



Privacy Advisory Commission

January 5, 2023 5:00 PM

Teleconference

Meeting Agenda

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt*

Pursuant to California Government Code section 54953(e), Oakland Privacy Advisory Commission Board Members/Commissioners, as well as City staff, will participate via phone/video conference, and no physical teleconference locations are required.

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Webinar ID: 858 1720 9915

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ADDITIONAL INSTRUCTIONS:

1) Instructions on how to join a meeting by video conference is available at: <https://support.zoom.us/hc/en-us/articles/201362193%20-%20Joining-a-Meeting#>

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3) Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-In-a-webinar>

1. Call to Order, determination of quorum
2. Adopt a Renewal Resolution regarding AB 361 establishing certain findings justifying the ongoing need for virtual meetings
3. Review and approval of the draft November 3 and December 1 meeting minutes
4. Open Forum/Public Comment
5. Federal Task Force Transparency Ordinance – OPD – Drug Enforcement Agency (DEA)
 - a. Review and take possible action on the draft memoranda of understanding with federal partners (MOU)

OAKLAND PRIVACY ADVISORY

COMMISSION RESOLUTION NO. 1-5-23

ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE PRIVACY ADVISORY COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

WHEREAS, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

WHEREAS, City Council Resolution No. 88075 remains in full force and effect to date; and

WHEREAS, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. See <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

WHEREAS, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

WHEREAS, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19

symptoms stay home. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

WHEREAS, persons without symptoms may be able to spread the COVID-19 virus. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

WHEREAS, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

WHEREAS, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

WHEREAS, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

WHEREAS, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

WHEREAS, on October 7, 2021, the Privacy Advisory Commission adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

RESOLVED: that the Privacy Advisory Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

FURTHER RESOLVED: that, based on these determinations and consistent with federal, state and local health guidance, the Privacy Advisory Commission renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

FURTHER RESOLVED: that the Privacy Advisory Commission firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

FURTHER RESOLVED: that the Privacy Advisory Commission will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Privacy Advisory Commission finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.



Privacy Advisory Commission

November 3, 2022

5:00 PM

Teleconference

DRAFT Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt*

1. Call to Order, determination of quorum

There was a quorum during this meeting.

2. Open Forum/Public Comment

- Assata Olugbala

3. Federal Task Force Transparency Ordinance – OPD – Drug Enforcement Agency (DEA), US Marshals Services (USMS), Alcohol Tobacco Firearms (ATF)

- a. Review and take possible action on the proposed memoranda of understanding (MOU) (Attachments 1-3)

Chair Hofer indicated that the Privacy Advisory Commission has jurisdiction for this item. These items pertain to surveillance practices. There were three (3) MOUs before the PAC from the DEA, Marshalls and ATF to review and possibly take action. The City Charter requires that MOUs be signed before participating in intergovernmental task force actions.

The Chair indicated that this is a legally complex issue and not much case law exist, but there is case law that is available that the chair is willing to share if individuals are interested in seeing it. He indicated that the PAC is reviewing these documents to ensure that its standards are being followed. He expressed concerns that some of the language in the MOU seems to indicate that we may not be following the standards.

Captain Perez-Angeles introduced the item. He is the commander for the Violent Crime Operations Center (VCOC) and supervises the taskforce officers. The three (3) MOU's govern the role of taskforce officers. Captain Perez-Angeles introduced Lt. Bezner and Sgt. Valle who are also familiar with the MOUs. Captain Perez-Angeles indicated that the DEA's MOU remained the same throughout the years. However, the ATF and Marshall Service MOUs did change with the addition of two addendums. The addendums address how task force officers will participate in the body worn camera program. In previous years, the federal agencies did not use body worn cameras, however OPD has used the cameras for many years. This is the first time these addendums have been presented to the PAC. OPD consulted with the City Attorney's Office on the addendums along with the ATF and the USMC. Captain Perez-Angeles thanked the PAC for the opportunity to present on this topic and wanted to address any questions and seek guidance and direction as it relates to the MOUs.

Chair Hofer requested clarification on which MOUs are the same. Captain Perez-Angeles indicated that the DEA MOU is the same and he provided an overview of the old version that was signed on January 13, 2020. He reviewed it with the one that was received on October 1, 2022 and he compared the two and they appeared to be the same documents as it related to the roles and responsibilities outlined in the agreements.

The ATF has a changed when it refers to the body worn camera program with the taskforce officers. The MOU provides an option if OPD chooses to participate then there needs to be an addendum to the MOU with an agreement between OPD and the federal agencies. USMC MOU is similar as it refers to the roles and responsibilities outlined in the addendum between OPD and federal agencies.

The chair requested to move forward with the discussion on the DEA MOU. Chair Hofer requested to know the following from OPD: "Are you trying to allow the DEA unfettered access to any of our systems to gain clarification on language in their MOU?"

Lt. Bezner clarified that an OPD officer attends taskforce meetings with intelligence received from the criminal investigations teams. OPD does not allow federal agencies access to its system to retrieve the information. An OPD member presents the data to them in the form of a crime report, for example.

Commissioners raised a variety of questions regarding the OPD MOUs.

Public Comment: Assata Olugbala

Chair Hofer moved to forward the DEA MOU to the City Council with a favorable recommendation. Seconded by Vice Chair Katz.

D1 – absent

D2 – absent

D3 - yes

D4 – yes

D5 – yes

D6 – yes

D7 – yes

Mayor appointee - yes

Approved unanimously

Discussion on ATF MOU

Lt. Bezer stated each agency has the same intent for participating agencies to participate in the body worn camera program and can use their city issued body worn cameras while engaged in taskforce activities. They're trying to close the gap between the cities and the local governments regarding body worn cameras and federal agents will also wear body worn cameras. OPD can choose not to have an officer wear their body worn camera. There is a separate addendum to determine when and how they use their body worn camera.

Public Comment:

Assata Olugbala

Lt. Bezner indicated that the ATF would be open to amendments to the MOU. Chair Hofer indicated that this item is tabled and an Ad Hoc committee will be established to finalize the details of the ATF MOU. Commissioners should email any comments or questions to Chair Hofer and Joe DeVries.

Marshall Service MOU

This USMS MOU is similar to the ATF MOU. They did an addendum to address body worn cameras. OPD will need to come to an agreement between OPD and the Marshall Service to develop a body worn camera program. Chair Hofer indicated that the PAC will want to see that the MOU address data collection, retention and how the is used. He asked if there was a near final draft or preliminary discussions. OPD is working on it with the City Attorney. At this time it is not in a draft form.

DC Lindsey indicated that a positive is that the Marshalls will be using body worn cameras, in addition to OPD. She indicated that the City Attorney's Office is working on an agreement to manage the body worn camera program between the two agencies.

Commissioner Omar de la Cruz had question about how often folks are arrested through this taskforce that fall outside the listed targeted crimes. DC Lindsey indicated that warrants are only issued for murder, shooting and robbery suspects. Maybe sexual assault against a child. OPD does not submit cases for property crimes.

Public comment

Assata Olugbala

Yadi

LT. Benzer indicated that there is not estimated time for when the MOU will be completed. He suggested that he propose to the US Marshall Task force that they add language similar to the ATF where it says very clearly in the body worn camera section that this provision is only in affect when an addendum to the task force agreements pertaining to body worn cameras is signed by the participating agency.

Chair Hofer requested that the US Marshall MOU item come back in a month.

4. Surveillance Technology Ordinance – OFD - Mobile Assistance Community Responders of Oakland (MACRO)
 - a. Review and take possible action on the proposed use policy and impact statement for review and approval to enter into a contract with Julota software from Touchphrase Development, LLC
(Attachments 4-10)

The Oakland Fire Department staff presented Dena Delaviz, medical services in OFD is there with her supervisor Vena and MACRO program manager Elliott Jones.

Dena Delaviz provided an overview on the need for the data management software system to track MACROs work.

Jessica Leavitt volunteered to serve on the ad hoc committee.

OFD and the PAC will form an ad hoc to review the impact statement and use policy. There was no action taken on this item.

Public Commenter:

Assata Olugbala



Privacy Advisory Commission

December 1, 2022

5:00 PM

Via Teleconference

DRAFT Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt*

1. Call to Order, determination of quorum

A quorum of members was present.

2. Review and approval of the draft October 6 meeting minutes

Chair Hofer moved to approve the minutes. Commissioner Oliver seconded.

No one opposed and one abstention by Reem Suleiman. Motion was approved.

3. Open Forum/Public Comment

No one spoke during open forum/public comment.

