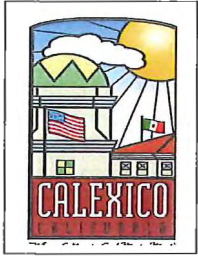


**AGENDA
ITEM**

15



CITY COUNCIL AGENDA STAFF REPORT

DATE: January 18, 2023

TO: Mayor and City Council

APPROVED BY: Esperanza Colio Warren, City Manager

PREPARED BY: Jesus Serrano, Interim Chief of Police

REVIEWED BY: Sandra I. Fonseca, Interim Finance Director

SUBJECT: Authorize City Manager to Sign a Memorandum of Understanding (MOU) with the United States Border Patrol, El Centro Sector to Incorporate a Violent Crime Task Force into the Calexico Police Department Investigation Unit

=====

Recommendation:

Authorize City Manager to Sign a Memorandum of Understanding (MOU) with the United States Border Patrol, El Centro Sector to Incorporate a Violent Crime Task Force into the Calexico Police Department Investigation Unit.

Background:

The Calexico Police Department, the leading law enforcement agency in the city of Calexico, has collaborated with federal agencies to assist in crime prevention, crime detection, and law enforcement. Calexico Police Department will create a Violent Crime Task Force (VCTF) within the Calexico Police Department Investigation Unit. The mission of this program pertains to addressing violence and criminal activity, which has become the by-product of criminal organizations/individuals engaged in illegal cross-border activities. This activity has increased in the City of Calexico and other cities within Imperial County. The Calexico Police Department formally invited the United States Border Patrol to participate in the program.

The Calexico Police Department VCTF, with the assistance of the United States Border Patrol (USBP) mission, will proactively coordinate resources and intelligence to strategically identify and investigate violent crimes and criminal activity that directly affect the City of Calexico and communities within Imperial County.

The vision of the Calexico Police Department is to collaborate in a multi-jurisdictional and multidisciplinary effort, leveraging the strengths and capabilities of our partner agencies to advance our mission. Through the integration of operations, we will gather, develop and take action on intelligence to diminish and disrupt the activities of local Criminal Organizations and Individual Criminals who commit violent crimes.

**AGENDA
ITEM
15**

Investigations will be conducted utilizing all available intelligence sources, including but not limited to law enforcement agencies, informants, databases, technology, and sophisticated investigative techniques. The VCTF team will develop and maintain relationships with Local, State, and Federal partners with the ultimate objective of reducing crime and violence in the City of Calexico/Imperial County to improve living conditions in our communities.

The purpose of the multi-agency unit has been developed to enhance criminal investigation efforts in response to increased homicides and other felonious criminal activity in the City of Calexico. The Calexico Police Department (CPD) has initiated the Violent Crime Task Force (VCTF) to disrupt, dismantle, and defeat organized crime, which tends to operate with cross-border criminal organizations with a span of control starting at the international border and expanding throughout Imperial County.

The VCTF strategy will support the Border Security Integration Initiative and the Border Security Doctrine, both of which are committed to the leveraging of resources, intelligence, legal authorities, and enforcement capabilities of federal, state, and local law enforcement agencies, as well as the Government of Mexico, against common threats.

The law enforcement effort will abate high-threat target organizations/individuals instead of solely attacking criminal activity. The effort will have an interdiction component and a local impact approach. Tactics will include targeted and focused enforcement, prosecution, intelligence integration, and operational discipline.

Federal Agents assigned to the VCTF will be appointed to conduct State Authority Investigations and will operate as State Officers after completion of a PC 832 course. Federal Agents will be assigned as Detectives to the VCTF and will operate under the approved rank. Federal Agents will be titled Task Force Officers and will operate in their daily functions as

VCTF Task Force Officers:

The VCTF will adhere to existing protocols and memorandums of understanding as they relate to all agencies. The interdiction component will operationally coordinate with all Imperial County partners with the following guiding principles:

- Contain department/agency priorities and mandates
- Identify major criminal activity impacting the community
- Narrow the scope to specific organizations and abate them from all jurisdictional angles
- Establish performance metrics-both short-term and long-term
- Include goals and objectives (actionable, measurable, sustainable)

Discussion and Analysis:

This concept is a comprehensive, layered approach to operating in a threat environment. The VCTF will include other federal, state, and local law enforcement agencies that will further unify and integrate coexisting efforts. The effort will support the Communities of Imperial County by coordinating short-term interdiction and abatement efforts that will support and foster ongoing investigations, recognizing that the functions of patrol, intelligence, investigation, and "

interdiction are not mutually exclusive but rather integral pieces of a coordinated, focused enforcement effort. Based on intelligence, the VCTF will focus enforcement efforts on violent criminal activity by conducting targeted interdiction patrols in areas where criminal activity occurs.

