

**SAFE STREETS TASK FORCE (SSTF) MEMORANDUM OF
UNDERSTANDING (MOU)**

1) PARTIES

This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI); and the Hidalgo County Sheriff's Office.

2) AUTHORITIES

Authority for the FBI to enter into this agreement can be found at 28 U.S.C. § 533; 42 U.S.C. § 3771; and 28 C.F.R. § 0.85 and applicable United States Attorney General Guidelines.

3) PURPOSE

The purpose of this MOU is to delineate the responsibilities of SSTF participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

4) MISSION

The mission of the SSTF is to identify and target for prosecution organized crime groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence (murder), robbery (aggravated assault), violent street gangs, as well as an intensified focus on the apprehension of dangerous fugitives. The SSTF will enhance the effectiveness of Federal/State/Local law enforcement resources through a well coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

5) SUPERVISION AND CONTROL

A. Supervision

Overall supervision of the personnel on the SSTF shall be the shared responsibility of the participants.

The Special Agent in Charge (SAC) of the SAN ANTONIO DIVISION shall designate one Supervisory Special Agent (SSA) to have direct and daily responsibility for all personnel and investigative matters pertaining to the SSTF.

Responsibility for conduct, not under the direction of the SAC or SSA, of each SSTF member, both personally and professionally, shall remain with the respective agency head and each agency shall be responsible for the actions of their respective employees.

Each agency member who is a SSTF member will be subject to the personnel rules, regulations, laws, and policies applicable to those of their respective agencies. FBI participants will continue to adhere to the Bureau's ethical standards and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the Department of Justice.

Each SSTF member will continue to report to his or her respective agency head for non-investigative administrative matters not detailed in this MOU.

Subject to other provisions in this document, continued membership on the SSTF will be based on performance and will be at the discretion of each member's respective supervisor.

B. Case Assignments

The FBI SSA with designated oversight for investigative and personnel matters will be responsible for opening, monitoring, directing, and closing SSTF investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.

Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the SSA with designated oversight for investigative and personnel matters.

For FBI administrative purposes, SSTF cases will be entered into the relevant FBI computer system.

SSTF members will have equal responsibility for each case assigned. SSTF personnel will be totally responsible for the complete investigation from predication to resolution.

C. Resource Control

Specific control of SSTF resources, including personnel, and the continual dedication of SSTF resources shall be retained by the participating agency heads, who will be kept fully apprised of all investigative developments by their respective subordinates.

6) OPERATIONS

A. Investigative Exclusivity

It is agreed that matters designated to be handled by the SSTF will not knowingly be subject to non-SSTF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the SSTF'S existence and areas of concern.

It is agreed that there is to be no unilateral action taken on the part of the FBI or participating agencies relating to SSTF investigations or areas of concern. All law enforcement actions will be coordinated and cooperatively carried out.

B. Informants

The disclosure of FBI informants to non-SSTF members will be limited to those situations where it is essential to the effective performance of the SSTF. These disclosures will be consistent with applicable FBI guidelines.

Non-FBI SSTF members may not make any further disclosure of the identity of an FBI informant, including to other members of the SSTF. No documents which identify, tend to identify, or may indirectly identify an FBI informant may be released without prior FBI approval.

In those instances where a participating agency provides an informant, the FBI may, at the discretion of the SAC, become solely responsible for the informant's continued development, operation, and for compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

The United States Attorney General's guidelines and FBI policy and procedure for operating FBI informants and cooperating witnesses (CWs) shall apply to all FBI informants and CWs opened and operated in furtherance of SSTF investigations. Documentation of, and any payments made to, FBI informants and CWs shall be in accordance with FBI policy and procedure.

Operation, documentation, and payment of solely state, county, or local informants and CWs opened and operated by Non-FBI SSTF members in furtherance of SSTF investigations must be in accordance with the United States Attorney General's guidelines. Documentation of state, county, or local informants and CWs opened and operated in furtherance of SSTF investigations shall be maintained at an agreed to location.

