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OFFICE OF THE CITY CLERK  
OAKLAND

2019 MAY -2 PM 3:57

# AGENDA REPORT

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

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

**SUBJECT:** OPD-U.S. Marshals Service MOU 2<sup>nd</sup>  
Supplemental Report

**DATE:** April 12, 2019

City Administrator  
Approval

Date

5/1/19

## 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.**

## REASON FOR THE SUPPLEMENTAL REPORT

A resolution and report to authorize the City Administrator or designee to enter into a MOU with the USMS was heard at the Public Safety Committee (PSC) on December 4, 2018 (**Attachment A** "OPD-U.S. Marshals MOU Supplemental Report" with the MOU as part A). The report explains how the USMS plays a critical role in helping OPD locate fugitives connected to violent criminal activity in Oakland.

The MOU had first been reviewed by the City's Privacy Advisory Committee (PAC) on November 26, 2018; the PAC recommended a version of the resolution that specified the following:

- a. *That the second to last resolved in the resolution be changed to limit the City Administrator's authority to negotiate any changes to the MOU, its schedule, extensions, etc;*
- b. *That the resolution language refers to the actual MOU (as an exhibit) so that there is no confusion that the Council is adopting an MOU versus granting the City Administrator to do so; and*
- c. *The PAC recommends that the City Council insert the same language it recommended for the DEA MOU that holds the Federal Members of the Task Force to the higher standards that OPD Officer's must abide by.*

Public Safety Committee on December 4, 2018 reviewed two versions of a resolution (Part B and C to **Attachment A**) that both conform to the bullets a. and b. above; the report explains that OPD would ask that USMS legal counsel consider changing the MOU such that USMS taskforce members are held to the same rules as OPD personnel – what the PAC requested in

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the Part C version of the resolution – but that OPD can only require that OPD personnel always follow OPD policies and procedures. The PSC unanimously approved the Part B version of the resolution (staff recommendation), which does not require that USMS personnel follow OPD policies, with the addition of language to the 12<sup>th</sup> Whereas paragraph noted on this page below.

The report was scheduled to the December 11, 2108 City Council, but the City Council did not review this item at that date as the item was removed from the Council calendar. OPD has since requested that USMS consider changes to resolution authorizing the City Administrator or designee to enter into the MOU with the USMS.

The revised resolution (Attachment B) makes the following changes below to the 2<sup>nd</sup> and 12<sup>th</sup> Whereas paragraphs in the resolution (changes in track changes):

**WHEREAS**, in the City of Oakland each year, scores of individuals face warrants for their arrest based on probable cause to believe that they have committed serious crimes 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 officers assigned to the USMS TF shall adhere to Taskforce policies and procedures, as well as OPD policies and procedures as well as the City of Oakland Sanctuary City Ordinance, and failure to adhere to most restrictive policies and procedures may be grounds for dismissal from the Taskforce and could subject the OPD officer to administrative action by OPD; and

These two additions serve to: 1) further articulate the nature of the activity conducted by USMS and OPD personnel assigned to the taskforce; and 2) further specify that OPD officers assigned to the taskforce will always adhere to OPD Sanctuary City as well as other OPD policies and procedures.

## **COORDINATION**

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

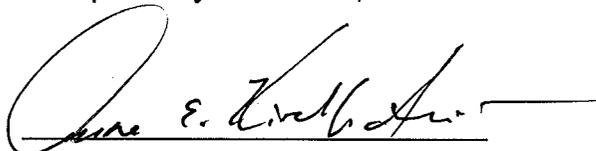
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**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

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

James Bassett, Captain  
OPD, Training Division

James Beere, Lieutenant  
OPD, CID, Bureau of Investigations

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

Attachments (2)

**A: OPD-U.S. Marshals MOU Supplemental Report" with the MOU as part A, and alternative Resolutions Part B and Part C**

**B: New Resolution to Authorize OPD USMS Taskforce MOU**

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Public Safety Committee  
May 14, 2019



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2018 NOV 29 PM 3:08

# AGENDA REPORT

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

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

**SUBJECT:** OPD-U.S. Marshals MOU Supplemental Report  
**DATE:** November 27, 2018

City Administrator  
Approval

Date

11/29/18

## 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.**

## REASON FOR THE SUPPLEMENTAL REPORT

Ordinance No. 13457 C.M.S., passed June 29, 2017, requires that for MOUs with federal agencies, 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" (PAC) before execution of said agreement. OPD brought the proposed ATF MOU to the November 26, 2018 PAC meeting.

