



# AGENDA REPORT

2019 MAY 29 PM 4:01

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Anne E. Kirkpatrick  
Chief of Police

**SUBJECT:** OPD-U.S. Department of Veterans Affairs Agreement Supplemental Report

**DATE:** May 17, 2019

City Administrator  
Approval

Date

5/29/19

## RECOMMENDATION

**Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into An Agreement Between The Oakland Police Department (OPD) And The United States Department Of Veterans Affairs (VA) To Define Law Enforcement Responsibilities On VA Properties.**

## REASON FOR THE SUPPLEMENTAL REPORT

OPD presented the report "OPD-U.S. Department of Veterans Affairs Agreement," dated April 2, 2019 at the April 23, 2019 Public Safety Committee (PSC). The report recommended that City Council approve a resolution authorizing the City Administrator or designee to enter into a Memorandum of Agreement (MOU) between the Oakland Police Department (OPD) and the United States Department of Veterans Affairs (VA) to define law enforcement responsibilities on VA properties; the properties are the VA Outpatient Clinics at 2221 Martin Luther King Way and 525 21<sup>st</sup> Street in Oakland. The PSC did not approve the corresponding resolution and requested the following additional information:

1. How often has the Veterans Affairs Administration requested that OPD provide additional police support to the outpatient clinics?
2. What is the actual cost to OPD and the City to provide police support services to the VA at the outpatient clinics?
3. Inclusion of the MOU with the report and provide detail on the related indemnifications in the MOU provided to OPD and the City of Oakland (see Attachment A).
4. What is the MOU expiration date?

## OPD's Response

**1. OPD Support and Cost to VA Outpatient Clinics**

The VA has its own VA police department (VA PD) with sworn staff assigned to both of the VA outpatient clinics covered by the proposed MOU (2221 MLK Way and 525 21<sup>st</sup> Street in Oakland). These police officers are present to provide security to both the outpatient employees (nurses, social workers, doctors, administration staff, as well as the many clients who come to these facilities for services). The 2221 MLK Way facility is a medical, surgical, and related medical facility. The 525 21<sup>st</sup> facility houses the Oakland Behavioral Health Program, which provides mental health and substance abuse treatment, including drug and alcohol-related dependencies, medication management, methadone maintenance, individual and group therapy.

The VA PD provides staffing to protect public safety threats to employees and visitors; the VA PD, however, cannot respond as well as OPD can to mental health related issues or with people who must be escorted to county jail. A review of the calls for service between 2017 and April 2019 shows 44 calls to the two facilities; a few of these calls involved individuals (not VA staff) calling for service (two auto burglaries, one assault in a parking lot) – individuals may or may not have actually been inside the clinics at the time of the call. However, almost all of the other calls are from VA social workers and other VA staff requesting assistance from OPD for VA clients (most of whom are Oakland residents) who were facing extreme mental health situations. Examples include threats of suicide, threats to other individuals, or running into traffic). This activity can overwhelm VA PD and other VA staff whereas OPD has officers trained in crisis intervention – many times OPD officers can more quickly escort individuals to John George Medical Center for additional treatment or help individuals with temporary crises so they can leave the facility of their own recognizance. Arguably, Oakland residents who are veterans and clients of the VA outpatient clinics are better served by OPD crisis-trained officers than by VA PD who must otherwise detain individuals for longer periods of time before (because of their federal agency regulations). Furthermore, for cases of violent individuals, the VA PD must first contact the U.S. Attorney's Office for permission to take individuals to a county jail, and the VA PD may choose instead to cite the individuals and release. In such cases the public is arguable safer when OPD can respond and arrest individuals and take to jail if the criminal situation warrants such actions.

**2. Fiscal Impact to City of OPD Response to VA Outpatient Clinic Calls for Service**

A typical OPD response to a mental health related call for service would include two officers. The hourly cost for officers at Step VI is currently \$103.36 (\$59.47 x 1.738) for fringe benefits. Therefore an example where two officers responded to a call at a VA outpatient clinic and spent two hours for the entire encounter, the cost would be as follows:

*Table 1: Cost for a Two Officer Two Hour Response*

Officers	Hourly Rate	Hours	Total
2	\$103.36	2	\$413.44

### **3. and 4. OPD VA MOU and Indemnifications and Expiration**

The OPD VA MOU (see **Attachment A**) provides indemnifications specifically around policing use of force. The MOU states that it is understood that the VA "will remain responsible for the negligent acts or omissions of its employees and the VA Police will remain Federal employees for all purposes." The MOU also states that it is understood that "should a VA Police Officer be involved in a shooting, the Federal Bureau of Investigation and the Department of Veterans Affairs, Office of Inspector General will be notified immediately. The MOU continues to explain that OPD has the right to investigate VA Police Officer-involved shooting should the FBI and VA not investigate. The MOU does not have an expiration date but explains that either party can terminate the MOU with written notice.

### **PUBLIC OUTREACH / INTEREST**

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

### **COORDINATION**

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

### **FISCAL IMPACT**

There is no fiscal impact associated with this report.

