County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

LEROY D. BACA, SHERIFF

~~December 9~~ December 16, 2008

REVISED

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Dear Supervisors:

APPROVE A MEMORANDUM OF UNDERSTANDING FOR THE SHERIFF TO PROVIDE SECURITY SERVICES AND AUTHORIZE THE SHERIFF'S DEPARTMENT TO CHARTER A PRIVATE AIRLINE TO TRANSPORT DEPUTY PERSONNEL TO THE 56th PRESIDENTIAL INAUGURATION IN WASHINGTON, D.C. (ALL DISTRICTS) (3 VOTES)

SUBJECT

The Los Angeles County Sheriff's Department (Department) received a request from the 56th Presidential Inauguration Planning Committee to provide supplemental security services for the inauguration of President-Elect Barack Obama. The Department is requesting your Board to sign a Memorandum of Understanding with the Government of the District of Columbia Metropolitan Police Department (MPD) and to authorize chartered air transportation to Washington, D.C. for the personnel who are participating in this event. The MPD will fully reimburse salaries, airfare, and per diem costs as described herein.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the Memorandum of Understanding (MOU) between the MPD for $1,227,000 for the cost of air travel ($533,000), salaries ($616,387), and per diem ($78,000), and the Department for its personnel to provide requested security services for the 56th presidential inauguration. (Request Attached)

2. Instruct and delegate authority to the Acting Auditor-Controller to enter into an agreement, not-to-exceed $533,000 for the procurement of air travel for Department personnel providing supplemental security services for the 56th Presidential Inauguration.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Approximately 93 local law enforcement agencies throughout the United States have agreed to furnish 4,000 personnel to provide supplemental security at the Presidential Inauguration ceremonies in Washington, D.C. Participation in the inauguration ceremony, including pre-event training, requires Department personnel to be present in Washington, D.C. from January 18, 2009, to January 21, 2009.

By sending 347 deputy personnel to Washington, D.C., the Department faces several challenges in ensuring that all personnel and their equipment arrive as required. The costs of procuring individual flights and the logistics involved in ensuring that all personnel arrive when required, are considerably more expensive and labor intensive than if the Department were to charter air travel for all personnel.

Additionally, the supplemental security services provided by the Department will require personnel to travel with their uniforms, duty weapons, vests, gun belts, and emergency response gear. By chartering a flight, Department personnel will be able to bypass the security screening process and ensure that personnel, and their equipment, will arrive securely. Because the Department is providing such a large contingency of personnel, adherence to a strict, all-inclusive itinerary is compulsory in order to fulfill all of the programmatic requirements of the event.

Implementation of Strategic Plan Goals

These recommendations are consistent with the Los Angeles County Strategic Plan, Goal 3, Organizational Effectiveness, by increasing the efficiency and effectiveness of the Department's overall functionality at this event; and Goal 4, Fiscal Responsibility, as the chartering of a flight will significantly reduce the Department's transportation costs for participation in this event.

FISCAL IMPACT/FINANCING

The cost of the air travel will be paid for with funds allocated to the Auditor-Controller for County travel and will be reimbursed by the ~~Government of the District of Columbia Metropolitan Police Department (MPD)~~ MPD. The MPD has agreed to reimburse up to $533,000 for the charter air travel. Furthermore, hotel accommodations have already been contracted by the MPD. Therefore, the hotel reservations and room assignments

will be handled and paid for by the MPD, refer to the attached MOU and letter. The Department has agreed to the Federal per diem travel training rates, which are lower than those of California's travel training rates, and will not include the capital cities incidental expense allowance. All participants will be required to sign a waiver agreeing to the Federal per diem rate and absence of the capital cities incidental expense allowance.

Appropriation for the Department's participation in this event will be included in the Chief Executive Office's mid-year Budget Adjustment.

The total estimated ~~net County~~ fully reimbursable costs, including air travel at approximately $1,500 per person (with a not-to-exceed limit of $533,000), per diem reimbursement ~~($97,000)~~ ($78,000), and Salaries ($616,000), is $1,227,000. ~~is $1616,000. The MPD will reimburse the County $630,000 $611,000 for the travel and per diem, therefore, the total net County cost is $986,000.~~ Additionally, the cold weather gear, ~~includes heavy jackets, gloves, hats and turtleneck dickies~~, at $232 per person, will be paid for utilizing Asset Foreiture funds.