4. Federal Task Force Transparency Ordinance – OPD – US Marshals Services (USMS), Alcohol Tobacco Firearms (ATF)

- a. Review and take possible action on the draft memoranda of understanding with federal partners (MOU)

Only the ATF MOU was included in the packet and available for comment by the PAC.

Chair Hofer requested comment from Commissioners on the MOU. There were no additional comments.

OPD update on the MOU's provided by Lt. Scott Bezner. He indicated that the DEA MOU received a favorable recommendation by the PAC during the November meeting. A PAC ad hoc meeting was

held for the ATF and USMS MOU, language changes were proposed to the federal partner. ATF agreed to changes. USMS MOU will come back to the PAC in January.

Chair Hofer moved that the PAC forward the revised ATF MOU to the city council with a favorable recommendation upon the condition that OPD wear body worn cameras when participating, per the addendum agreement. Second by Commissioner Oliver.

D1 – yes

D2 – abstain

D3 – yes

D4 –yes

D5 –absent

D6 -yes

D7 – yes

At-large – absent

Mayor appointee – yes

The item passed.

5. Surveillance Technology Ordinance – DOT – Mobile Parking Payment Proposal

a. Informational Report by CSU Law Clinic – no action will be taken at this meeting

The Department of Transportation (DOT) brought forward the Mobile Parking Payment proposal. Chair Hofer provided some history on the item and indicated that the PAC previously approved the front end piece of the program, the Automated License Plate Use Policy which is used for various parking enforcement purposes. DOT is proposing to work with a number of vendors and mobile apps to collect revenue in the program

Michael Ford, manager in the DOT presented and thanked Chair Hofer for introducing him to the project with the students and expressed appreciation for the work that the students have completed. He provided an update to the Commission on deadlines and indicated that an extension to the existing agreement was granted in August for one year. The DOT is planning to come back in January or February to discuss the mobile parking payment proposal, if there are new things to explore and develop, staff will work with the City Attorney's Office. There is time and opportunity to integrate lessons learned from this experience.

Students from the Cleveland State College of Law and the School of Social Work made a presentation to the Commission regarding their research on privacy issues relating to the Park Mobile Program. The scope of work consisted of working with the PAC and DOT on a proposed implementation of a multi-provider parking payment system.

The goal of the project as stated by the chair, was to automate many of the tools and policy writing on how to do impact statements and analyze the technology related to data sharing and data flow. The work could benefit future commissions, staff and others.

A draft report from the students was distributed in the agenda packet.

Public Comment

Unfortunately, due to technology constraints no public comment was taken.

Addendum to Fugitive Task Force Memorandum of Understanding
RE: Body-Worn Camera Use by Task Force Officers

This Addendum supplements the current Memorandum of Understanding (MOU) between the United States Marshals Service (USMS) and the Oakland Police Department.

(Hereinafter referred to as “Partner Agency” or “TFO parent agency”)

Pursuant to the “U.S. Marshals – Body Worn Camera Interim Policy,” dated May 17, 2022, and any successor USMS Body Worn Camera Policy Directive (hereinafter referred to as “USMS Policy”), the above-named Partner Agency has advised the USMS that it will require its Specially Deputized Task Force Officers (TFO) assigned to the USMS Task Force to use body worn cameras (BWCs). This Addendum governs that use.

The parties hereby agree to the following:

- I. The Partner Agency and their TFOs will be advised of and adhere to the USMS Policy, USMS’s Standard Operating Procedures for Body-Worn Camera Program for Task Force Officers, and other applicable federal and USMS policies, procedures, regulations, and laws.
- II. The Partner Agency confirms that prior to executing this agreement, it has provided to the USMS details regarding the BWC system and cameras, including the details of any system protections, and any state or local policies or laws applicable to the TFOs’ use of BWCs, including any retention policies, and training and access procedures.
- ~~III. TFOs will follow the provisions set forth in this agreement for use of BWCs, and if the provisions of this agreement conflict with provision in the agency’s policy for TFOs while serving on the USMS Task Force, personnel will be subject to the laws, regulations, polices, and personnel rules applicable to their respective agencies.~~
- ~~III. TFOs will follow the provisions set forth in this agreement for use of BWCs. Absent an express conflict with state law or partner agency policy, the provisions in this agreement control TFO use of parent agency issued BWCs on USMS task force operations.~~
- IV. Use of BWCs During USMS Task Force Operations:
 - A. TFOs may use **only** Partner Agency-issued and Partner Agency-owned BWCs.
 - B. TFOs will be allowed to wear and activate their BWCs for the purposes of recording their actions during USMS Task Force operations only during:
 1. A planned attempt to serve an arrest warrant or other planned arrest; or,

2. The execution of a search warrant.
 - a. For the execution of a search warrant, BWCs should not be used for searches of property lawfully in government custody or control, or a search to obtain digital or electronic records executed by a third party, such as an electronic service provider or custodian of electronic records.
- C. TFOs are authorized to activate their BWCs upon approaching a subject or premises and must deactivate their BWCs when the scene is secured as determined by the USMS Task Force Supervisor or Team Leader on the scene.
 1. For purposes of this agreement, the term “secured” means the scene is safe and under law enforcement control.
 2. In the event circumstances arise requiring additional law enforcement assistance to secure the scene, the TFO will end BWC recording when relieved from the scene by another law enforcement officer.
- D. Unless parent agency BWC policy and/or state law conflicts, TFOs are authorized to wear and activate recording equipment, in accordance with USMS Policy, anywhere they are authorized to operate under the scope of their USMS TFO deputization (to include on enforcement actions crossing jurisdictional boundaries). Where parent agency BWC policy and/or state law conflicts with the USMS activation and deactivation parameters, TFO’s will follow the provisions in Appendix A that identify how to properly mark sections of a recording to ensure that the USMS task force operation captured on footage is easily identifiable. This will prevent the ingestion of non-task force related footage into the USMS video retention solution and allow USMS to promptly respond to requests for BWC footage.
- E. In the event a TFOs’ BWC is not working or is inoperable due to a technical problem or cannot be used due to physical damage, the TFO may participate in the operation without using a BWC if that continued participation is consistent with the Partner Agency policy.
- F. Even when BWC use would be permissible in the circumstances set forth in Section IV, subsection B, above, TFOs are prohibited from recording:
 1. Undercover or covert personnel and locations;
 2. Confidential informants or confidential sources;
 3. On-scene witness interviews prior to or after the operation; or
 4. Actions by any non-law enforcement persons at the scene who are assisting law enforcement personnel prior to or after the operation.

Even when BWC use would be permissible in the circumstances set forth above in Section IV, subsection B, TFOs are prohibited from activating their BWC if, as determined by the USMS, the

TFO is:

5. Using specialized or sensitive investigative techniques;
6. Operating as part of a highly specialized or sensitive operation or group;
7. Operating in a sensitive area; or
8. Working in an undercover or covert status on behalf of the USMS Task Force or the USMS itself

G. Even when BWC use would be permissible in the circumstances set forth above in Section IV, subsection B, subject to the discretion of the USMS, TFOs generally shall not use BWCs to record any activities related to investigations involving:

1. Public Corruption;
2. Medical Facilities;
3. National Security (including international and domestic terrorism investigations or cases involving classified information); or
4. Other sensitive investigations as determined by the USMS.

V. Partner Agency Internal Controls:

- A. For purposes of this agreement, the term “TFO BWC recordings” refers to audio and video recording(s), and associated metadata, from TFO BWCs made while the TFO is working under federal authority, including when executing state and local warrants adopted by the USMS.
- B. The Partner Agency will provide and maintain central points-of-contact (POC), at a minimum two POCs, a primary and secondary, for the USMS on BWC matters. The Partner Agency will notify the USMS of any change to the POCs.
- C. The Partner Agency will notify the USMS of any change in state or local law or policy that will modify how TFOs must use BWCs and handle recordings.
- D. The Partner Agency will notify the USMS prior to making any change in agency policy that will affect the MOU Addendum or the storage, transfer, or redaction of TFO BWC recordings.
- E. The Partner Agency will provide specifications to USMS personnel on the BWC capabilities and operation.
- F. If applicable, the Partner Agency will restrict access to any TFO BWC GPS and/or livestream capability as required by the USMS.

