

# **MEMORANDUM OF UNDERSTANDING**

BETWEEN THE

U.S. DEPARTMENT OF HOMELAND SECURITY,  
NATIONAL PROTECTION AND PROGRAMS DIRECTORATE  
FEDERAL PROTECTIVE SERVICE

AND

CITY OF OAKLAND POLICE DEPARTMENT

REGARDING CALIFORNIA PEACE OFFICER ENFORCEMENT AUTHORITY FOR  
CERTIFIED FEDERAL PROTECTIVE SERVICE PERSONNEL

## **1. PARTIES.**

The Parties to this Memorandum of Understanding (MOU) are the U.S. Department of Homeland Security, National Protection and Programs Directorate, Federal Protective Service (FPS) and the City of Oakland Police Department (OPD).

## **2. AUTHORITIES**

This MOA is authorized under the provisions of:

1. Title 40, United States Code, Section 1315, *Law Enforcement authority of Secretary of Homeland Security for protection of public property,*
- b. Department of Justice Attorney General Guidelines for the Exercise of Law Enforcement Authorities by Officers and Agents of the Department of Homeland Security Under 40 U.S.C. § 1315, dated February 18, 2005,
- c. DHS Delegation Number 17001, *Revision No. 1, Delegation to the Under Secretary for National Protection and Programs,*
- d. NPPD Delegation Number 17007.00, *Delegation of Administration of the Federal Protective Service,*
- e. FPS Director Memorandum, *Delegation of Authority to Enter Into and Sign Law Enforcement Mutual Support Agreements with Other Federal Law Enforcement Agencies, and State and Local Governments and Law Enforcement Agencies*
- f. Section 832, California Penal Code,
- g. Section 830.8(b), California Penal Code.

## **3. PURPOSE.**

The purpose of this MOU is to facilitate California Peace Officer law enforcement authority for certified FPS personnel, and establish procedures for the coordination of law enforcement activities between FPS and the OPD relating to the protection of

federal property and persons on the property within the City of Oakland. This MOU is only applicable to FPS law enforcement personnel and does not apply to FPS contract security officers.

#### **4. DEFINITIONS**

- a. Exclusive Jurisdiction: Only the Federal government has law enforcement authority and no reservations have been made to the state, except that state and local officers have the authority to serve criminal and civil process resulting from activities that occurred outside the areas of exclusive jurisdiction.
- b. Concurrent Jurisdiction: Both the state and the Federal government have law enforcement authority and may enforce their respective criminal laws and prosecute those that violate the law.
- c. Proprietary Jurisdiction: The state has primary law enforcement authority except that the Federal government can enforce federal laws of generality (those not limited in statute to special maritime and territorial jurisdiction) and federal regulations.

#### **5. SCOPE**

The scope of this MOU applies to the Federal government owned or controlled real estate. Both parties agree that the FPS' enforcement of the California Code on these properties will only be utilized in the furtherance of the protection federal property and persons thereon located in the vicinity of these properties.

#### **6. RESPONSIBILITIES.**

FPS shall:

- a. Maintain a list of FPS law enforcement personnel who have satisfied the training requirements of Section 832 of the California Penal Code and provide said list to OPD upon request.
- b. Consistent with federal law, have primary law enforcement responsibility for property owned or controlled by the federal government under exclusive or concurrent federal jurisdiction within the City of Oakland, California.
- c. Consistent with federal law, FPS will continue to support local law enforcement for all property owned or controlled by the Federal government under proprietary jurisdiction.
- d. In conjunction with the protection of federal property owned or possessed by the Federal government and the persons thereon, enforce state and local law within that property or on any street, sidewalk, or property adjacent thereto within the City of Oakland, California subject to the availability of FPS law enforcement personnel who obtain certification as Peace Officers in accordance with Section 830.8(b) of the California Penal Code.

OPD shall:

- a. Consistent with the provision of Section 830.8(b) of the California Penal Code, provide written consent for the exercise of California Peace Officer law enforcement authority by FPS law enforcement personnel who are certified in accordance with Section 832 of the California Penal Code to, in conjunction with the protection of federal property owned or possessed by the Federal government and persons thereon, enforce applicable state and local laws on federal property owned or possessed by the United States Government, or on any street, sidewalk, or property adjacent thereto within those areas of the City of Oakland, California, where the Police Chief has primary jurisdiction.
- b. Have primary law enforcement responsibility for streets, sidewalks, or property adjacent to property owned or occupied by the Federal government under the jurisdiction of the State of California within those areas of the City of Oakland, California, where the Police Chief has primary jurisdiction.

## **7. POINTS OF CONTACT.**

The FPS primary point of contact for this MOU is Deputy Regional Director Robert D. Castor, DHS-NPPD-Federal Protective Service-Region 9, 450 Golden Gate Ave., #5474, San Francisco, CA 94102, (office) 415-522-3448, (fax) 415-522-3218, (e-mail) robert.d.castor@hq.dhs.gov. The OPD primary point of contact for this MOU is Deputy Chief David Downing, 455 7<sup>th</sup> Street, Room #822, Oakland, CA 94607.

## **8. OTHER PROVISIONS.**

- a. Nothing in this MOU confers general law enforcement authority on FPS law enforcement personnel outside the normal scope of FPS law enforcement duties and the authority found in 40 U.S.C. § 1315. FPS law enforcement personnel who obtain Peace Officer status by virtue of this MOU may only exercise that authority in conjunction with their protection of federal property owned or possessed by the United States Government and the persons thereon.
- b. Nothing in this MOU is intended to conflict with current law or regulations or the directive of the DHS, FPS, other federal agency or the OPD. If a term of this MOU is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.
- c. The Parties acknowledge that this MOU does not constitute the obligation of monetary funds nor promise of indemnification by either party. Nothing in this MOU authorizes, or is intended to obligate, the Parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value, except as incorporated into an interagency agreement that complies with the 31

U.S.C. §§ 1501 and the Economy Act (or other applicable interagency transfer statute). Further, no provisions of this MOU will be interpreted to require obligation or payment of funds in violation of 31 U.S.C. § 1341 (the Anti-Deficiency Act).

d. The Parties retain all rights, privileges, immunities, and defenses provided under law and there shall be no joint or several liabilities for any action taken by either of the Parties pursuant to this MOU. Nothing in this MOU shall be construed to create an agency relationship between the Parties.

#### **9. EFFECTIVE DATE.**

The terms of this MOU become effective upon the date of signatures of both parties.

#### **10. MODIFICATION.**

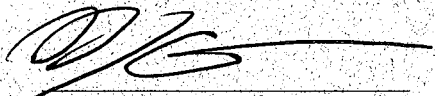
This MOU may be modified upon the mutual written consent of duly authorized representatives of the parties.

#### **11. TERMINATION.**

The terms of this MOU, including any modifications pursuant to Section 10, will remain in effect until either party, upon 30 days written notice to the other party, requests termination of this MOU.

#### **APPROVED BY:**

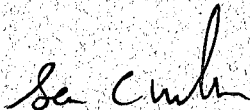
For the Federal Protective Service



Mario A. Canton  
Regional Director, Region 9  
Federal Protective Service

Date: 10/22/2014

For the Oakland Police Department



Chief Sean Whent  
Chief of the Oakland Police Department  
Oakland, California

Date: 10-22-14