C. Reports and Records

All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by each member of the SSTF will be made available for inclusion in the respective investigative agencies' files as appropriate.

SSTF reports prepared in cases assigned to state, county and local participants will be maintained at a FBI approved location; original documents will be maintained by the FBI.

Records and reports generated in SSTF cases which are opened and assigned by the FBI SSA with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for SSTF

SSTF investigative records maintained at the McAllen office of the FBI will be available to all SSTF members, as well as their supervisory and command staff subject to pertinent legal, administrative and /or policy restrictions.

All evidence and original tape recordings (audio and video) acquired during the course of the SSTF investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval and chain of custody will be adhered to by SSTF personnel.

ALL SSTF investigative records will be maintained at an approved FBI location.

Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies.

Classified information and/or documents containing information that identifies or tends to identify an FBI informant shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

7) **INFORMATION SHARING**

No information possessed by the FBI, to include information derived from informal communications by the Assignee with personnel of the FBI, may be disseminated by the Assignee to non SSTF personnel without the permission of the Assignee's designated FBI SSTF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the Participating Agencies that would permit the Participating Agencies to receive that information directly. Likewise, the Assignee will not provide any Participating Agency information to the FBI that is not otherwise available to it unless authorized by appropriate Participating Agency officials.

8) **PROSECUTIONS**

SSTF investigative procedure is to conform to the requirements for Federal Prosecution.

A determination will be made on a case-by-case basis whether the prosecution of SSTF cases will be at the State or Federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the SSTF.

In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a SSTF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities.

Whether to continue and/or conduct additional investigation of the state or local crimes involved will be at the sole discretion of the respective state and local authorities.

A. Investigative Methods/Evidence

For cases assigned to an FBI Special Agent or in which FBI informants or cooperating witnesses are utilized, the parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance.

In all cases assigned to state, county, or local law enforcement participants, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities to the greatest extent possible. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policy and procedures of the FBI.

B. Undercover Operations

All SSTF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. All participating agencies may be requested to enter into an additional Memorandum of Understanding (MOU) if a member of the participating agency is assigned duties which require the officer to act in an undercover capacity.

9) DEADLY FORCE AND SHOOTING INCIDENT POLICIES

Members of the SSTF will follow their own agency's policy concerning firearms discharge and use of deadly force.

10) DEPUTATIONS

Local and state law enforcement personnel designated to the SSTF, subject to a limited background inquiry, may be sworn as federally deputized Special Deputy United States Marshals, with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the SSTF or until the termination of the SSTF, whichever comes first.

Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

11) VEHICLES

The FBI may authorize members of the SSTF to use vehicles owned or leased by the FBI when necessary in connection with SSTF surveillance, case management and investigations, and if available.

When authorized, participating agency personnel using FBI vehicles agree to operate the vehicles in accordance with all applicable FBI rules and regulations as outlined in the FBI Manual of Administrative Operations and Procedures (MAOP), Part I Section 3.1.

FBI vehicles, including Government-owned, rented, and leased vehicles, are to be used for official business only.

The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to SSTF business.

The responsibility for all other liability attributed to the participating agencies resulting from the use of SSTF vehicles by their employees, confidential informants, or by cooperating witnesses rests with the individual participating agency.

The participating agencies agree to be responsible for any damage incurred to SSTF vehicles caused by any act or omission on the part of their respective employees and participating agencies agree to assume financial responsibility for property damage to said vehicles.

A separate vehicle use agreement will be executed by the SSTF member.

12) SALARY/OVERTIME COMPENSATION

The overtime salaries of SSTF members may be reimbursed by the FBI in accordance with a separate Cost Reimbursement Agreement.

13) PROPERTY AND EQUIPMENT

Property utilized by the SSTF in connection with authorized investigations and/or operations and is the custody and control and used at the direction of the SSTF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment.

14) FUNDING

This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

15) **FORFEITURES**

The FBI shall be responsible for the processing of assets seized for federal forfeiture in conjunctions with SSTF operations.