VI. Handling of TFO BWC Recordings Made During USMS Task Force Operations:

- A. After a Task Force Operation, the TFO will upload any BWC footage into the Partner Agency’s video retention system (VRS) and share a copy of that footage

with the USMS. All copies of TFO BWC recordings made during federal Task Force Operations and shared with the USMS via the USMS VRS shall be deemed federal records of the DOJ/USMS pursuant to the Presidential and Federal Records Act Amendments of 2014 (Pub. L. No. 113-187, enacted November 26, 2014), and subject to federal disclosure rules and regulations, including the Freedom of Information Act (FOIA, 5 U.S.C. § 552) and Privacy Act of 1974. The original footage that remains in the custody of the Partner Agency shall not be disseminated by the TFO or TFO Partner Agency without advance written notification to the USMS of the intention to do so as soon as practicable

- B. The Partner Agency will provide full, unredacted, duplicate copies of TFO BWC recordings to the USMS for all activations that record data of USMS Task Force- related Operations. The existence of TFO BWC recordings relating to a USMS Task Force Operation must be recorded in the USMS authorized record system. Additionally, an unredacted copy of any recording to be released by the TFO Partner Agency shall be provided to the USMS prior to said release.
- C. The Partner Agency is authorized to use the original TFO BWC recordings for internal review of its personnel consistent with the Partner Agency’s policies and procedures but may not disseminate the BWC recording outside the Partner Agency or publicly release the footage without advance written notification to the USMS. The Partner Agency’s original TFO BWC recording is subject to the relevant state open records laws and state retention requirements.
- D. The Partner Agency will notify the USMS immediately of any unauthorized access to TFO BWC recordings discovered by the Partner Agency. The Partner Agency will cooperate fully with the USMS in the investigation of any unauthorized access to or disclosure of TFO BWC recordings, including providing the USMS with the name(s) of any Partner Agency personnel determined by the Partner Agency to be involved in unauthorized access, copying, or disclosure.
- E. In all circumstances, TFO BWC recordings shall be treated as law enforcement sensitive information. The premature disclosure of these recordings could reasonably be expected to interfere with enforcement proceedings. TFO BWC recordings may be potential evidence in a federal investigation subject to applicable federal laws, rules, and policy concerning disclosure or dissemination and therefore are deemed privileged, absent appropriate redaction prior to disclosure or dissemination. Further, BWC recordings may be entirely exempt from public release or other disclosure or dissemination under applicable federal and state laws, rules, and policy.
- F. If a TFO BWC recording involves a “reportable incident,” as defined below, or involves another time-sensitive or urgent situation, the Partner Agency will provide the USMS access to copies on an expedited basis, including during non-business

hours.

1. For purposes of this provision, “reportable incident” means:
 - a. shooting incident;
 - b. any incident which involves serious bodily injury, death, or where any enforcement action by USMS personnel resulted in the use of force or deadly force;
 - c. physical assault or attempted physical assault on a Law Enforcement Officer; and
 - d. intentional damage to any facility, conveyance, or other property owned by USMS.

- G. The Partner Agency will provide witnesses, as needed, to authenticate TFO recordings in litigation.

- H. The Partner Agency will inform the USMS of the length of time TFO BWC recordings will be retained by the Partner Agency before deletion.

- I. The Partner Agency will notify the USMS in writing as soon as possible regarding any request or demand for release or disclosure of TFO BWC recordings. In all circumstances, TFO BWC recordings may only be disseminated in accordance with the requirements contained within this MOU addendum.

- J. Expedited Public Release: If TFO BWC recording(s) depict conduct committed solely by a TFO resulting in serious bodily injury or death of another, the TFOs’ Partner Agency shall notify the USMS as early as possible if it desires to publicly release the recording(s). Following the notification, the TFO’s Partner Agency may immediately release the recording(s) with any redactions as appropriate, giving as much advance notice as possible to the USMS as to the time and manner of its release. The USMS will expeditiously review the recording(s) as soon as practical.
 1. The notification to the USMS shall be made to the local United States Marshal or the Regional Fugitive Task Force (RFTF) Commander which supervises the Task Force on which the TFO serves. Additionally, those personnel will notify the Assistant Director (AD) of the USMS Investigative Operations Division (IOD). The local U.S. Marshal and/or RFTF Commander and AD, IOD will provide further notifications within the USMS as appropriate.

- K. An USMS enforcement action or incident may require additional support from law enforcement officers with the Partner Agency. In the event those assisting law enforcement officers have BWCs, any captured video from

those cameras will be made available by the Partner Agency to the USMS upon request.

- VII. The USMS will ensure that all USMS Task Force partner agencies are informed of which other partner agencies, if any, mandate BWC use by their respective TFOs and are authorized to have their TFOs wear BWCs on the USMS Task Force.
- VIII. If the Partner Agency fails to comply with any part of this Addendum, the relationship established under the Task Force Memorandum of Understanding may be immediately terminated.

Digital signatures are preferred

PARTNER AGENCY:

Name: _____ Phone: _____

Location (City and State): _____

PARTNER AGENCY REPRESENTATIVE:

Print Name and Title: _____

Signature: _____ Date: _____

ADDITIONAL SIGNATURE (OTHER EXTERNAL REPRESENTATIVE) – OPTIONAL:

Print Name and Title: _____

Signature: _____ Date: _____

ADDITIONAL SIGNATURE (OTHER EXTERNAL REPRESENTATIVE) – OPTIONAL:

Print Name and Title: _____

Signature: _____ Date: _____

ADDITIONAL SIGNATURE (OTHER EXTERNAL REPRESENTATIVE) – OPTIONAL:

Print Name and Title: _____

Signature: _____ Date: _____

UNITED STATES MARSHAL:

Print Name and Title: _____

District: _____

Signature: _____ Date: _____

ASSISTANT DIRECTOR, INVESTIGATIONS OPERATION DIVISION:

Print Name: _____

Signature: _____ **Date:** _____

Note: Signed Addendum MUST be submitted to the Investigative Operations Division with other required documentation to obtain authorization for participation in the TFO BWC Program prior to TFOs deploying with BWCs on USMS operations. The executed Addendum should be retained locally with the executed USMS Fugitive Task Force MOU.



United States Marshals Service – POLICY DIRECTIVES

2.11 Body Worn Cameras ***INTERIM POLICY DIRECTIVE***

PROPONENT: Body Worn Camera Program (BWCP)

PURPOSE: This directive sets forth the United States Marshals Service (USMS) policy concerning the use of Body Worn Cameras (BWC) by Deputy United States Marshals (DUSM) and USMS Specially Deputized Task Force Officers (TFO).

AUTHORITY:

1. This interim policy directive is issued under the authority of the Director of the USMS pursuant to 28 U.S.C. § 561(g) and 28 C.F.R. § 0.111, consistent with the Deputy Attorney General (DAG) Memorandum, *Body Worn Camera Policy*, issued June 7, 2021.
2. The authority of the USMS to “obey, execute, and enforce all orders of the United States District Courts” and other enumerated federal courts, and to “execute all lawful writs, process, and orders issued under the authority of the United States” is set forth in 28 U.S.C. § 566(a) and (c). See also 28 C.F.R. § 0.111(b).
3. The authority of “[e]ach United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director ... [to] make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony” is set forth in 28 U.S.C. § 566(d).
4. The authority of the USMS to “investigate such fugitive matters, both within and outside of the United States, as directed by the Attorney General” is set forth in 28 U.S.C. § 566(e)(1)(B). See also 28 C.F.R. § 0.111(a) (relating to authority to execute federal arrest, parole violator, and custodial and extradition warrants) and (q) (relating to authority to execute escaped federal prisoner, probation, parole, mandatory release, and bond default violator arrest warrants).
5. The authority to “assist State, local, and other Federal law enforcement agencies, upon the request of such an agency, in locating and recovering missing children” is set forth in 28 U.S.C. § 566(e)(1)(D).
6. The authority to “provide for the security ... of the United States District Courts, the United States Courts of Appeals, the Court of International Trade, and the United States Tax Court, as provided by law” and to provide “assistance in the protection of Federal property and buildings” is set forth in 28 U.S.C. § 566(a) and 28 C.F.R. § 0.111(f). See also 28 U.S.C. § 566(i).
7. Authority to provide security for prisoner transfers is inherent in the “[r]eceipt, processing and transportation of prisoners held in the custody of a marshal or transported by the U.S. Marshals Service under cooperative or intergovernmental agreements” and the “[s]ustention of custody of Federal prisoners from the time of their arrest by a marshal or their remand to a marshal by the court, until the prisoner is committed by order of the court to the custody of the Attorney General for the service of sentence, otherwise released from custody by the court, or returned to the custody of the U.S. Parole Commission or the Bureau of Prison,” as set forth in 28 C.F.R. § 0.111(j) and (k).