### **SUSTAINABLE OPPORTUNITIES**

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

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

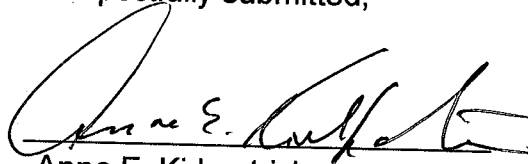
**Social Equity:** OPD's collaboration with VA helps to ensure that VA facilities as well as residents and visitors to such facilities benefit from OPD policing services.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into An Agreement Between The Oakland Police Department (OPD) And The United States Department Of Veterans Affairs (VA) To Define Law Enforcement Responsibilities On VA Properties.

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:  
Eric Lewis, Captain  
OPD, CID, Bureau of Investigations

James Beere, Lieutenant  
OPD, CID, Bureau of Investigations

Prepared by:  
Bruce Stoffmacher, Acting Police Services Manager  
OPD Training Division, Research and Planning Unit

Attachments (1)

A: OPD Veterans Affairs MOU

Item: \_\_\_\_\_  
Public Safety Committee  
June 11, 2019

VA Medical Center  
10535 Hospital Way, Mather, CA 95655  
Community Living Center (CLC)  
150 Muir Road, Martinez, CA 94553  
VA Outpatient Clinics:  
280 Cohasset Road, Chico, CA 95928  
5342 Dudley Avenue, McClellan, CA 95652  
201 Walnut Avenue, Mare Island, CA 94592  
150 Muir Road, Martinez, CA 94553



VA Outpatient Clinics (continued):  
2221 Martin Luther King, Jr. Way, Oakland, CA 94612  
351 Hartnell Avenue, Redding, CA 96002  
103 Bodin Circle, Bldg. 778, Travis AFB, CA 94535  
425 Plumas Boulevard, Yuba City, CA 95991  
Oakland Behavioral Health Clinic  
525 21st Street, Oakland, CA 94612  
Telephone Care: 1-800-382-8387  
Website: [www.northerncalifornia.va.gov/](http://www.northerncalifornia.va.gov/)

**Department of Veterans Affairs  
VA Northern California Health Care System (VANCHCS)  
10535 Hospital Way, Mather, CA 95655**

June 15, 2017

In Reply Refer To: 612/07B

Chief of Police  
Oakland Police Department  
455 7<sup>th</sup> Street  
Oakland, CA 94607

Dear Chief Kirkpatrick,

The Department of Veterans Affairs (VA) requires VA Police to maintain current written support agreements with all local law enforcement agencies.

All properties under the control or ownership of the Department of Veterans Affairs including the VA Outpatient Clinics at 2221 MLK Way and 525 21<sup>st</sup> Street are under proprietary jurisdiction. This jurisdiction grants local civil police agencies full rights to exercise law enforcement functions on VA property.

For clarity it is imperative that we enter into a memorandum of understanding outlining agency responsibilities and expectations.

Although our VA Police Officers are highly trained and experienced meeting most disturbances and other related police functions without the need for civil intervention or assistance, we may still encounter certain situations that would require your department's assistance.

These needs would include, but may not be limited to, the following situations where your department's assistance would be required:

- a. Armed hostage taking situations that would require an armed response to assist VA Police in containing the situation until appropriate Federal agencies (such as the Federal Bureau of Investigation - FBI, or US Marshal Service - USMS) can respond to assume control.
- b. Crimes involving armed robberies of funds, drugs or properties where the individuals committing the crimes leave VA police jurisdiction.
- c. Any major incident that would require additional police officers for traffic control to allow emergency vehicles a clear access to the facility.

d. To assist confirming the identification of wanted subjects, arrest and/or detain individuals who have outstanding warrants issued for their arrest by civil law enforcement agencies. VA Police would execute the detention and physical arrest of subjects under federal warrants.

e. To provide additional police officers when needed to assist with the physical arrest of a violent/disorderly person (s) who poses a serious threat to patients, visitors, medical staff or themselves.

f. Provide assistance in the transportation of prisoner(s) who have been arrested at the Oakland Out Patient Clinics on State charges on occasions when VA Police Officers affected the arrest.

Should a VA Police Officer be involved in a shooting, the FBI and the Department of Veterans Affairs, Office of Inspector General will be notified immediately. If these agencies decline to investigate, or if the response is delayed, the Vallejo Police Department may conduct an investigation pursuant to the Oakland Police Chief's and Sherriff's Association MOU – Protocol for Investigations and Review of Officer Involved Shootings and Other Uses of Force Resulting in Death.

It is understood that the Department of Veterans Affairs will remain responsible for the negligent acts or omissions of its employees, and the VA Police will remain Federal employees for all purposes.

The undersigned parties have the authority to terminate this agreement at any time by notifying the other party of the termination in writing.

Please sign both copies as indicated below if you concur with this support agreement (retaining one copy for your files and returning the second copy to us in the enclosed envelope).

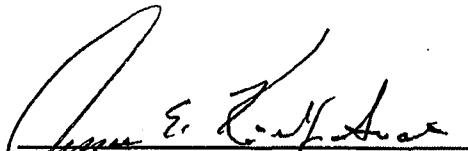
If you should have any questions or concerns regarding this matter or any issue, please feel free to contact me at 916-843-7281.

We look forward to maintaining a close and professional working relationship with your department.

Sincerely Yours,

I concur with this agreement:

  
Michael S. Kilburn, Chief  
Veterans Affairs Police

 6-26-2017  
Anne E. Kirkpatrick, Chief / Date  
Oakland Police Department

