




AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: LeRonne L. Armstrong
Chief of Police

SUBJECT: Alameda OPD Narcotics Taskforce
MOU

DATE: June 14, 2021

City Administrator 
Approval

Date Jun 23, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Understanding (MOU) With Alameda County, The City Of Berkeley, The City Of Fremont, The City Of Livermore, And Union City To Participate In The Alameda County Narcotics Taskforce (ACNTF), From July 1, 2020 Through June 30, 2022.

EXECUTIVE SUMMARY

The ACNTF is composed of personnel from OPD as well as personnel from four Alameda County cities who partner with the Alameda County Sheriff's Office (ACSO) and the Alameda County District Attorney's Office (ACDA). Through this MOU, one or more OPD officers can be assigned to work with ACNTF partners on narcotics operations. The ACNTF helps to coordinate illegal drug trafficking that has a nexus to violent crime and illegal firearms in Alameda County. The Taskforce also allows for revenue sharing from the proceeds of asset forfeitures that sometimes occur from prosecuted crimes related to the taskforce investigations.

The City Charter requires Council approval for all agreements with other government agencies. OPD has been participating in this taskforce, but has not signed the MOU to formally participate and cannot formally participate in ACNTF meetings and investigations unless the City Council adopts the proposed resolution to allow the City Administrator to sign the ACNTF MOU; OPD has needed time to finalize MOU liability concerns related to use of the ACNTF airplane.

The City's Surveillance Technology Ordinance requires that OPD produce a Use Policy and Impact Report for any technology considered "surveillance technology" according to the Ordinance. OPD produced a draft Use Policy and Impact Report for the ACNTF Surveillance Airplane, for the June 3, 2020 Privacy Advisory Commission (PAC). The PAC is still reviewing these documents. Therefore, the resolution accompanying this report stipulates that OPD would not be able to request the airplane usage for any investigation until the airplane Use Policy and Impact Report review process is complete.

City Council
July 6, 2021

BACKGROUND AND LEGISLATIVE HISTORY

Harms of Illegal Narcotics in Alameda County

Most recent California data shows in 2019¹:

- 3,244 statewide deaths from opioid overdose
- 1,603 deaths related to fentanyl overdose.

As the COVID-19 pandemic raged, the U.S. saw an astronomic increase in deaths from drug overdoses. For the twelve months ending in August 2020, the CDC recorded over 85,000 deaths from opioid overdoses. In California, nearly 8,000 people died in that time frame. African America residents in Alameda County experience rates of death from opioids nearly three times the death rate of white – increasing existing inequities. Preliminary county numbers show the death rates from prescription opioids and synthetic opioids like fentanyl may have doubled in the first six months of the pandemic. “Trauma and drug use are linked together,” says Savannah O’Neill of the National Harm Reduction Coalition, on why drug use has increased during the pandemic.²”

Purpose of the Alameda County Narcotics Taskforce

ACNTF member cities have been partnering since 1990 to stem the flow of illegal drugs into Alameda County, and to support the disruption of locally operating major drug distribution networks. OPD personnel see the value in this partnership because of 1) the proven dangers illegal narcotics abuse cited above; and 2) the proven nexus between illegal narcotics distribution and violent crime; the Analysis and Policy Alternatives Section below highlights several criminal investigations involving dangerous firearms.

The ACNTF operates through participating members from the City of Berkeley, the City of Fremont, the City of Livermore, City of Oakland, and Union City as well as the Alameda County Sheriff’s Office (ACSO) and the Alameda County District Attorney’s Office (ACDA). The ACNTF is directed by a county-led Executive Policy Committee.

ANALYSIS AND POLICY ALTERNATIVES

The MOU allows OPD to formally assign one or more officers to the ACNTF to support local countywide investigations. The ACNTF targets, investigates, and prosecutes individuals who organize, direct, finance or otherwise engage in high-level drug trafficking enterprises with a nexus to violent crime. The following information summarizes investigation efforts between OPD and the ACNTF in 2019 and 2020:

- In December 2019 ACNTF arrested a mid-level heroin dealer operating in the Oakland area. During the arrest, ACNTF members found 3.5 ounces of cocaine, 8.76 ounces of

¹ <https://skylab.cdph.ca.gov/ODdash/>

² <https://centerforhealthjournalism.org/2021/04/12/while-pandemic-raged-overdose-deaths-spiked-bay-area>

heroin, one pound of marijuana, 17 hydrocodone pills, and a loaded unknown make and model bullpup .223 assault rifle. Three suspects were arrested with firearms in their possession.