8. In executing the laws of the United States within a state, the USMS may exercise the same powers which a sheriff of the state may exercise in executing the laws of the state, as set forth in 28 U.S.C. § 564.
9. Additional authority is derived from the Attorney General's Memorandum, *Policy on Fugitive Apprehension in FBI and DEA Cases* (dated August 11, 1988), and the *Memorandum of Understanding between the Drug Enforcement Administration and the United States Marshals Service* (dated September 28, 2018, or as hereafter amended).
10. As set forth in the Presidential Threat Protection Act of 2000 (Pub. L. No. 106-544, enacted December 19, 2000) and directed by the Attorney General, the USMS is granted authority to direct and coordinate permanent Regional Fugitive Apprehension Task Forces consisting of federal, state, and local law enforcement authorities for the purpose of locating and apprehending fugitives. See also 34 U.S.C. § 41503(a) ("The Attorney General shall, upon consultation with appropriate Department of Justice and Department of the Treasury law enforcement components, establish permanent Fugitive Apprehension Task Forces consisting of Federal, State, and local law enforcement authorities in designated regions of the United States, to be directed and coordinated by the United States Marshals Service, for the purpose of locating and apprehending fugitives.").
11. In the Adam Walsh Child Protection and Safety Act of 2006 (AWA) (Pub. L. No. 109-248, enacted July 27, 2006), the authority is set forth for the Attorney General of the United States to use the USMS to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements. The AWA, 34 U.S.C. § 20941(a), states that a sex offender who violates a sex offender registration requirement is deemed a fugitive within the scope of authority granted the USMS under 28 U.S.C. § 566(e)(1)(B).
12. Additional investigative authority is derived from the Attorney General's Memorandum, *Implementation of National Anti-Violent Crime Initiative* (dated March 1, 1994); U.S. Department of Justice (DOJ) Office of Legal Counsel Memorandum, *Authority to Pursue Non-Federal Fugitives* (dated February 21, 1995); and Federal Rules of Criminal Procedure 41 – Search and Seizure.

CANCELLATION: This policy directive supersedes USMS Policy Directive 2.11, *Body Worn Cameras *INTERIM POLICY DIRECTIVE,** dated December 16, 2021.

ADMINISTRATION AND LOGISTICS:

1. Records Management: This administrative policy directive document is maintained in accordance with the approved Specific Records Schedule, DAA-0527-2013-0018-0002.

APPROVED BY:

 /s/
 Ronald L. Davis
 Director
 U.S. Marshals Service

 05/17/2022
 Effective Date

A. Policy:

1. **General:** This policy directive establishes procedures for the operational use of BWCs by DUSMs and TFOs.
2. The BWCP, under the Office of the Associate Director for Administration, and the USMS Office of General Counsel (OGC) maintain program management and oversight responsibility of the USMS BWCP.
3. This policy does not apply to digital or electronic media recordings from vehicle dash cameras, non-BWC digital cameras, closed-circuit television, Unmanned Aerial Systems (UAS), telecommunications devices, or any other camera sensor device collected by the USMS now or in the future.
4. This policy is not intended to replace or alter existing DOJ or USMS policies or practices for the collection of evidence, conducting interviews, or operational security.
5. Consistent with applicable existing federal laws and requirements, including the E-Government Act of 2002 (Pub. L. No. 107-347, enacted December 17, 2002), and to ensure the protection of privacy and civil liberties, the USMS will only collect, use, retain, and disseminate information obtained from the BWC for a properly authorized purpose.

B. Roles and Responsibilities:

1. **BWCP Senior Management Official:** The Senior Management Official, BWCP, is responsible for managing and overseeing the USMS BWCP as well as implementing BWC directives.
2. **United States Marshals (USM), Chief Deputy United States Marshals (CDUSM), and Regional Fugitive Task Force (RFTF) Commanders:** USMs and CDUSMs are responsible for the overall supervision and management of any BWCP within their district. In those areas where there is an Investigative Operations Division (IOD) RFTF, the Commander is responsible for the overall supervision and management of the BWCP for the RFTF. Division/district components are prohibited from responding to the press, state, local, tribal, or territorial government authorities, or third parties on any aspects of the USMS BWCP without first coordinating pursuant to paragraph 5 below.
3. **USMS Information Technology Division (ITD):** ITD is responsible for identifying, implementing, and maintaining an appropriate Video Retention/Management System (VRS) for BWCs, in coordination with the BWCP and OGC. The Assistant Director (AD), ITD, is responsible for the overall supervision and management of the USMS VRS, to include meeting all security and lifecycle requirements for the management of recorded video or metadata and identifying technical specifications.
4. **USMS Office of General Counsel (OGC):**
 - a. OGC provides legal guidance to the USMS BWCP to ensure its compliance with applicable federal laws, regulations, policies and procedures; reviews and processes all requests for USMS testimony or disclosures of information including, but not limited to, in state and federal courts, regarding the USMS BWCP, to ensure, inter alia, the security of sensitive investigative techniques and USMS privileged information; reviews and processes all Freedom of Information Act (FOIA) and Privacy Act requests regarding the USMS BWCP, in direct consultation with the BWCP and other affected components; reviews and processes all requests for BWC recordings from parties to litigation, in consultation with the BWCP and/or designees; reviews and consults with the USMS Office of Congressional and Public Affairs (OCPA) on all congressional

and press inquiries relating to BWCs; and provides such other legal guidance, consultation, and oversight as is necessary to facilitate the BWCP's directive.

- b. Through its Senior Component Official for Privacy (SCOP), OGC also assesses the potential intrusiveness associated with BWC usage on privacy and civil liberties as balanced against the relevant governmental interests. The SCOP will complete a review of the BWCP at least annually, complete relevant privacy documentation as required by the Office of Privacy and Civil Liberties (OPCL) (such as, the Initial Privacy Assessment and Privacy Impact Assessment), and will ensure all privacy compliance documentation is updated as necessary.
 - c. The USMS will follow existing procedures to review, investigate, and address privacy and civil liberties complaints regarding the BWCP.
5. **USMS Office of Congressional and Public Affairs (OCPA):** OCPA reviews and handles all congressional and press inquiries relating to the USMS BWCP, in coordination with the BWCP, OGC, division/district leadership, and any other affected components. Division/district components are prohibited from responding to the press, state, local, tribal, or territorial government authorities, or third parties on any aspects of the USMS BWCP without first coordinating with the BWCP, OCPA, and OGC.
 6. **USMS Office of Professional Responsibility – Internal Affairs (OPR-IA):** OPR-IA is responsible for ensuring all complaints of misconduct are processed in compliance with DOJ and USMS policy and procedures. OPR-IA may review BWC recordings to investigate a specific act of conduct alleged in a complaint of misconduct.
 7. **USMS OPR – Force Review Branch (OPR-FRB):** OPR-FRB is responsible for ensuring that all use of force incidents are thoroughly, objectively, and independently examined, without prejudice, bias, or favor.
 8. **USMS Training Division (TD):**
 - a. TD is responsible for providing oversight and guidance on the development, maintenance, and delivery of the training curriculum relating to the BWCP. The curriculum may include, but is not limited to, the operation of the BWC equipment, activation and deactivation parameters, procedures for uploading BWC recordings to USMS system(s), policy considerations, procedural applications, and other lesson plans (e.g., use of force, legal authorities, first/third party considerations, operational planning, human performance, etc.).
 - b. TD will ensure that BWC training curriculum aligns with other USMS training directives and guidance from other program areas, where applicable.