Within these targeted areas, the VCTF will concentrate on criminal activity, including homicide, human trafficking, auto theft, kidnapping, gang members and financiers, bulk cash couriers, drug load houses, drug load vehicles/drivers, weapons violations, and other criminally linked logistical entities.

The VCTF will leverage the following enforcement capabilities to increase criminal investigations through a comprehensive layered approach by utilizing existing legal authorities per involved agency:

- State and local law enforcement capabilities to enforce:
- Housing Code
- Health and Safety Code
- Vehicle Code (Commercial and Personal vehicles)
- Parole/ Probation Violations
- Constitutional Search & Seizure waivers
- Driver's License Compliance
- Document Fraud
- Enhancements Gang Injunction/Sentencing
- Penal Code Violations
- Welfare and Institutions Code
- City Ordinance Violations
- Business Code
- Other Code Violations with Nexus to Border

The City Attorney reviewed the agreement.

Fiscal Impact:

During the period of assignment to the VCTF, the parent agency will remain responsible for establishing the salary and benefits, including overtime, of the officers assigned to the Task Force and making all payments due. This MOU with the U.S. Border patrol will not have any impact on the General Fund or any other City Fund.

Coordinated With:

City Manager's Office.
Finance Department.
City Attorney.

Attachment(s):

1. MOU with the United States Border Patrol.
2. Exhibit "A" Violent Crime Task Force VCTF Guidelines.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES
BORDER PATROL, EL CENTRO SECTOR, AND THE CITY OF CALEXICO,
CALIFORNIA**

This Memorandum of Understanding ("MOU") is made and entered into this ___th day of _____, 2023, by and between the CITY OF CALEXICO, a political subdivision of the County of Imperial, State of California, by and through its Calexico Police Department (CPD), (CALEXICO) and UNITED STATES BORDER PATROL, EL CENTRO SECTOR ("USBP") (individually, "Party; "Collectively, "Parties").

RECITALS

WHEREAS California Penal Code Section 830.8(a) provides that federal criminal investigators and law enforcement officers are not California peace officers but may exercise the powers of arrest of a California peace officer in specified circumstances, including when requested by a California law enforcement agency to be involved in a joint task force or criminal investigation; and,

WHEREAS California Penal Code Section 830.8(a) provides that federal criminal investigators and federal law enforcement officers, prior to the exercise of these arrest powers, shall have been certified by their agency heads as having satisfied the training requirements of California Penal Code Section 832, or the equivalent thereof; and,

WHEREAS CPD and USBP mutually agree to cooperate and collaborate through the Calexico Investigations Unit ("Task Force") toward proactively coordinating available resources and intelligence to strategically identify and investigate criminal activities that directly affect the City of Calexico and other communities in Imperial County,

NOW, THEREFORE, in consideration of their mutual covenants, the Calexico Police Department and United States Border Patrol have and hereby agree to the following:

A. Calexico Police Department Obligations:

- a. CPD agrees to provide USBP with the following:
 - i. Pay for the California Penal Code Section 832 Law of Arrest Course for the full-time USBP Agent(s) assigned by the parties to the Task Force. Pursuant to Penal Code Section 832 (once qualified), CPD will grant written consent to the designation of certain USBP personnel assigned full-time or part-time to the Task Force to exercise the powers of a peace officer to enforce laws of the State of California and ordinances of the City of Calexico while involved in Task Force or criminal investigation.
 - ii. CPD will provide office space, communications equipment, and other equipment needed to support the mission of the Task Force. The mission, purpose, and operational parameters of the Task Force are set forth in the Calexico Investigations Team guidelines (Task Force Guidelines), which are attached hereto and incorporated by reference as **Exhibit ··A.**"

- iii. CPD will provide direct supervision for individuals assigned to the Task Force while these individuals are engaged in Task Force duties and related criminal investigations.