Employees attending the inauguration will also be placed on a "flexible" 40-hour work schedule for the week of the inauguration. Per the Inaugural Planning Committee, the work schedule is expected to be as follows:

January 18, 2009	Eight (8) hours allotted for travel day;
January 19, 2009	Eight (8) hours allotted for briefing and deputation ceremony;
January 20, 2009	Maximum sixteen (16) hours for Inauguration Parade and Balls;
January 21, 2009	Eight (8) hours allotted for travel day;

MPD is adhering to a standardized reimbursement schedule for every participating law enforcement agency throughout the nation. The MPD agreement, utilized by each agency, details the standardized funding breakdown for each of the categorical costs to be incurred during this event. Therefore, the categorical costs to be reimbursed to the Department are consistent with those for every agency participating in the inauguration. The national model agreement between MPD and the law enforcement agencies taking part in the inauguration does not include reimbursement for Employee Benefit costs. However, these are ongoing costs which will be incurred, regardless of this deployment.

No new salary or employee benefits costs will be incurred by the County, including no overtime back-fill. Any hours worked by Department members in excess of the 40 hours will be compensated by the MPD at the overtime rate of time and one-half hours. ~~pay per overtime hour worked~~

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Department is requesting your Board's instruction to the Auditor-Controller to authorize a chartered flight, thereby, ensuring a time-sensitive pricing guarantee. This Board letter ~~has~~ and the Agreement have been reviewed and approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This requested Board action will not impact day-to-day public services provided by the Department.

CONCLUSION

Upon approval by the Board, please return two adopted copies of this letter to the Department. The Department's contact for this requested Board action is ~~Lieutenant Kelly Fraser of Emergency Operations Bureau~~ Commander Michael Grossmann of the Office of Homeland Security. ~~She~~ He can be reached at ~~(323) 980-2202~~ (323) 526-5756.

Attached is a 2009 Inauguration Fact Sheet.

Sincerely,

Lee Baca

LEROY D. BACA
SHERIFF

GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT

Sheriff Leroy D. Baca
Los Angeles County Sheriff's Department
4700 Ramona Boulevard
Monterey Park, CA 91754-2169

Dear Sheriff Baca:

Based on my discussion with personnel from your staff the District of Columbia's Metropolitan Police Department (DCMPD) agrees to reimburse the Los Angeles County Sheriff's Department (LASD) for the following costs incurred for providing assistance for the 2009 Presidential Inauguration:

Salaries
Salaries for 347 personnel will be reimbursed in the amount of $616,387. DCMPD will reimburse LASD at time and a half rate for any overtime incurred beyond the base period of 40 regular work hours should the circumstances change on the day of the event.

Airfare
- Not to exceed $533,000 for the chartered flights.

Per Diem
- DCMPD will reimburse LASD $77,728 for the standard GSA meals and incidentals per diem rate for the DC area. This is calculated at $48 per day for the two travel days and $64 per day for the two work days for 347 officers.

To summarize all this, DCMPD is willing to reimburse LASD:

Salaries	616,387
Airfare (not to exceed)	533,000
Per Diem	77,728
Total	**$ 1,227,115**

Please let us know as soon as possible whether this cost proposal is acceptable. I look forward to working with your agency on this important and historical event. Please feel free to contact me or Leeann Turner on (202) 727-4218 or via email at leeann.turner@dc.gov.

Sincerely,

Cathy L. Lanier
Chief of Police

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is executed by the United States Attorney for the District of Columbia, the Metropolitan Police Department of Washington, D.C. (MPD) and the Los Angeles County Sheriff's Department.

I. PURPOSE

The purpose of the MOU is to outline the mission of the Presidential Inauguration Task Force (PITF) in the Washington, D.C. area from January 15, 2009, to January 21, 2009. Additionally, this MOU will define relationships between the U.S. Marshal Service, MPD and the Los Angeles County Sheriff's Department, as well as other participating agencies with regard to policy, guidance, utilization of resources, planning, training, public relations and media in order to maximize interagency cooperation.

II. MISSION

The mission of the PITF is to achieve maximum coordination and cooperation in bringing to bear combined resources to effectively implement measures to promote the safety of the President of the United States, inaugural participants, the public, visitors and residents while allowing individuals and groups to exercise their legal rights.

Additionally, all units that are participating agencies will coordinate their activities and be considered a member of the PITF, sharing information and coordinating investigative and law enforcement efforts which may result from any apprehensions originating from the PITF.