C. Procedures:

1. **DUSM Operational Procedures:**
 - a. Unless subject to specific exceptions set forth herein, DUSMs are required to wear and activate their BWC in accordance with this policy.
 - b. DUSMs must wear and activate their BWC for the purpose of recording their actions during:
 - 1) A planned attempt to serve an arrest warrant or other planned arrest, including the apprehension of fugitives sought on state and local warrants within the United States and its territories;
 - 2) The execution of a search or seizure warrant or order;

- 3) If wearing a USMS-issued BWC while engaged in investigative activities other than identified in C.1.b.1). and 2)., above, DUSMs will activate their BWCs, if and when it is safe to do so, if they encounter an individual or other exigent circumstances occur that could lead to an adversarial contact or spontaneous arrest; or,
 - 4) Other missions as authorized by the USMS Director or his/her designee.
- c. In activating during situations identified in C.1.b, DUSMs must activate their BWCs upon approaching a subject or premises and will deactivate their BWCs when the scene is secured, as determined by the USMS supervisor or team leader on the scene.
- 1) In fulfilling the above activation requirements, DUSMs shall activate their BWC as soon as practical and when doing so does not compromise the safety of law enforcement personnel or other persons.
 - 2) The term "secured" means that the scene, which may include the transport vehicle or craft, is safe, there is no immediate threat on the scene, and the scene is under law enforcement control, as determined by the USMS supervisor or team leader on scene.
 - 3) In the event circumstances arise requiring additional law enforcement assistance to secure the scene, DUSMs will end BWC recordings when relieved from the scene by another law enforcement officer.
 - 4) For the execution of a search warrant, BWCs should not be activated nor remain activated for searches of property lawfully in government custody or control, or a search to obtain digital or electronic records executed by a third party, such as an electronic service provider or custodian of electronic records, after the scene is secured.
 - 5) If BWCs are deactivated due to a scene being declared secure and an exigent situation arises, the DUSMs will reactivate their BWCs as soon as it is safe and practical to do so.
- d. To the extent state law requires prior notice of recording, DUSMs will comply with the USMS BWC Standard Operating Procedures (SOP).
- e. DUSMs shall affix their BWC to allow for an unobstructed field of view at least as broad as the DUSM's vision and be worn in a manner that maximizes the camera's ability to capture video footage of the DUSM's activities. DUSMs are prohibited from using their BWCs as an "off the body" surveillance tool (i.e., holding the BWC with hands to record activities).
- f. When powered on, BWCs continuously record in thirty second (00:00:30) loop increments. Once activated, BWCs shall include the buffering period of thirty seconds (00:00:30) with no audio.
- g. DUSMs shall properly document all use of BWCs (to include instances of failure and inoperability) in USMS systems and investigatory reports.
- h. Except when specifically authorized by an AD after consultation with OGC, DUSMs are prohibited from recording:
- 1) Undercover or covert personnel and locations;
 - 2) Confidential informants or confidential sources;

- 3) On-scene witness interviews prior to or after the operation; or
- 5) Actions by any non-law enforcement persons at the scene who are assisting law enforcement personnel prior to or after the operation.
- i. BWCs are not authorized for use outside of the territorial jurisdiction of the United States (i.e., Foreign Field Offices).
- j. BWCs shall not be used solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution and laws of the United States.
- k. DUSMs are prohibited from using or activating BWCs within USMS workspace. This includes any USMS-operated facilities, USMS-controlled spaces, and training sites. However, DUSMs may activate their BWCs:
 - 1) In an approved BWC training environment;
 - 2) To conduct a function test; or
 - 3) In emergency or exigent circumstances, or other operation meeting the requirements of C.1.b.
- l. DUSMs are prohibited from activating their BWCs to surreptitiously record conversations between USMS employees in accordance with USMS Policy Directive 1.7, *Code of Professional Responsibility*.
- m. DUSMs may review their own BWC recordings prior to preparing reports or making statements about recorded incidents. In certain circumstances, such as critical incidents including but not limited to an Officer Involved Shooting (OIS) or other use of force resulting in death, DUSMs shall not review BWC recordings absent written justification and receiving permission from the appropriate approving authority, as further identified in the USMS BWC SOP. In preparing a report, authors should notate, consistent with the USMS BWC SOP, whether they reviewed their BWC recording before preparation of the report.
- n. DUSMs who use a BWC for purposes other than those authorized in this policy directive may be subject to administrative or disciplinary action.

2. **DUSM Technical Procedures:**

- a. DUSMs are only authorized to use BWCs, component parts, and software issued or otherwise authorized by the USMS. All BWC equipment, data, images, video, and recordings are the sole property of the USMS.
- b. DUSMs are prohibited from using non-USMS owned or authorized recording devices (e.g., personal digital cameras, smartphone cameras, audio-recording devices, etc.) for documenting law enforcement activities, including the documentation of evidence.
- c. DUSMs will be required to check that their assigned BWC is fully charged and conduct a functions test to ensure that the BWC is operational prior to the start of their on-duty status.
- d. DUSMs are responsible for securing, storing, and maintaining assigned BWC equipment. DUSMs will utilize BWC equipment with reasonable care to ensure proper functioning. DUSMs shall notify their supervisor of equipment defects or

malfunctions as soon as practicable so that the BWC may be repaired or have a replacement unit issued if necessary.

- e. BWCs are classified as accountable property and must be inventoried, accounted for, and hand receipted. DUSMs shall store and secure their assigned BWC equipment in accordance with USMS Policy Directive 7.1, *Management of Personal Property*, and the USMS BWC SOP.
- f. Any accountable BWC equipment that is lost and/or later recovered must be reported immediately consistent with USMS Policy Directive 7.1.1, *Lost Property*.
- g. DUSMs shall not edit, alter, erase, duplicate, copy, share, display, tamper with, or otherwise distribute in any manner BWC recordings except as authorized within the USMS BWC SOP.
- h. All BWC recordings, including recordings in the possession of any third party engaged by the USMS to store or process BWC recordings, shall be deemed federal records of the DOJ/USMS pursuant to the Federal Records Act of 1950 and the Presidential and Federal Records Act Amendments of 2014 (Pub. L. No. 113-187, enacted November 26, 2014), meaning such records are controlled by, and the property of, DOJ/USMS and cannot be disseminated without appropriate approval, as set forth in the USMS BWC SOP.
- i. All BWC recordings shall be treated as law enforcement sensitive, the premature disclosure of which could reasonably be expected to interfere with law enforcement proceedings.
- j. BWC recordings may also be potential evidence in an ongoing investigation subject to applicable federal laws, rules, and policy concerning any disclosure or dissemination. Therefore, all BWC recordings are deemed privileged under applicable DOJ and USMS rules, regulations, policies, and procedures and relevant case law, absent appropriate redaction prior to disclosure or dissemination.
- k. If a BWC recording captures the operation of sensitive investigative or operational techniques or equipment including UAS/technology and tactical communication methods, the BWCP and OGC will ensure that footage is redacted from the recording as law enforcement sensitive and law enforcement privileged information and/or as otherwise permitted pursuant to federal or state law.

3. **Collection, Retention, and Management of BWC Recordings:**

- a. The USMS has developed a cloud-based VRS to provide technical capabilities to assist in management of content captured by BWCs to meet requirements set forth within the DAG Memorandum.
 - 1) The USMS will maintain classification of data types for appropriate record keeping management functions.
 - 2) The USMS VRS organizational structure will be defined by the Senior Management Official, BWCP, in coordination with division/district leadership, OGC, OPR, ITD, and OCPA if necessary, for authorized levels as part of the standard governance framework to account for operational and administrative management access/options. The structure may also include a framework in support of internal or

authorized sharing, supervisory review, reporting, content management, and group management.

- b. DUSMs shall upload BWC recordings into the authorized VRS in accordance with the schedule set forth in the SOP. Any approved deviation from the established schedule shall be appropriately documented.
- c. The USMS will publicly release all requested BWC recording(s) that depict an incident resulting in the serious bodily injury or death of another, unless there exist specific and compelling grounds to justify withholding, which cannot be resolved by redaction, partial withholding, or other means. Such BWC recording(s) may only be withheld upon written approval by the USMS Director.
- d. There is a presumption that the USMS will review, redact, and release all requested BWC recording(s) that depict an incident resulting in the serious bodily injury or death of another as soon as practical. Procedures shall be in place for the expedited release of BWC footage. If the USMS determines that exigent circumstances, including the need to maintain public safety or preserve the peace, necessitate accelerating the release timeline the USMS will devote all necessary resources to review, redact, and publicly release the BWC recording(s) at the earliest possible time.
- e. Collection and management of data, images, video, or metadata during the deployment of a BWC will adhere to the procedures set forth herein and USMS Policy Directive 8.13, *Evidence*, where applicable.
- f. In accordance with the DOJ Policy on transitory records (see DOJ Policy Statement 0801.04, *Electronic Mail and Electronic Messaging Records Retention*, dated December 11, 2019), the USMS shall not retain information collected using BWCs that may contain personally identifiable information for more than 180 days unless the retention of information is determined necessary for an authorized purpose and is maintained in a DOJ-identified records repository. Authorized purposes may include, but are not limited to, law enforcement investigations, litigation, and training.
- g. Data collected by BWC that is retained must be placed in the appropriate VRS and safeguarded in accordance with applicable federal laws, Executive Orders, directives, policies, regulations, standards, and other guidance. These authorities ensure that USMS personnel with access to such data follow practices that are consistent with the protection of privacy and civil liberties.
- h. The USMS' retention and dissemination policies will comply with the Federal Records Act as amended, Freedom of Information Act (5 U.S.C. § 552), and/or the Privacy Act of 1974 (Pub. L. No 93-579, enacted December 31, 1974), and other relevant legal authority. USMS personnel will abide by the applicable records retention schedules for records generated by the USMS through the use of BWCs.
- i. Use of all DOJ information technology systems, which may include BWC component parts, may be monitored, recorded, and subjected to audit.
- j. Data, images, video, and metadata shall not be shared for any purpose (to include law enforcement sharing requests) outside the USMS without permission from the appropriate USMS Division(s). Any data, image, video recording, or metadata obtained through BWC activity is a federal record, subject to federal records laws including the FOIA, 5 U.S.C. § 552.