Accompanying this report is the MOU approved by the USMS for participation in the USMS Regional Taskforce (**Attachment A**) and the resolution recommended by staff (**Attachment B**). OPD has made modifications to the staff-recommended resolution based upon feedback from the PAC. However, the PAC has proposed further changes to the resolution and MOU not recommended by staff. These further PAC recommendations have been included in an alternative resolution (**Attachment C**).

*PAC Recommendation #1: Limit the Authority of the City Administrator and Specify the MOU.*

The PAC requested that staff modify the following language common to many resolutions recommended for City Council approval: *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.* Staff have agreed to this recommendation; the new recommended resolution (**Attachment B**) has the following language: *FURTHER RESOLVED: That the City Administrator or designee is authorized to execute the MOU attached to the report accompanying this resolution without returning to the City Council.*

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**Attachment A**

***PAC Recommendation #2: Require that the MOU state that Federal Agency Personnel Comply with Certain City of Oakland and State of California Policies***

The PAC requested OPD contact the ATF to ask for additional language in the ATF Taskforce MOU. The PAC is asking for language which would compel ATF agents to also comply with five new and pending City of Oakland and State of California policies:

- California Senate Bill (SB) SB 54 (California Values Act) <sup>1</sup>;
- SB 31 (California Religious Freedom Act: state agencies: disclosure of religious affiliation information)<sup>2</sup>;
- The City's pending Sanctuary City Ordinance<sup>3</sup>;
- OPD Department General Order (DGO) M-17 (establishes OPD procedures governing the function of the Intelligence Division)<sup>4</sup>; and
- DGO M-19 Sections III and VIII (A, C) (OPD policy on prohibitions regarding racial profiling and other bias-based policing) <sup>5</sup>.

**Attachment C** to this report is an alternative resolution that includes and requires this language. USMS personnel have explained to OPD that they will request that USMS legal counsel consider this MOU modification request. However, USMS personnel have also explained to OPD that such requests are unlikely to be supported as the federal agency uses the same language for MOUs with many agencies across numerous states and jurisdictions; USMS does not generally modify their MOUs for different agencies that want to participate with the USMS and receive resource support.

The PAC voted at their November 26, 2018 meeting to only recommend approval of the USMS TF MOU with these additional policy restrictions for USMS personnel. OPD believes that the Taskforce provides critical investigative support greatly needed by OPD – and therefore recommends that the City Council approve the resolution authorizing the MOU in its current form (**Attachment B**) - despite the different recommendation from the PAC. The USMS does not need permission by OPD to operate within the city; however, the apprehension of wanted fugitives is better achieved through law enforcement collaboration and information sharing.

<sup>1</sup> SB 54 – California Values Act (Cal. Gov. Code §7284 et seq.) curtails use of state and local resources by prohibiting engagement in deportations and creating safe spaces, including at schools, health facilities, and courthouses - [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB54)

<sup>2</sup> SB 31 – California Religious Freedom Act (Cal. Gov. Code §8310.3 et seq.) prohibits a state or local agency or a public employee acting under color of law from providing or disclosing to the federal government personal information regarding a person's religious beliefs, practices, or affiliation, as specified, when the information is sought for compiling a database of individuals based on religious belief, practice, or affiliation, national origin, or ethnicity for law enforcement or immigration purposes - [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB31](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB31)

<sup>3</sup> Oakland Sanctuary City Ordinance (code pending)

<sup>4</sup> <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak063011.pdf>

<sup>5</sup> <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak032293.pdf>

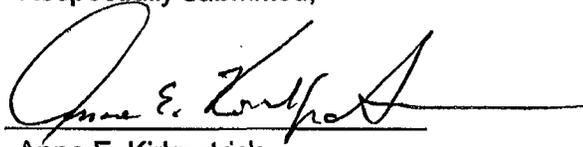
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**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

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:  
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 (2):

- B** – Staff-Recommended Resolution Authorizing a MOU between the USMS and OPD
- C** – Alternative PAC-Recommended Resolution Authorizing a modified USMS OPD MOU

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

Rev. 10/2018

**PARTIES AND AUTHORITY:**

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

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 Rest of United States. 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 USMS vehicle provided to the agency for use by TFO(s) 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 Mission System. Statistics will be made available to any participating agency upon request.