III. ORGANIZATIONAL STRUCTURE

A. Direction

The Los Angeles County Sheriff's Department acknowledges that the PITF is a joint operation in which all agencies, including the Metropolitan Police Department of District of Columbia, Office of the United States Attorney for District of Columbia, United States Marshals Service, United States Secret Service, United States Federal Bureau of Investigation, National Park Service, Los Angeles County Sheriff's Department and other agencies, act as partners in the operation of the PITF. The Command Center for the operations will be located at the Metropolitan Police Department (MPD) Headquarters and will be staffed by officers from the United States Marshals Service, MPD, U.S. Park Police, and the Federal Bureau of Investigation. These officers will serve as the Executive Council for this operation.

B. Supervision

The day-to-day operation and administrative control of the PITF will be the responsibility of a Tactical Team Commander selected from one of the participating agencies. The Tactical Team Commander will coordinate with supervisory personnel of the United States Secret Service as the sponsoring agency for Special Deputation (federal) and with MPD as the lead agency for the operation. The daily management of the PITF will be closely monitored by the MPD.

Responsibility for the conduct of the PITF members, both personally and professionally, shall remain with the respective agency directors subject to the provisions in Section IX (Liability).

C. Unilateral Law Enforcement Action

There shall be no unilateral action taken on the part of any participating non-federal or non-MPD law enforcement agency relating to PITF activities. All law enforcement action by participating non-federal and non-MPD law enforcement agencies will be coordinated and conducted in a cooperative manner under the direction of the Executive Council and the MPD.

IV. PROCEDURES

A. Personnel

Continued assignment of personnel to the PITF will be based upon performance and will be at the discretion of the respective agency. Each participating agency will be provided with reports as necessary regarding the program, direction, and accomplishment of the PITF.

B. Deputation

All local and state law enforcement personnel designated to the PITF will be subject to background inquiry and will be federally deputized, with the United States Marshals Service securing the required deputation authorization. These deputations will remain in effect throughout the tenure of each officer's assignment to the PITF or until termination of the PITF, whichever occurs first. Each individual deputized as a Special Deputy U.S. Marshal will have all necessary law enforcement authority as provided by 28 U.S.C. § 566(c) and (d); 28 U.S.C. § 564; 18 U.S.C. § 3053; 28 C.F.R. § 0.112, and the deputation authority of the Deputy Attorney General. The Special Deputy U.S. Marshals will be responsible for 1) performing necessary law enforcement steps to keep the peace of the United States; 2) enforcing federal law (e.g., 18 U.S.C. §§ 112, 1116, and 878, as well as other provisions of that title); 3) protecting visiting foreign officials, official guests, and internationally protected persons; 4) taking necessary law enforcement steps to prevent violations of federal law, and; 5) enforcing District of Columbia law as a result of the deputation (see D.C. Code 23-581 and 28 U.S.C. § 564).

Individuals deputized as Special Deputy U.S. Marshals pursuant to this MOU who suffer a disability or die as a result of personal injury sustained while in the performance of his or her duty during the assignment shall be treated as a federal employee as defined by Title 5 U.S.C. section 8101. Any such individuals who apply to the U.S. Department of Labor for federal workers' compensation under Section 3374 must submit a copy of this MOU with his or her application. All applicants will be processed by the U.S. Department of Labor on a case by case basis in accordance with applicable law and regulation.

C. Law Enforcement Activities

Since it is anticipated that almost all cases originating from any PITF arrests will be prosecuted at the state or local level, the law enforcement methods employed by all participating law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to a change of venue for prosecution.

D. Prosecution

The criteria for determining whether to prosecute a particular violation in federal or state court will focus upon achieving the greatest overall benefit to law enforcement and the community. Any question which arises pertaining to prosecutorial jurisdiction will be resolved through the Executive Council. The U.S. Attorney's Office for the District of Columbia has agreed to formally participate in the PITF and will adopt policies and seek sentences that meet the needs of justice.

V. ADMINISTRATIVE

A. Records and Reports

All records and reports generated by PITF members shall be routed through the Tactical Team Commander who shall be responsible for maintaining custody and proper dissemination of said records as he or she deems appropriate.

B. Staff Briefings

Periodic briefings on PITF law enforcement actions will be provided to the directors of the participating agencies or their designees. Statistics regarding accomplishments will also be provided to the participating agencies as available.