- In January 2020 an OPD investigated a person later identified as a Border Brother gang member. A loaded .40 caliber Springfield Armory semi-automatic handgun was recovered. A record check revealed that in 2013, the suspect was convicted of three felony counts of PC 266I(A)(1) – Pander and PC 266H(A) – Pimping. This person was sentenced to 10 years in state prison.
- In January 2020, ACNTF developed information pertaining to a mid-level methamphetamine dealer operating in Oakland, San Leandro, and Hayward areas. The ACNTF recovered over eight pounds of methamphetamine; detectives also located and recovered a loaded Smith and Wesson 9mm handgun underneath the driver seat.
- During a subsequent controlled purchase operation, a street dealer was observed obtaining heroin from a residence. A search warrant was obtained and served with the assistance of the U.S. Marshals Service, California Highway Patrol, and ACSO. During the search, detectives located and recovered a Smith and Wesson 40 caliber semi-auto handgun loaded with a 15-round magazine. Inside a bedroom, detectives located and recovered a Glock 23, 40 caliber semi-auto loaded with high-capacity drum magazine and \$3,878 in cash.
- In February 2020, a surveillance was conducted on a suspect, resting on the front seat of the vehicle was a Glock 19 handgun (9mm) loaded with a 15-round magazine and the suspect was in possession of \$4,729 cash. ACNTF located and recovered one ounce of cocaine base from inside of the vehicle. Additional marijuana and firearm ammunition were recovered from inside of the apartment.
- In June 2020 ACNTF developed information regarding a female who was associated with a parked trailer who was selling methamphetamine. A controlled purchase of methamphetamine was conducted, which led to the issuance of a search warrant. During the operation, members of the task force found 130g of methamphetamine, and a loaded firearm. Another suspect was located inside the apartment or trailer and found to have an active Ramey warrant³ out of Oakland or a shooting/ (245(a)(2) PC.
- In late May 2020, ACNTF developed information regarding a subject, who was from the East Bay and sold cocaine via social media. ACNTF authored and obtained search warrants. A controlled purchase was conducted and during a subsequent surveillance operation ACNTF conducted a search warrant operation. During the search, ACNTF located and recovered 415.5g of cocaine, 3,689.1g of marijuana, 572 Xanax pills and \$18,057 in cash. Additionally, detectives recovered four (4) Glock handguns and one Draco 7.62 assault rifle.
- In early August 2020 ACNTF developed information regarding an upper-level cocaine dealer in the Lake Merritt area. During the course of the investigation, a successful controlled purchase was conducted. ACNTF obtained a search warrant. The suspect

³ A Ramey Warrant is an arrest warrant issued by a judge or magistrate before the prosecutor has had an opportunity to file formal charges. A Ramey warrant may be obtained when a police officer submits a declaration of probable cause to a judge or magistrate; the judge, if satisfied by the declaration that probable cause to arrest exists, can then issue a warrant directing police to locate and apprehend the suspect.

stated he was a convicted felon and admitted to possessing a loaded firearm and body armor. The firearm was a homemade short-barreled AR-15 assault rifle which was recovered. The suspect's safe was forced opened and contained 54.5g of cocaine, 337 Adderall pills, \$152,669.00 cash.

Table 1 summarizes 2020 ANCTF Investigations.

Table1: ACNTF 2020 Data

ACNTF Data Type	Amount
Operations	357
Probation Searches	52
Search Warrants	88
Firearms Seized	92
U.S. Currency Seized	\$1,796,992
Cocaine	51,239.02 grams
DMT	65,002.3 grams
Fentanyl	4,845
GBL	32 gallons
Heroin	22,798.4 grams
LSD	14 grams
Marijuana	82'603.16 grams
Marijuana Plants	3,293
Methamphetamine	24,596.08 grams
MDMA	1377.8 grams
Psilocybin	817.4 grams

Asset Forfeiture

The ACNTF also enables the seizure of assets derived through drug trafficking. The ACNTF uses the following formula to divide seized assets among ACNTF member agencies:

- 25% of assets forfeited will be returned to the ACNTF Trust Fund for operating costs.
- 75% of all assets forfeited will be divided and turned to the ACNTF member agencies, distributed to each agency based on participation and personnel assigned to ACNTF.