Asset forfeitures will be conducted in accordance with Federal law, and the rules and regulations set forth by the FBI and Department of Justice (DOJ). Forfeitures attributable to SSTF investigations may be distributed among the agencies participating in the SSTF.

16) **DISPUTE RESOLUTION**

In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the SSTF's objectives.

The parties agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

17) **MEDIA RELEASES**

All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

18) **SECURITY CLEARANCES**

Thirty days prior to being assigned to the SSTF, each candidate will be required to furnish pages 1, 2, 3, 9 (certification only), and 10 of the "Questionnaire for Sensitive Positions" (SF-86). Sometime thereafter, a representative from the FBI will conduct an interview of each candidate.

If, for any reason, a candidate is not selected, the participating agency will be so advised and a request will be made for another candidate.

Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policy and procedures.

During the briefing, each candidate will execute a non-disclosure agreement (SF-312) and FD-868, as may be necessary or required by the FBI.

When FBI space becomes available, before receiving access, SSTF members will be required to undergo a full background investigation and receive and maintain a "Top Secret" security clearance. In addition, SSTF members will also be required to complete the "Questionnaire for Sensitive Positions" and the required fingerprint cards. In the interim, SSTF members will not be allowed unescorted access to FBI space.

Upon departure from the SSTF, each candidate will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement previously agreed to by the SSTF member.

19) **LIABILITY**

Unless specifically addressed by the terms of this MOU, the parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees. Legal representation by the United States is determined by DOJ on a case by case basis. The FBI cannot guarantee the United States will provide legal representation to any Federal, state or local law enforcement officer.

Congress has provided that the exclusive remedy for the negligent or wrongful act or omission of an employee of the United States government, acting within the scope of his employment, shall be an action against the United States under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346(b), §§ 2671-2680.

For the limited purpose of defending claims arising out of SSTF activity, state or local law enforcement officers who have been specially deputized and who are acting within the course and scope of their official duties and assignments pursuant to this MOU, may be considered an "employee" of the United States government as defined in 28 U.S.C. § 2671. See 5 U.S.C. § 3374(c)(2).

Under the Federal Employees Liability Reform and Tort Compensation Act of 1988 (commonly known as the Westfall Act), 28 U.S.C. § 2679(b)(1) the Attorney General or her designee may certify that an individual defendant acted within the scope of his employment at the time of the incident-giving rise to the suit. Id., 28 U.S.C. § 2679(d)(2). The United States can then be substituted for the employee as the sole defendant with respect to any tort claims. 28 U.S.C. § 2679(d)(2). If the United States is substituted as defendant, the individual employee is thereby protected from suits in his official capacity.

If the Attorney general declines to certify that an employee was acting within the scope of employment, "the employee may at any time before

trial petition the court to find and certify that the employee was acting within the scope of this office or employment." 28 U.S.C. § 2679(d)(3).

Liability for negligent or willful acts of SSTF employees, undertaken outside the terms of this MOU will be the sole responsibility of the respective employee and agency involved.

Liability for violations of federal constitutional law rests with the individual federal agent or officer pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971) or pursuant to 42 U.S.C. § 1983 for state and local officers or cross-deputized federal officers.

Both state and federal officers enjoy qualified immunity from suit for constitutional torts "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Harlow v. Fitzgerald, 457 U.S. 800 (1982).

SSTF officers may request representation by the U.S. Department of Justice for civil suits against them in their individual capacities for actions taken within the scope of employment. 28 C.F.R §§ 50.15, 50.16.

An employee may be provided representation "when the actions for which representation requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or [her] designee determines that providing representation would otherwise be in the interest of the United States." 28 C.F.R. § 50.15(a).