4. **Training:**

- a. DUSMs who are assigned BWCs must complete a USMS-approved training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure proper use and operation, and to incorporate any changes, updates, or other revisions in policy and equipment.

D. Use of BWCs by Specially Deputized TFOs:

1. The provisions of this policy apply to TFOs whose federal, state, local, tribal, and territorial law enforcement agency participates on a USMS task force, has executed a Memorandum of Understanding (MOU) and MOU Addendum with the USMS, and has completed USMS BWC onboarding training.
2. TFOs are authorized to wear and activate their BWCs in accordance with this policy in any jurisdiction in which they are authorized to act as a police or peace officer under federal, state, local, tribal, or territorial law.
3. TFOs issued BWCs by their parent agency for use during task force operations must wear and activate their BWC for the purpose of recording their actions during:
 - a. A planned attempt to serve an arrest warrant or other planned arrest, including the apprehension of fugitives sought on state and local warrants within the United States and its territories; or
 - b. The execution of a search or seizure warrant or order.
4. If wearing BWCs issued by their parent agency, TFOs will activate their BWCs, when it is safe to do so, if they encounter an individual or other exigent circumstances that could lead to an adversarial contact or spontaneous arrest.
5. In activating during situations identified in D.3, TFOs must activate their BWCs upon approaching a subject or premises and will deactivate their BWCs when the scene is secured, as determined by the USMS supervisor or team leader on the scene.
 - a. In fulfilling the above activation requirements, TFOs shall activate their BWC as soon as practical and when doing so does not compromise the safety of law enforcement personnel or other persons.
 - b. The term "secured" means that the scene, which may include the transport vehicle or craft, is safe, there is no immediate threat on the scene, and the scene is under law enforcement control, as determined by the USMS supervisor or team leader on scene.
 - c. In the event circumstances arise requiring additional law enforcement assistance to secure the scene, TFOs will end BWC recordings when relieved from the scene by another law enforcement officer.
 - d. For the execution of a search warrant, BWCs should not be activated nor remain activated for searches of property lawfully in government custody or control, or a search to obtain digital or electronic records executed by a third party, such as an electronic service provider or custodian of electronic records, after the scene is secured.
 - e. If BWCs are deactivated due to a scene being declared secure and an exigent situation arises, the TFOs will reactivate their BWCs as soon as safe and practical to do so.

6. To the extent state law requires prior notice of recording, TFOs will comply with the USMS BWC SOP.
7. TFOs shall affix their BWC to allow for an unobstructed field of view at least as broad as the TFO's vision and be worn in a manner that maximizes the camera's ability to capture video footage of the TFO's activities. TFOs are prohibited from using their BWCs as an "off the body" surveillance tool (i.e., holding the BWC with hands to record activities).
8. When powered on, the TFO BWC will be subject to the buffering period compliant with their parent agency BWC policy.
9. TFOs shall properly document all use of BWCs (to include instances of failure and inoperability) in USMS systems and investigatory reports.
10. Except when specifically authorized by an AD after consultation with OGC, TFOs are prohibited from recording:
 - a. Undercover or covert personnel and locations;
 - b. Confidential informants or confidential sources;
 - c. On-scene witness interviews prior to or after the operation; or
 - d. Actions by any non-law enforcement persons at the scene who are assisting law enforcement personnel prior to or after the operation.
11. TFOs are not authorized to use their parent agency BWCs for any USMS operations outside of the territorial jurisdiction of the United States (i.e., Foreign Field Offices).
12. While engaged in USMS operations, TFO BWCs shall not be used solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution and laws of the United States.
13. TFOs are prohibited from using or activating BWCs within USMS workspace. This includes any USMS-operated facilities, USMS-controlled spaces, and training sites. However, TFOs may activate their BWCs:
 - a. In an approved BWC training environment;
 - b. To conduct a function test; or
 - c. In emergency or exigent circumstances, or other operation meeting the requirements of D.3.
14. TFOs are prohibited from activating their BWCs to surreptitiously record conversations of USMS employees and TFOs.
15. TFOs' review of their own BWC recordings prior to preparing reports or making statements about recorded events relating to USMS operations must be consistent with their parent agency policy. In preparing a report in a USMS mission system, authors should notate, consistent with the USMS BWC SOP, whether they reviewed their BWC recording before preparation.
16. All copies of TFO BWC recordings shared to the USMS VRS made during federal task force operations shall be deemed federal records of the DOJ/USMS pursuant to the Federal Records Act of 1950 and the Presidential and Federal Records Act Amendments of 2014 (Pub. L. No. 113-187, enacted November 26, 2014), and subject to FOIA, 5 U.S.C. § 552. These copies shall be treated as law enforcement sensitive, the premature

disclosure of which could reasonably be expected to interfere with law enforcement proceedings. BWC recordings may also be potential evidence in an ongoing investigation subject to applicable federal laws, rules, and policy concerning any disclosure or dissemination. BWC recordings from USMS operations are privileged under applicable DOJ and USMS rules, regulations, policies, and procedures and relevant case law, absent appropriate redaction prior to disclosure or dissemination. All requests for TFO BWC recordings that TFOs receive from third parties should be directed to the USMS FOIA Office within the USMS OGC. Partner agencies are not to release TFO BWC footage without advanced written notification to the USMS. Information sharing relating to the use of BWC may be restricted by DOJ and USMS policies, procedures, laws, and regulations governing the disclosure of federal information and records, to include the DOJ Touhy Regulations, 28 C.F.R. § 16.21 et seq.

17. All TFO BWC recordings made during federal task force operations will be provided to the USMS in a timely manner and in accordance with standard operating procedures. When public release is requested, consistent with C.3.d, the USMS will work with partner agencies to expedite the release of BWC recordings depicting conduct resulting in serious bodily injury or death of another consistent with USMS policies and subject to any redactions as appropriate. If a TFO parent agency plans to release TFO BWC recording(s) from a BWC issued by the parent agency that depict conduct committed solely by a TFO resulting in serious bodily injury or death of another, the TFO's parent agency shall notify the USMS in writing, providing as much advance notice as possible as to the time and manner of its release. Following the notification, the TFO's parent agency may release such recording(s), subject to any redactions as appropriate. The dissemination of any other TFO BWC recordings shall be in compliance with the USMS TFO BWC MOU Addendum signed with the TFO's parent agency.

E. Definitions:

1. **Body Worn Cameras (BWC):** Cameras which can be attached to a person and used to record video and/or audio of law enforcement encounters with the public.
2. **BWC Recording:** Audio and video recordings and associated metadata from specifically designated USMS operational employees and TFOs recorded on USMS or parent agency-owned BWCs while the DUSM or TFO is engaged in the specific USMS law enforcement operations identified herein to include the investigation of fugitives sought on state and local warrants adopted by the USMS.
3. **Deputy United States Marshal (DUSM):** Any USMS employee assigned to the 0082 or 1811 job series.
4. **Metadata:** A set of data that describes and gives information about other data.
5. **Parent Agency:** Used when referring to a participating task force agency as the agency with which the TFO is employed.
6. **Partner Agency:** Used when referring to a participating task force agency as an entity in relation to the USMS.
7. **Personal Identifying Information (PII):** Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information, that is linked or linkable to a specific individual.
8. **Tag Video(s):** A mechanism to identify and label uploaded videos with metadata, such as ID, title, and retention category.

9. **Task Force Officers (TFO):** Federal, State, Local, and Tribal Law Enforcement Officers who are specially deputized by the USMS and participate in USMS-led enforcement operations.
10. **Video Retention System (VRS):** An electronic platform to store audio and video recordings.