Council Approval for Inter-Agency Agreements

Article V, Section 504(l) of the Oakland City Charter requires that the City Council approve all inter-agency agreements, such as between OPD and the ACNTF. OPD signed the ACNTF MOU in 2016 without realizing the requirement of Council approval for all interagency agreements; OPD has not signed a more recent version of the MOU to formally participate; OPD also has not received any asset forfeiture funds as the revised MOU has not been signed. OPD and Alameda County have needed time to finalize the MOU related to the use and liability of the ACNTF surveillance airplane (see next section below).

ACNTF Surveillance Airplane and the Oakland Surveillance Technology Ordinance

ACSO provides a fixed-wing airplane for use with ACNTF investigations to support investigations where ground-based vehicles cannot provide taskforce officers necessary views (the airplane is used sparingly by the ACTNF because of the high cost of operation). The OPD ANCTF MOU provides language that explains that ACSO owns the airplane and is responsible for all maintenance and management. The primary operator of the aircraft is the ACNTF and all operational costs associated with it shall be assumed by the ACNTF. Any personal or property damage arising out of the use of the surveillance aircraft will be borne solely by the individual agency(ies) who are flying and operating it at the time the damage occurs – only ACSO personnel will pilot the airplane. If the agency(ies) operating the aircraft differs from the agency(ies) flying the aircraft, then each agency shall bear that portion of the liability for which it is at fault.

The Oakland Surveillance Technology Ordinance Oakland Municipal Code (OMC) 9.64.020.1” Privacy Advisory Commission (PAC) notification and review requirements” states in part that city staff shall notify the Chair of the PAC prior to “soliciting proposals with a non-city entity to acquire, share or otherwise use surveillance technology or the information it provides.” OMC 9.64.030.1.C requires City Council approval for new and existing surveillance technology; additionally, OMC Section 9.64.020.1 requires that, “Prior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, city staff shall submit a Surveillance Use Policy (SUP) and Surveillance Impact report (SIR) to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting. OPD staff presented a draft ANCTF Surveillance Airplane SUP and SIR at the June 3, 2021 PAC meeting and the PAC is still reviewing these draft documents as of the time of this report production.

OPD will not use the airplane until the privacy use policy is developed and approved by the City Council – OPD will communicate to ACNTF that the airplane cannot be used in support of OPD-related investigations until the City Council approves the ANCTF Surveillance Airplane SUP and SIR. The resolution accompanying this report also requires that OPD cannot request the use of the airplane or receive airplane-derived data until such a time that the PAC completes its review, and the Council approves the SUP and SIR.

Staff therefore recommends that the City Council adopts the proposed resolution to allow the City Administrator or designee to sign a new ACNTF OPD MOU; OPD will bring forward a ACNTF Surveillance Airplane SUP and SIR once the PAC review is complete.

PUBLIC OUTREACH / INTEREST

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

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

There are no personnel or other costs to OPD associated with membership in the ACNTF; OPD will designate one or more officers already employed through OPD's operating budget. Any distributions of forfeited assets from ACNTF to OPD shall be deposited into Fund 2160, Org 102310, Account 46319, 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.

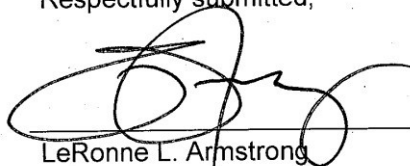
Race and Social Equity: OPD's collaboration with the ACNTF helps OPD to target not only illegal drug and narcotics trafficking but violent crime connected to illegal drug trafficking and associated networks through investigation via intel led policing. All residents and visitors benefit from these efforts to investigate and prosecute individuals involved in this illegal and dangerous activity.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Understanding (MOU) With Alameda County, The City Of Berkeley, The City Of Fremont, The City Of Livermore, And Union City To Participate In The Alameda County Narcotics Taskforce (ACNTF), From July 1, 2020 Through June 30, 2022.

For questions regarding this report, please contact Alexis Nash, Sergeant, Criminal Investigation Division - General Crimes at anash@oaklandca.gov.

Respectfully submitted,



LeRonne L. Armstrong
Chief of Police
Oakland Police Department

Reviewed by:
Drennon Lindsey, Deputy Chief
OPD, Bureau of Investigations

Paul Figueroa, Captain of Police
OPD, Criminal Investigations Division

Alexis Nash, Sergeant
OPD, Criminal Investigations Division

Prepared by:
Bruce Stoffmacher, Legislation and Privacy Manager
OPD, BOS, Research and Planning