A SSTF officer's written request for representation should be directed to the Attorney General and provided to the Chief Division Counsel (CDC) of the FBI division coordinating the SSTF. The CDC will then forward the representation request to the FBI's Office of the General Counsel (OGC) together with a Letterhead memorandum concerning the factual basis for the lawsuit. FBI/OGC will then forward the request to the Civil Division of DOJ together with an agency recommendation concerning scope of employment and Department representation. 28 C.F.R. § 50.15(a)(3).

If a SSTF officer is found to be liable for a constitutional tort, he/she may request indemnification from DOJ to satisfy an adverse judgment rendered against the employee in his/her individual capacity. 28 C.F.R. § 50.15(c)(4). The criteria for payment are substantially similar to those used to determine whether a federal employee is entitled to DOJ representation under 28 C.F.R. § 50.15(a).

20) **DURATION**

The term of this MOU is for the duration of the SSTF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

Any participating agency may withdraw from the SSTF at any time by written notification to the SSA with designated oversight for investigative and personnel matters or program manager of the SSTF at least 30 days prior to withdrawal.

Upon termination of this MOU, all equipment provided to the SSTF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any SSTF participation.

COST REIMBURSEMENT AGREEMENT
BETWEEN
THE FEDERAL BUREAU OF INVESTIGATION (FBI)
AND
HIDALGO COUNTY SHERIFF'S OFFICE (AGENCY)

TASK FORCE FILE # 281D-SA-C46020

Pursuant to Congressional appropriations, the FBI receives authority to pay overtime for police officers assigned to the formalized **RIO GRANDE VALLEY VIOLENT CRIME TASK FORCE**, as set forth below for expenses necessary for detection, investigation, and prosecution of crimes against the United States. It is hereby agreed between the FBI and the **HIDALGO COUNTY SHERIFF'S OFFICE** located at 711 El Cibolo, Edinburg, Texas 78540, Taxpayer Identification Number: **74-6000717** Phone Number: (956) 383-8114 that:

1) Commencing upon execution of this agreement, the FBI will, subject to availability of the required funding, reimburse the agency for overtime payments made to the officers assigned full-time to the task force.

2) Requests for reimbursement will be made on a monthly basis and should be forwarded to the FBI field office as soon as practical after the first of the month which follows the month for which reimbursement is requested. Such requests should be forwarded by the Supervisor of the agency to the FBI Task Force Squad Supervisor and Special Agent in Charge for their review, approval, and processing for payment.

3) Overtime reimbursements will be made directly to the agency by the FBI. All overtime reimbursement payments are made by electronic fund transfer (EFT). An ACH Vendor/Miscellaneous Payment Enrollment Form must be on file with the FBI to facilitate EFT.

4) Overtime reimbursements will be calculated at the usual rate for which the individual officer's time would be compensated in the absence of this agreement. However, said reimbursement, per officer, shall not exceed monthly and/or annual limits established annually by the FBI. The limits, calculated using Federal pay tables, will be in effect for the Federal fiscal year running from October 1st of one year through September 30th of the following year, unless changed during the period. The FBI reserves the right to change the reimbursement limits, upward or downward, for subsequent periods based on fiscal priorities and appropriations limits. The FBI will notify the agency of the applicable annual limits prior to October 1st of each year.

5) The number of agency officers assigned full-time to the task force and entitled to overtime reimbursement by the FBI shall be approved by the FBI in advance of each fiscal year. Based on the needs of the task force, this number may change periodically, upward or downward, as approved in advance by the FBI.

6) Prior to submission of any overtime reimbursement requests, the agency must prepare an official document setting forth the identity of each officer assigned full-time to the task force, along with the regular and overtime hourly rates for each officer. Should any officers change during the

year, a similar statement must be prepared regarding the new officers prior to submitting any overtime reimbursement requests for the officers. The document should be sent to the field office for FBI review and approval.

7) Each request for reimbursement will include the name, rank, ID number, overtime compensation rate, number of reimbursable hours claimed, and the dates of those hours for each officer for whom reimbursement is sought. The request must be accompanied by a certification, signed by an appropriate Supervisor of the agency, that the request has been personally reviewed, the information described in this paragraph is accurate, and the personnel for whom reimbursement is claimed were assigned full-time to the task force.