F. References:

1. [First Amendment \(U.S. Constitution, Amendment I\)](#)
2. [Fourth Amendment \(U.S. Constitution, Amendment IV\)](#)
3. [18 U.S.C. § 2246](#)
4. [28 U.S.C. § 564](#)
5. [28 U.S.C. § 566](#)
6. [34 U.S.C. § 20941\(a\)](#)
7. [34 U.S.C. § 41503\(a\)](#)
8. [28 C.F.R. § 0.111](#)
9. [28 C.F.R. § 16.21 et seq.](#)
10. Attorney General's Memorandum, [Policy on Fugitive Apprehension in FBI and DEA Cases](#) (dated August 11, 1988)
11. [Memorandum of Understanding between the Drug Enforcement Administration and the United States Marshals Service](#) (dated September 28, 2018, or as hereafter amended)
12. Attorney General's Memorandum, *Implementation of National Anti-Violent Crime Initiative* (dated March 1, 1994)
13. DOJ Office of Legal Counsel Memorandum, [Authority to Pursue Non-Federal Fugitives](#) (February 21, 1995)
14. DOJ *Touhy* Regulations, 28 C.F.R. § 16.21 et seq.
15. [Presidential Threat Protection Act of 2000](#) (Pub. L. No. 106-544, enacted December 19, 2000)
16. [Adam Walsh Child Protection and Safety Act of 2006](#) (AWA) (Pub. L. No. 109-248, enacted July 27, 2006)
17. [E-Government Act of 2002](#) (Pub. L. No. 107-347, enacted December 17, 2002)
18. *Federal Records Act of 1950* and the [Presidential and Federal Records Act Amendments of 2014 \(Pub. L. No. 113-187\)](#), enacted November 26, 2014)
19. [Freedom of Information Act](#), 5 U.S.C. § 552
20. [Privacy Act of 1974](#) (Pub. L. No 93-579, enacted December 31, 1974)
21. [Federal Rules of Criminal Procedure 41 – Search and Seizure](#)

22. [DOJ Policy Statement 0801.04, *Electronic Mail and Electronic Messaging Records Retention*](#), dated December 11, 2019
23. USMS Policy Directive 1.7, [*Code of Professional Responsibility*](#)
24. USMS Policy Directive 2.8, [*Field Operational Reports*](#)
25. USMS Policy Directive 7.1, [*Management of Personal Property*](#)
26. USMS Policy Directive 7.1.1, [*Lost Property*](#)
27. USMS Policy Directive 8.13, [*Evidence*](#)
28. USMS Policy Directive 17.6.3, [*Document Security*](#)
29. Interim DUSM Body Worn Camera Standard Operating Procedures, dated October 2021



U.S. MARSHALS Body Worn Camera Program

TFO BWC MOU ADDENDUM Appendix A

The following is controlling guidance for situations that may affect a Task Force partner agency regarding the TFO (Task Force Officer) BWC (Body Worn Camera) MOU (Memorandum of Understanding) Addendum. This guidance is issued by the United States Marshals Service (USMS) Body Worn Camera Program (BWCP) and USMS Office of General Counsel(OGC):

- **Review Boards/Other Public Dissemination:** If an agency is under a consent decree or otherwise required by statute, law, or agreement to disclose BWC footage to a review board, that entity and their access to the agency BWC and the qualifying events or incidents that are the subject of the agreement will be described in a letterhead memo that the USMS will keep in the BWC MOU tracking system. The memo should include the timeline for that board to receive the footage, if their access to an agency BWC Video Retention System is direct or indirect, and whether the review board has independent/unilateral public disclosure authority. This information will assist the USMS OGC in determining what timeline they may be under to perform agency review if a qualifying incident occurs where TFO and/or USMS BWC footage has been recorded.
- **State Law/Agency Policies:** If state law or qualifying agency policy requires recording outside the parameters of USMS TFO BWC MOU Addendum, the agency will provide that information and a copy of the policy to the USMS BWCP. The recordings of post-arrest events that are outside TFO enforcement action, i.e., medical facilities, prisoner transport, should be separated, if possible, by deactivation of the TFO BWC when the arrest scene is concluded and secure; and reactivation when the officer is operating under his agency policy alone for a non-TFO agency responsibility. When separate recording(s) are possible, the USMS will receive only the enforcement BWC recording. If deactivation and reactivation are not feasible or are not permitted by state law or parent agency policy, the entire recording will be shared with USMS with the understanding that USMS will, if necessary, redact the entire portion of any recording that shows the TFO performing an agency duty where he is not operating under the USMS Task Force (TF) MOU parameters for enforcement actions.
- **Short term operations:** Any partner TF agency not covered by an existing executed USMS TFO BWC MOU Addendum and any non-partner state, local, federal, or tribal agency are authorized to utilize their BWC during a USMS short term operation or USMS led national initiative after agreeing to share any BWC footage obtained during the operation with the USMS upon request. Any BWC footage of a critical incident such as an Officer Involved Shooting or other use of force leading to death will be shared as soon as possible after the incident. Other footage will only be requested if the USMS has a mission-related requirement that can only be supported by receipt of the BWC recording from the BWC agency. Short term operations are defined for the purpose of this Appendix as USMS Enforcement related operations where a Special Deputization is issued or mass Special Deputizations are performed. These include, but are not limited to, Operation Washout, Operation Triple Beam, USMS National Initiatives for Enforcement and any DOJ directed initiative that is enforcement oriented and led by the USMS.

United States Marshals Service
Fugitive Task Force
Memorandum of Understanding
For Non-Federal Agencies

Rev. 01/2022

PARTIES AND AUTHORITY:

This Memorandum of Understanding (MOU) is entered into by the Oakland Police Department and the United States Marshals Service (USMS) pursuant to 28 U.S.C. § 566(e)(1)(B). As set forth in the Presidential Threat Protection Act of 2000, codified at 34 U.S.C. 41503, 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 (DOJ), Office of Legal Counsel, dated February 21, 1995; Memorandum concerning the "Authority to Pursue Non-Federal Fugitives," issued by the USMS Office of General Counsel, dated May, 1, 1995; 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."). Additional authority is derived from the Attorney General's Memorandum, Implementation of National Anti-Violent Crime Initiative (March 1, 1994); Attorney General's Memorandum, Policy on Fugitive Apprehension in FBI and DEA Cases (dated August 11, 1988); Memorandum of Understanding between the Drug Enforcement Administration and the United States Marshals Service (dated September 28, 2018, or as hereafter amended); and Federal Rules of Criminal Procedure 41 – Search and Seizure.

MISSION: The primary mission of the task force is to investigate and arrest, as part of joint law enforcement operations, persons who have active warrants for their arrest. The intent of the joint effort is to investigate and apprehend federal, local, state, tribal, and territorial fugitives, thereby improving public safety and reducing violent crime. Each participating agency agrees to refer cases for which they hold the primary warrant for the subject to the RFTF (Regional Fugitive Task Force) or VOTF (Violent Offender Task Force) for adoption and investigation. Cases will be adopted by the RFTF/VOTF at the discretion of the RFTF/VOTF Chief Inspector/Chief Deputy. 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/VOTF may also adopt non-participating law enforcement agencies in investigating, locating, and arresting their fugitives. Task force personnel will be assigned federal and adopted 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/VOTF. 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, local, tribal, or territorial fugitive cases will be entered into NCIC (and other applicable state or local lookout systems) as appropriate by the concerned agency.

SUPERVISION: The RFTF/VOTF may consist of law enforcement and administrative personnel from federal, state, local, tribal, and territorial law enforcement agencies. Agency personnel must be approved by the RFTF/VOTF Chief Inspector/Chief Deputy prior to assignment to the RFTF/VOTF. Agency personnel may be removed at any time at the discretion of the RFTF/VOTF Chief Inspector/Chief Deputy. Direction and coordination of the RFTF/VOTF shall be the responsibility of the RFTF/VOTF Chief Inspector/Chief Deputy. 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/VOTF personnel, may be established at the discretion of the RFTF/VOTF Chief Inspector/Chief Deputy and will meet and confer as necessary to review and address issues concerning operational matters within the RFTF/VOTF.

PERSONNEL: In accordance with Homeland Security Presidential Directive 12, personnel assigned to the task force are required to undergo background investigations 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.

REIMBURSEMENT: If the Marshals Service receives Asset Forfeiture funding for either 1) overtime incurred by state, local, tribal, or territorial investigators who provide full time support to USMS RFTF/VOTF joint law enforcement task forces; or 2) travel, training, purchase or lease of police vehicles, fuel, supplies or equipment for state, local, tribal, or territorial investigators in direct support of state, local, tribal or territorial 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 the equivalent 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/VOTF 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/VOTF Chief

Inspector/Chief Deputy, who will review the request for reimbursement, stamp and sign indication 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.