B. United States Border Patrol Obligations:

- a. USBP agrees to provide CPD with the following:
 - i. Once qualified pursuant to California Penal Code 832, USBP will issue a written certification that the designated USBP agent(s) assigned to the Task Force have satisfied the training requirements of the California Penal Code Section 832 or the equivalent thereof.
 - ii. USBP Agent(s) shall abide by USBP policies and procedures, and supervision of the USBP Agent(s) will remain the responsibility of the USBP.
 - iii. USBP shall provide vehicle(s), fuel, weapons, and safety equipment for the assigned USBP Agent(s).
 - iv. A minimum of two (2) USBP full-time agents will be assigned to the Task Force for a two (2) year period, with an option to request an extension not to exceed a period of one (1) year.
 - v. Part-time USBP agent(s) Who meet the training requirements of the California Penal Code Section 832 may be assigned for a specified period as approved by both parties

C. Calexico Police Department and Unites States Border Patrol Joint Obligations:

- a. All Parties agree to the following terms:
 - i. CPD and USBP will collaborate to ensure that ongoing strategic planning meetings are occurring and CPD is being provided with timely information regarding USBP staff performance.
 - ii. This MOU does not create an employment, tenancy, or agency relationship between the Parties or any of their officers, employees, volunteers, agents, or contractors.
 - iii. Except for the California Penal Code Section 832 Laws of Arrest Course, CPD shall not be responsible for paying USBP any payments, compensation, expenses, fees, or other remuneration.
 - iv. USBP shall not be responsible for paying CPD any payments, compensation, expenses, fees, or other remuneration.
 - v. The Parties agree that the United States is self-insured and, thus, does not carry liability insurance. The USBP will be liable to the extent provided by the Federal Tort Claims Act, as amended, 28 USC § 2671 et seq., for money damages for injury or loss of personal injury or death caused by the negligent act or omission of an employee of the agency while acting within the scope of his or her employment. The USBP will consider and decide any other claims that may arise out of this MOU in accordance with applicable federal law.
 - vi. The Parties agree to adhere to all applicable federal, state, and local laws, including but not limited to SB 54 (De Leon).

- vii. The parties understand and agree that all peace officers, and individuals authorized with the powers of arrest of a peace officer in the State of California, remain subject to California law governing the conduct of peace officers and the policies of the employing agency.
- viii. The Parties understand and agree that CPD money or personnel shall not be used to violate any law, including but not limited to the use of immigration authorities as interpreters for law enforcement matters relating to individuals in the agency or department custody.

D. General Terms:

- a. This MOU is not in effect nor enforceable until signed by both Parties.
- b. This MOU may be amended or modified only by written mutual consent of both parties.
- c. This MOU is subject to termination, without cause, by either CPD or USBP upon thirty (30) days prior written notice.

E. Notices:

- a. Any notice required to be given under this MOU shall be in writing and will be served by United States Postal mail or personal service upon the other Party. Notice shall be deemed to have been delivered only upon receipt by the Party, five (5) days after deposit in the United States Postal Services, postage prepaid, addressed to the Party to whom such notice is to be given as hereinafter provided.

Calexico Police Department
ATTN:
Calexico Police Department
420 E. 5th St.
Calexico, CA 92231
(760) 768-2140

United States Border Patrol
ATTN:
El Centro Sector Headquarters
211 W. Aten Road
Imperial, CA. 92251
(760) 335-5809

F. Binding :

- a. This MOU shall be binding upon and shall inure to the benefit of the heirs, successors, and assignees of the Parties hereto.

G. Waiver:

- a. No waiver of any breach or any of the covenants or conditions of this MOU shall be constructed to be a waiver of any other breach or to be consent to any further or succeeding breach of the same or any other covenant or condition.

H. Choice of Law:

- a. This MOU shall be governed by the laws of the United States of America and the State of California, if applicable. This MOU was made and entered in Imperial County, California. Any action brought by any Party with respect to this MOU shall be brought in a court of competent jurisdiction within Imperial County.

I. Partial Invalidity:

- a. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

J. Entire Agreement:

- a. This MOU constitutes the sole and complete agreement between the Parties. Any prior agreements, understandings, or statements are null and void.

K. Counter Parts:

- a. This MOU may be executed in counterparts.

L. Execution Agreement:

- a. Executed in the City of Calexico, California, on the day of the year first above written.

City of Calexico

United States Border Patrol

By: _____
Javier Moreno
Calexico City Council

By: _____
Gregory K. Bovino
Chief Border Patrol Agent
El Centro Sector Headquarters
City Clerk
City of Calexico

Trust

Approved:

Attest:

By: _____
Carlos C. Campos
Calexico City Attorney

By: _____
Gabriela Garcia

Exhibit "A"

Calexico Police Department Investigation Violent Crime Task Force (VCTF) Guidelines

Mission:

Proactively coordinate resources and intelligence to strategically identify and investigate violent crimes and criminal activity that directly affect the City of Calexico and communities within Imperial County.