8) Each request for reimbursement will include an invoice number, invoice date, taxpayer identification number (TIN), and the correct banking information to complete the electronic fund transfer. The necessary banking information is the Depositor Account Title, Bank Account Number, Routing Number, and Type of Account (either checking, savings, or lockbox). If the banking information changes, a new ACH Vendor/Miscellaneous Payment Enrollment Form must be submitted to the FBI.

9) Requests for reimbursement must be received by the FBI no later than December 31st of the next fiscal year for which the reimbursement applies. For example, reimbursements for the fiscal year ending September 30, 2008, must be received by the FBI by December 31, 2008. The FBI is not obligated to reimburse any requests received after that time.

10) This agreement is effective upon signature of the parties and will remain in effect for the duration of the agency's participation in the task force, contingent upon approval of necessary funding, and unless terminated in accordance with the provisions herein. This agreement may be modified at any time by written consent of the parties. It may be terminated at any time upon mutual consent of the parties, or unilaterally upon written notice from the terminating party to the other party at least 30 days prior to the termination date.

FOR THE AGENCY:

FOR THE FBI:

Date

Special Agent in Charge Date
Maury V. Taylor 3/5/09
Contracting Officer Date
FBI Headquarters

Maury V. Taylor
Contracting Officer
Federal Bureau of Investigation

NOTICE OF LIMITS

FOR

FY 2009 STATE AND LOCAL OVERTIME REIMBURSEMENTS

Subject to the availability of funding and legislative authorization, the FBI may reimburse state and local law enforcement agencies (LEA) for the cost of overtime incurred by officers assigned **full-time** to FBI managed task forces provided the overtime expenses were incurred as a result of task force related activities. Consistent with regulation and policy, a separate Cost Reimbursement Agreement (CRA) must be executed between the FBI and the LEA and an underlying Memorandum of Understanding (MOU) must exist in support of the task force relationship.

For Fiscal Year 2009, the maximum limit for reimbursements under these CRAs is \$1,360.72 per month and \$16,328.75 per year for each officer assigned **full-time** to the task force. This rate is effective for overtime worked on or after October 1, 2008.

FBI field offices and state and local law enforcement agencies may process overtime reimbursement requests under formally executed CRAs in accordance with the authority of this notice. This notice is issued unilaterally by the FBI's Head of Contracting Activity and does not require formal acceptance and signature by FBI field offices and state and local law enforcement agencies.



Walter V. Meslar
Head of Contracting Activity
Federal Bureau of Investigation

July 15, 2008
Date

DATE: February 18, 2009
 DEPARTMENT HEAD: Guadalupe "Lupe" Trevino
 DEPARTMENT NAME: FBI-SSTF
 ACCOUNT NUMBER: 9-1284-421-00-280-056-0-XXX

SUBJECT: **Budget Amendments (Increases) in Accordance with Local Government Code, Chapter 111, Subchapter C**

Honorable Commissioners' Court of Hidalgo County:

I would like to request the following Amendments (increases) to my budget in accordance with Local Government Code, Chapter 111, Subchapter C

INCREASE OBJECT NUMBER(S)	ACCOUNT OBJECT NAME	AMOUNT
9-1284-421-00-280-056-0-131	Overtime	16,328.75

TOTAL APPROPRIATIONS 16,328.75

9-1284-331-10-280-056-0-000 Federal Bureau of Investigation (FBI) 16,328.75

TOTAL REVENUES 16,328.75

REASON: **To appropriate budget for the FY 2009 FBI overtime hours agreement.**

Note: Expenses relating to benefits attributed to the overtime hours are to be charged to the Sheriff's Office Budget (Account Number: 9-1100-421-00-280-001-0).

 DEPARTMENT HEAD SIGNATURE

 / /
 DATE

 APPROVED COMMISSIONERS' COURT

 ATTEST COUNTY CLERK