexual assault victims. The AHS-OPD MOU allows OPD to assist in the following ways:

1. Accompany victims to AHS/SARRT for sexual assault forensic examination.
2. Refer victims of sexual assault to AHS/SARRT for crisis intervention, follow-up, advocacy, information and referral and counseling services.
3. Assist whenever possible with the AHS/SARRT 40-hour Certified Sexual Assault Advocate Training (for AHS advocates) as requested.
4. Provide Sexual Assault Case status information to AHS/SARRT Staff as requested.
5. Respond to referral made by AHS/SARRT advocates to OPD; and
6. Maintain a close working relationship with AHS/SARRT.

The City Council adopted Resolution No. 87035 C.M.S. which authorized OPD participation in the Sexual Assault Response and Recovery Team (SARRT) on January 16, 2018.

Alameda County Narcotics Taskforce (ACNTF)

The purpose of the ACNTF is the interdiction of the flow of illegal drugs into Alameda County and to support the disruption of major drug distribution networks operating within Alameda County. The ACNTF is composed of personnel from OPD as well as personnel from four Alameda County cities (Berkeley, Fremont, Livermore, and Union City) who partner with the Alameda County Sheriff's Office (ACSO) and the Alameda County District Attorney's Office (ACDA). OPD personnel see the value in this partnership because of 1) the proven dangers of illegal narcotics abuse cited above; and 2) the proven nexus between illegal narcotics distribution and violent crime. The City Council adopted Resolution No. 88787 C.M.S. which authorized OPD participation in the ACNTF on July 26, 2021.

ANCTF participation allows for revenue sharing from the proceeds of asset forfeitures that sometimes occur from prosecuted crimes related to the taskforce. On November 2, 2017, the City Council adopted Resolution 86986 C.M.S, which authorized OPD to use \$700,000 in asset forfeiture funds along with \$571,221 in State Citizens' Option for Public Safety (COPS) Grant Funds to purchase updated body-worn cameras.

Alameda County Regional Auto Theft Taskforce (ACRATT)

The mission of ACRATT is to reduce vehicle theft in Alameda County through proactive enforcement efforts, officer training and public awareness. ACRATT is composed of members of the Alameda County District Attorney's Office (ACDA), CHP, the Alameda County Probation Department (ACPD) and the Alameda County Sheriff's Office (ACSO), as well OPD. ACRATT member cities have been partnering since approximately 1999, to confront auto theft crime more efficiently. Law enforcement agencies participating through the ACRATT recovered 1,289 vehicles in 2020. These vehicles have an estimated value of \$13,134,058. ACRATT estimates that 80 percent of the vehicles recovered were stolen in Oakland. The City Council adopted Resolution No. 88734 C.M.S. which authorized OPD participation in the ACNTF on July 6, 2021.

There are no personnel or other costs to OPD associated with membership in the ACRATT. Each participating agency is responsible for providing the salary, benefits, and overtime payments for its assigned personnel. Limited asset forfeiture and overtime reimbursement may be allocated to OPD officers participating with ACRATT depending on the approval of the ACRATT oversight committee.

ATF OPD Agreement

OPD relies upon collaboration with ATF for local investigations of crimes and criminal networks involving firearms. OPD officers assigned to the ATF Taskforce are utilized in an undercover officer capacity to purchase firearms and or narcotics. 95 percent of the Task Force's focus is in the City of Oakland. The 2020 Annual ATF Taskforce Report presented the Privacy Advisory Commission and the City Council listed details from the 15 Taskforce cases where shootings and other firearms cases were investigated. Taskforce officers conduct undercover surveillance,

informant management, and operational support during undercover narcotics purchase operations. OPD officers assigned to the taskforce 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 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/group members, where they are used to commit robberies, shootings, and murders throughout the area.

Through the ATF-OPD agreement, OPD can 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. The City Council adopted Resolution No. 87474 C.M.S. which authorized OPD participation in the ATF Taskforce on December 11, 2018.

DEA Taskforce

The DEA State and Local Task Force combines federal leverage and the specialists available to the DEA with state and local officers' investigative talents and detailed knowledge of their jurisdiction to lead drug law enforcement investigations. The DEA shares resources with state and local officers, thereby increasing the investigative possibilities available to all; the 2020 Annual DEA Taskforce Report presented the Privacy Advisory Commission and the City Council listed details from the 20 cases worked in 2020, including many cases where organized criminal groups were trafficking fentanyl and methamphetamines and possessing firearms, and involved in violent crimes. DEA taskforce also allow state and local police agencies to receive a share of forfeited drug proceeds; participation in DEA taskforces also allows the DEA to pay for the overtime and investigative expenses of participating police agencies.

The City Council adopted Resolution No. 87475 C.M.S. which authorized OPD participation in the ATF Taskforce on December 11, 2018.

United States Secret Service Bay Area Identity Theft Strike Force (BAIT)

The MOU between OPD and the United States Secret Service supports investigations and prosecutions related to identity theft and related crimes through BAIT SF. The MOU benefits the City by providing additional resources at no cost to the City. BAIT provides OPD with federal search and arrest warrants, federal grand juries, and the ability to seek federal prosecution of select identity theft related crimes. The MOU allows for the reimbursement of OPD overtime expenses of personnel participation in related BAIT investigations. The City Council adopted Resolution No. 81814 C.M.S. which authorized OPD participation in the Secret Service BAIT SF on February 11, 2009.

Veterans Affairs (VA) Administration

The agreement between the Veterans Affairs Administration and OPD stipulates OPD and VA respective roles for policing at two VA clinic properties in Oakland. The agreement articulates conditions where OPD will provide assistance to the VA police as well as communication and noticing requirements for each agency. The City Council adopted Resolution No. 87754 C.M.S. which authorized OPD participation in the OPD VA MOU on June 18, 2019. There is no cost to OPD for participation in this agreement beyond normal OPD salary costs.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC OUTREACH / INTEREST

No public outreach was necessary for the production of this report.

COORDINATION

This informational report was reviewed by the Office of the City Attorney

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic activities associated with this report

Environmental: There are no environmental opportunities identified in this report.

Race and Social Equity: OPD's collaboration with numerous law enforcement agencies acts as a force multiplier, allowing OPD to leverage the resources of other agencies. Together these agreements and taskforces are greater than the sum of the individual agencies and individual investigative capacities. All residents and visitors benefit from these efforts to investigate and prosecute violent criminals. In many cases, disadvantaged communities that face greater levels of violent crime benefit in particular from efforts to confront violent crimes that harm less advantaged Oakland communities.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Receive A Report From The City Administrator Regarding The Presence And Operations Of Outside Law Enforcement Agencies, Including The Federal Bureau Of Investigation (FBI) And California Highway Patrol (CHP), In The City Of Oakland; Including Any Information Related To The Recent Killing Of Michael Jonathan Cortez By An FBI Agent, The Existence Of Any Contracts Or Use Of Public Dollars To Support These Outside Agencies, How Investigations Concerning These Agencies' Activities Are Being Handled, And The City's Public And Media Communications Policy With Regards To How These Entities Operate In Our Community

For questions regarding this report, please Paul Figueroa, Captain, at pfigueroa@oaklandca.gov.

Respectfully submitted,



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Attachments (2)

- A: OPD DOT High Injury Network (HIN) list
- B: CHP 2020 Officer Involved Shooting Press Release