VI. MEDIA

All media releases pertaining to PITF law enforcement activity and/or arrests will be coordinated by all participants of this MOU. No unilateral press releases will be made by any participating agency without the prior approval of the Executive Council. No information pertaining to the PITF itself will be released to the media without mutual approval of all participants.

VII. EQUIPMENT

A. PITF Vehicles

Each participating agency, pending availability and individual agency policy, agrees and authorizes PITF members to use vehicles, when available, owned or leased by those participating agencies, in connection with PITF law enforcement operations. In turn, each participating agency agrees to be responsible for any negligent act or omission on the part of its agency or its employees, and for any liability resulting from the misuse of said vehicles, as well as any damage incurred to those vehicles as a result of any such negligent act or omission on the part of the participating agency or its employees, subject to the provisions of Section IX (Liability).

Participating agency vehicles assigned to the PITF are subject to funding availability, are provided at the discretion of the supervisor of the providing agency, and will be used only by PITF members. Vehicles provided by participating agencies will be used only during working hours and will not be used for transportation to and from work by task force members or used for any other purpose. Participating agencies will provide maintenance and upkeep of their vehicles consistent with each agency's policy. Vehicles provided as pool vehicles for PITF use will be parked at the end of each shift at a location determined by the Tactical Team Commander or his/her designee.

B. Other Equipment

Other equipment furnished by any agency for use by other agencies' participating personnel shall be returned to the originating agency upon termination of the PITF or this MOU.

VIII. FUNDING

The Los Angeles County Sheriff's Department agrees to provide the full-time services of its respective personnel for the duration of this operation, and to assume all personnel costs for their PITF representatives, including salaries, overtime payments, and fringe benefits consistent with their respective agency policies and procedures. Reimbursement for the cost of such personnel will be made by the District of Columbia, with funds provided by the United States and from general revenue.

IX. 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 the Department of Justice on a case-by-case basis. There is no guarantee that 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 any employee of the United States government, acting within the scope of employment, shall be an action against the United States under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2679(b)(2).

For the limited purpose of defending claims arising out of PITF activity, state or local law enforcement officers who have been specially deputized as U.S. Marshals 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. It is the position of the Department of Justice Civil Division Torts Branch that such individuals are federal employees for these purposes.

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 his designee may certify that an individual defendant acted within the scope of 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 suit.

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 his office or employment." 28 U.S.C. § 2679(d)(3).

Liability for any negligent or willful acts of PITF 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 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).

PITF 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 is requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or his designee determines that providing representation would otherwise be in the interest of the United States. 28 C.F.R. § 50.15(a). A PITF officer's written request for representation should be directed to the Attorney General and provided to the Civil Division of the U.S. Attorney's Office for the District of Columbia, which will then forward the representation request to the Civil Division of the United States Department of Justice together with a recommendation concerning scope of employment and Department representation. 28 C.F.R. § 50.15(a)(3).

If a PITF officer is found to be liable for a constitutional tort, he/she may request indemnification from the Department of Justice 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 Department of Justice representation under 28 C.F.R. § 50.15(a).

X. DURATION

This MOU shall remain in effect until terminated as specified above, unless that date is modified as set forth in Section XI. Continuation of the MOU shall be subject to the availability of necessary funding. This agreement may be terminated at any time by any of the participating agencies. The Los Angeles County Sheriffs Department may withdraw from this MOU at any time by providing a seven-day written notice of its intent to withdraw to the MPD. Upon the termination of the MOU, all equipment will be returned to the supplying agencies.

XI. MODIFICATIONS

The terms of this MOU may be modified at any time by written consent of all parties. Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

XII. LIMITATION

Nothing in this MOU is intended to, or shall be construed to create enforceable rights in third parties.

METROPOLITAN POLICE DEPARTMENT

CATHY L. LANIER,
CHIEF OF POLICE
WASHINGTON, D.C.,
METROPOLITAN POLICE DEPARTMENT

JEFFREY A. TAYLOR
UNITED STATES ATTORNEY
DISTRICT OF COLUMBIA

LEROY D. BACA
SHERIFF
LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MONTEREY PARK, CALIFORNIA

This MOU has been approved as to form by County Counsel.

COUNTY OF LOS ANGELES COUNTY COUNSEL

RAYMOND G. FORTNER JR.
COUNTY COUNSEL
LOS ANGELES, CALIFORNIA

COUNTY OF LOS ANGELES

DON KNABE
CHAIRMAN OF THE BOARD
LOS ANGELES, CALIFORNIA