Reimbursement for other types of qualified expenses (i.e., investigative or travel) shall be contingent upon availability of funds and the submission of a proper request for reimbursement. Task force personnel may incur investigative expenses or may be required to travel outside of the jurisdiction to which they are normally assigned in furtherance of task force operations. State, local, tribal, or territorial task force officers (TFOs) traveling on official business at the direction of the USMS shall be reimbursed directly by the USMS for their authorized travel expenses in accordance with applicable USMS policy, federal laws, rules, and regulations. The request for reimbursement must be submitted to the RFTF/VOTF Chief Inspector/Chief Deputy, or IOD program Chief (i.e., SOIB or OCAG), and must include appropriate supporting documentation.

VEHICLES: Pending the availability of asset forfeiture funding, the USMS may acquire vehicles to be utilized by state, local, tribal, or territorial investigators assigned to the RFTF/VOTF. Vehicles provided by the USMS remain in the control of the USMS and must be used solely in support of RFTF/VOTF operations. The vehicles must be available for exclusive use of the TFOs assigned to the RFTF/VOTF 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/VOTF, 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, local, tribal, or territorial 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, local, tribal, or territorial investigators assigned to the RFTF/VOTF. Equipment purchased by the USMS using Asset Forfeiture funding must be used solely in support of RFTF/VOTF operations. The equipment must be available for exclusive use of the TFOs assigned to the RFTF/VOTF 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/VOTF, 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, local, tribal, or territorial investigators for exclusive use in support of the RFTF/VOTF. If the investigator or agency is no longer a participating member of the RFTF/VOTF, any equipment issued that was not purchased with Asset Forfeiture funding will be returned to the USMS.

BODY-WORN CAMERAS AND TASK FORCE OFFICERS: As per USMS Policy, Body Worn Cameras (BWC) may be worn by TFOs operating on a USMS Task Force when their parent agency mandates their use by personnel assigned to the task force. A partner agency must

formally request to participate in the TFO BWC program and, upon approval, comply with all USMS policies, procedures, documentation, and reporting during their participation. The USMS will inform all partner agencies of which other partner agencies, if any, have been authorized to have their TFOs wear BWCs on the Task Force. Accordingly, all partner agencies should be aware that TFOs may be participating in the TFO BWC program and may be operating with BWCs on USMS task force operations in their agency's jurisdiction. TFOs whose parent agency is not approved for participation in the TFO BWC program are not allowed to deploy with BWCs on USMS missions. As of September 2021, DOJ law enforcement components are implementing BWC into their agency missions. Accordingly, all partner agencies should be aware that USMS and other DOJ law enforcement personnel may be operating with BWCs on USMS task force operations.

RECORDS, REPORTS, AND TESTIMONY: After the RFTF/VOTF has adopted a warrant, all investigative reports, evidence, and other materials generated, seized or collected by the RFTF/VOTF, relating to the fugitive investigation, shall be material within the custody and control of the RFTF/VOTF. Physical evidence, such as drugs, firearms, counterfeit credit cards, and related items may be released to the appropriate prosecuting agency. Records and information obtained during the RFTF/VOTF fugitive investigation are ordinarily not evidence and may not be released unless authorized by the Office of General Counsel (OGC). A participating agency may retain copies of RFTF/VOTF investigative reports, and other documents or materials, but they may be released only upon approval of the USMS (OGC), in consultation with the local U.S. Attorney's Office, if and as applicable. If an applicable state law mandates the release of records or reports pertaining to RFTF/VOTF activities, those documents may only be released after coordination with USMS OGC.

All investigative reporting will be prepared in compliance with existing USMS policy and procedures utilizing USMS case management systems. Every effort should be made to document investigative activities on USMS forms, such as USM-11s and USM- 210s. Reports should never contain information related to sensitive USMS programs that are deemed privileged and not subject to reporting. RFTF/VOTF records and documents, including reports on RFTF/VOTF activity prepared in cases assigned to TFOs, will be maintained in USMS electronic records and/or paper case files. Task force statistics will be maintained in the USMS case management systems. Statistics will be made available to any participating agency upon request. This section does not preclude the necessity of individual TFOs completing forms required by their employing agency. However, reports documenting task force related investigations or activities prepared by a TFO on their parent agency form, or authorized TFO BWC recordings during RFTF/VOTF operations, and any TFO's task force related email or text exchanges are deemed federal records under the control and purview of USMS, regardless of where these records are generated or kept. If an applicable state records law mandates the disclosure of task force records, the parent agency must coordinate with the USMS prior to any proposed disclosure. If information developed during a RFTF/VOTF investigation is included in such a form, the TFO's department will maintain the information as an agent of the RFTF/VOTF. Documents containing information that identifies, or tends to identify, a USMS confidential source, a USMS sensitive

program, or the use of sensitive equipment/techniques shall not be released outside of the USMS unless approved by the Office of General Counsel.

No information related to RFTF/VOTF activities may be disseminated at any time to any third party (including a non-task force law enforcement officer, other law enforcement agency, or prosecutor's office) by any task force member without the express permission of the RFTF/VOTF Chief Inspector/Chief Deputy or his/her designee, in consultation with USMS OGC where appropriate. This prohibition applies to formal and informal communications, as well as reports, memoranda, or other records compiled during the course of RFTF/VOTF operations. This prohibition also applies to information conveyed in the course of testimony. All requests for task-force related testimony requires compliance with the DOJ Touhy Regulations, 28 C.F.R.

§ 16.21, et seq. TFOs receiving requests to testify in federal or state court must notify the Office of General Counsel.

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/VOTF 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/VOTF will read and adhere to the DOJ Policy Statement on the Use of Less-Than-Lethal Devices, dated May 16, 2011, and their parent agencies will review the Policy Statement to assure that they approve. Copies of all applicable firearms, deadly force, and less-than-lethal policies shall be provided to the RFTF/VOTF Chief Inspector/Chief Deputy and each concerned TFO. In the event of a shooting involving task force personnel, the incident will be investigated by the appropriate agency(ies). 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/VOTF Chief Inspector/Chief Deputy. 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 and participant agencies.

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, limits, or modifies any party's sovereign rights or immunities under applicable law.

ADDITIONAL TERMS: No data shall be shared with other agencies for the purposes of pursuing criminal charges or civil enforcement against individuals for obtaining, providing, or supporting reproductive health care services, to ensure that the medical rights of residents of and visitors to Oakland, a sanctuary city, remain intact.

In accordance with California law, OPD shall not issue warrants for the arrest of, surrender a person in, California if the arrest/surrender is for an abortion-related crime, unless otherwise required by law

In accordance with California law, OPD shall refuse non-fugitive extradition of individuals for criminal prosecution for receiving, providing, or supporting reproductive health care services, to ensure that the medical rights of residents of and visitors to Oakland, a sanctuary city, remain intact.

EFFECTIVE DATE AND TERMINATION: This MOU is in effect once signed by all parties and terminates at the close of business on September 30, 2026. Participating agencies may withdraw their participation after providing 30 days advanced written notice to the RFTF/VOTF Chief Inspector/Chief Deputy.

Task Force:

UNITED STATES MARSHAL:

Print Name:

Signature:

Date:

CDUSM/RFTF COMMANDER (where applicable):

Print Name:

Signature:

Date:

PARTNER AGENCY:

Name: Oakland Police Department

Location (City, State): Oakland, CA

PARTNER AGENCY REPRESENTATIVE:

Print Name and Title:

Signature:

Date:

ASSISTANT DIRECTOR, INVESTIGATIVE OPERATIONS DIVISION:

Print Name:

Signature:

Date:

REQUESTING AGENCY LETTERHEAD

Requesting Agency Name

Requesting Agency Address

City and State

Date

Chief-USMS POC,

The purpose of this correspondence is to formally request that our Federally Deputized Task Force Officers, herein referred to as TFOs, be permitted to operate their department issued Body Worn Cameras during enforcement operations conducted in support of **(Name of USMS District/Regional Task Force)**. **The operation of Body Worn Cameras (BWCs) will be conducted in accordance with the guidelines and provisions outlined in the current Memorandum of Understanding (MOU) and Addendum to Fugitive Task Force Memorandum of Understanding Re: Body-Worn Camera Use by Task Force Officers between the United States Marshals Service (USMS) and the Oakland Police Department. Department of Justice Policy, the United States Marshals Service (USMS) "Standard Operation Procedures" and other applicable USMS policies and procedures.**

It is understood a formalized process has been established to facilitate this request including but not limited to the execution of a USMS Fugitive Task Force Memorandum of Understanding (MOU) Addendum in addition to ensuring the appropriate infrastructure is in place. This agency is looking to our future partnership in this endeavor. Should you have any questions or concerns please feel free to contact **(Department Agency Representative, contact information.)**

Respectfully,

(Signature - Agency Head or Representative)