Vision:

We are a collaborative, multi-jurisdictional, and multidisciplinary effort, leveraging the strengths and capabilities of our partner agencies to advance our mission. Through the integration of operations, we gather, develop and take action on intelligence to diminish and disrupt the activities of local Criminal Organizations and Individual Criminals who commit violent crimes. Investigations are conducted utilizing all available intelligence sources, including but not limited to law enforcement agencies, informants, databases, technology, and sophisticated investigative techniques. Our team develops and maintains relationships with Local, State, and Federal partners with the ultimate objective of reducing crime and violence in the City of Calexico/Imperial County to improve living conditions in our communities.

Purpose:

A multi-agency unit has been developed to enhance criminal investigation efforts in response to increased homicides and other felonious criminal activity in the City of Calexico. The Calexico Police Department (CPD) has initiated the Violent Crime Task Force (VCTF) to disrupt, dismantle, and defeat organized crime, which tends to operate with cross-border criminal organizations with a span of control starting at the international border and expanding throughout Imperial County.

Background:

The mission of this program pertains to addressing violence and criminal activity, which has become the by-product of criminal organizations/individuals engaged in illegal cross-border activities. This activity has increased in the City of Calexico and other cities within Imperial County. The CPD formally invited the United States Border Patrol to participate in the program.

Strategy:

The VCTF will support the Border Security Integration Initiative and the Border Security Doctrine, both of which are committed to the leveraging of resources, intelligence, legal authorities, and enforcement capabilities of federal, state, and local law enforcement agencies, as well as the Government of Mexico, against common threats.

The law enforcement effort will abate high-threat target organizations/individuals instead of solely attacking criminal activity. The effort will have an interdiction component and a local impact approach. Tactics will include targeted and focused enforcement, prosecution, intelligence integration, and operational discipline.

Federal Agents assigned to the VCTF will be appointed to conduct State Authority Investigations and operate as State Officers after completing a PC 832 course. Federal Agents will be assigned as Detectives to the VCTF and will operate under the approved rank.

Federal Agents will be titled Task Force Officers and will operate in their daily functions as VCTF Task Force Officers:

The VCTF will adhere to existing protocols and memorandums of understanding as they relate to all agencies. The interdiction component will operationally coordinate with all Imperial County partners with the following guiding principles:

- Contain department/agency priorities and mandates
- Identify major criminal activity impacting the community
- Narrow the scope to specific organizations and abate them from all jurisdictional angles
- Establish performance metrics-both short-term and long-term
- Include goals and objectives (actionable, measurable, sustainable)

Mission Benefit:

This concept is a comprehensive, layered approach to operating in a threat environment. The VCTF will include other federal, state, and local law enforcement agencies that will further unify and integrate coexisting efforts.

The effort will support the Communities of Imperial County by coordinating short-term interdiction and abatement efforts that will support and foster ongoing investigations, recognizing that the functions of patrol, intelligence, investigation, and interdiction are not mutually exclusive but rather integral pieces of a coordinated, focused enforcement effort.

Operational Parameters:

Based on intelligence, the VCTF will focus enforcement efforts on violent criminal activity by conducting targeted interdiction patrols in areas where criminal activity occurs.

Within these targeted areas, the VCTF will concentrate on criminal activity, including Homicide, Human Trafficking, Auto theft, kidnapping, gang members and financiers, bulk cash couriers, drug load houses, drug load vehicles/drivers, weapons violations, and other criminally linked logistical entities.

Enforcement Capabilities:

The VCTF will leverage the following enforcement capabilities to increase criminal investigations through a comprehensive layered approach by utilizing existing legal authorities per involved agency:

- State and local law enforcement capabilities to enforce:
 - Housing Code
 - Health and Safety Code
 - Vehicle Code (Commercial and Personal vehicles)
 - Parole/ Probation Violations
 - Constitutional Search & Seizure waivers
 - Driver's License Compliance
 - Document Fraud

- Enhancements Gang Injunction/Sentencing
- Penal Code Violations
- Welfare and Institutions Code
- VCTFy Ordinance Violations
- Business Code
- Other Code Violations with Nexus to Border