**CONFIDENTIAL SOURCES / CONFIDENTIAL INFORMANTS:**

Pending the availability of funds, the USMS may provide funding for payment of Confidential Sources (CS) or Confidential Informants (CI). The use of CS/CIs, registration of CS/CIs and all payments to CS/CIs shall comply with USMS policy. USMS payment to an individual providing information or "tip" related to a USMS offered reward on an active Fugitive case shall be accomplished by registering the individual or "tipster" through the established USMS CS payment process.

**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 inquiries 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:**

**United States Marshal or RFTF Commander:**

<b>Print Name:</b>	<b>Signature:</b>	<b>Date:</b>
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**Participant Agency:**

<b>Name:</b>	<b>Phone:</b>
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**Location (City and State):**

**Participant Agency Representative(s):**

<b>Print Name and Title:</b>	<b>Signature:</b>	<b>Date:</b>
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**Assistant Director, Investigative Operations Division:**

<b>Print Name:</b> Jeff Tyler	<b>Signature:</b>	<b>Date:</b>
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City Attorney

2010 NOV 29 PM 3:58 OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**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 force (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 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**, a major goal of Oakland's Ceasefire Strategy, a data-driven violence-reduction effort that coordinates law enforcement, social services, and the community, is to reduce gang/group-related homicides and shootings; and

**Attachment B**

**WHEREAS**, Ceasefire brings social services and community partners to help gang/group members ready to cease violent activity, and 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 of 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**, OPD officers assigned to the USMS TF shall adhere to Taskforce policies and procedures, as well as OPD policies and procedures; and

**WHEREAS**, Article V, Section 504(l) 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; and

**WHEREAS**, OPD previously signed an MOU authorizing OPD participation in the USMS TF on April 29, 2011; therefore be it

**RESOLVED**: that City Council authorizes 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 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 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 the City Administrator is authorized to accept  
**Attachment B**

and appropriate any reimbursements for overtime expenses without returning to the City Council; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to execute the MOU attached to the accompanying report 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

  
City Attorney

2018 NOV 29 PM 3:08 OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**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 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**, a major goal of Oakland's Ceasefire Strategy, a data-driven violence-reduction effort that coordinates law enforcement, social services, and the community, is to reduce gang/group-related homicides and shootings; and

**Attachment C**

**WHEREAS**, Ceasefire brings social services and community partners to help gang/group members ready to cease violent activity, and 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**, OPD officers assigned to the USMS Task Force shall adhere to Taskforce policies and procedures, as well as OPD policies and procedures; and

**WHEREAS**, Article V, Section 504(l) 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; and

**WHEREAS**, OPD previously signed an MOU authorizing OPD participation in the USMS TF on April 29, 2011; therefore be it

**RESOLVED**: that City Council authorizes 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

**RESOLVED**: that the MOU shall include the following language: "The USMS Agents assigned to the USMS Taskforce in Oakland agree to adhere to the following state or local laws, policies, or procedures, when performing as part of the Oakland Taskforce, unless existing ATF 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); 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 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 the City Administrator is authorized to accept and appropriate any reimbursements for overtime expenses without returning to the City Council; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to execute the MOU attached to the accompanying report 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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

*Priscilla Hynes*  
City Attorney

2019 MAY -2 PM 3:57 OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**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 force (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 based on probable cause to believe that they have committed serious crimes 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 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**, a major goal of Oakland's Ceasefire Strategy, a data-driven violence-reduction effort that coordinates law enforcement, social services, and the community, is to reduce gang/group-related homicides and shootings; and

**WHEREAS**, Ceasefire brings social services and community partners to help gang/group members ready to cease violent activity, and 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 of 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**, OPD officers assigned to the USMS TF shall adhere to Taskforce policies and procedures, including OPD policies and procedures as well as the City of Oakland Sanctuary City Ordinance, and failure to adhere to the most restrictive policies and procedures may be grounds for dismissal from the Taskforce and could subject the OPD officer to administrative action by OPD; and

**WHEREAS**, Article V, Section 504(l) 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; and

**WHEREAS**, OPD previously signed an MOU authorizing OPD participation in the USMS TF on April 29, 2011; therefore be it

**RESOLVED**: that City Council authorizes 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 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 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 the City Administrator is authorized to accept and appropriate any reimbursements for overtime expenses without returning to the City Council; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to execute the MOU attached to the accompanying report 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 - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO, AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

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