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# MEMORANDUM

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Date: November 19, 2018

To: The Honorable Chairman and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Sheriff Mark Napier's Response and Clarification Regarding Operation Stonegarden Grant Funding**

I recently suggested a number of items to the Sheriff regarding any future Operation Stonegarden (OPSG) grant.

The Sheriff has responded to my suggestions and has clarified a number of issues that were previously undocumented in the attached November 16, 2018 memorandum. I believe this response is a positive step to favorable evaluation of future OPSG grants.

The Sheriff also lists eight positive points that represents significant policy shifts and modifications based on community and Board of Supervisor concern over OPSG.

CHH/anc

Attachment

c: The Honorable Mark Napier, Pima County Sheriff



# PIMA COUNTY SHERIFF'S DEPARTMENT

Mark D. Napier, Sheriff

## MEMORANDUM

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Date: November 16, 2018  
To: Chuck Huckelberry  
County Administrator  
From: Sheriff Mark D. Napier  
Subject: OPSG Funding

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Thank you for your memorandum of November 6 regarding Operation Stonegarden (OPSG) Grant Funding. Your communication posits some possible evaluation criteria for the basis of approval of future OPSG funding. I would like to address each of these individually.

- 1. The County must be reimbursed for all expenses associated with OPSG, including the cost of vehicle utilization.*

As is the case with most federal grants, we have to rely upon the federal mileage reimbursement table. Since locally we calculate vehicle replacement as part of the cost per mile there will always be a minor shortage with respect to reimbursement, as replacement is not fully considered in the federal tables. Sheriffs have had active discussions with federal leadership over the appropriate reimbursement for ancillary and collateral costs associated with acceptance of grants. I believe we are making progress toward a solution in this area. We certainly have the ear of the right people in Washington DC.

While not directly financial in nature there are clear public safety benefits to the acceptance of OPSG funding that in my estimation offset the minor costs of unreimbursed vehicle expenses. I base this on many decades of experience and firsthand information. We know that there is a crisis with respect to opioid addiction. We also know that migrants frequently are victimized and perish in the rural areas of our county. Our presence when deployed under OPSG funding helps to ameliorate these conditions. While impossible to quantify financially, the county does derive benefit.

As we move forward, the Sheriff's Department will identify funding to offset the costs associated with OPSG mileage reimbursement shortages. We will continue to pursue a fix at the federal level to address ancillary and collateral costs.

- 2. It should be clear County law enforcement personnel are not under the direct supervision of a Border Patrol Agent when conducting OPSG activities and they are free to discontinue OPSG in the pursuit of their County law enforcement responsibilities.*

Agreed. We believed this was always the practice. We will codify this in our operational guidelines when future OPSG funding is approved. We never relinquish supervisory control of our personnel to a Border Patrol Agent. Necessarily, we do coordinate our activities and actively communicate. This is necessary for operational effectiveness and personnel safety reasons.

Pima County law enforcement service will always take precedent over routine OPSG funded activities. It is a simple matter of our personnel going off the OPSG funding clock and back on the Pima County payroll clock.

It should be noted that increased presence by our personnel in rural and traditionally underserved areas of our county when deployed on OPSG funded activities does have public safety value. We know that visible presence of law enforcement has a deterrent value. The criminal element has no way of knowing how our personnel are deployed. They are simply see law enforcement presence as a disincentive to engage in criminality.

- 3. For any vehicle stop of a possible civil traffic violation, if a citation is not issued, the reason for initiating a civil traffic stop shall be fully documented.*

Agreed. We are already incorporating this into our guidelines for the Pima County Rural Safety Initiative. We need to do a better job with documenting these events. Doing so will alleviate community concerns and inferences drawn from a low stop to citation ratio. In the future, all traffic stops made while on OPSG funded operations will be fully documented.

- 4. For any equipment purchases that occur as a result of OPSG, the purchase shall require the Federal Government to fully authorize the use of the equipment by County law enforcement during non-OPSG operations.*

Agreed. In fact, this is already the case. One example is the purchase of the hoist for our helicopter. Clearly, it has been used frequently to the benefit of rescues and other county operations. We will ask that this be codified in a memorandum upon the acceptance of our OPSG Grant.

It should be noted, that our 2019 request does include replacement of our aircraft FLIR system. FLIR allows the aircraft to function at night and is used to track fleeing vehicles, suspects on foot and lost persons. This will be used to the benefit of County law enforcement. Our current FLIR is rapidly reaching the end of its service life and must be replaced. The service life of the new system will be approximately 15 years. The County will derive benefit from this for a very long time on both OPSG operations and in support of general public safety in our county.

5. *County law enforcement personnel shall not be posted at or near established US Border Patrol Checkpoints.*

Agreed. This is already incorporated into our department policies. Our personnel may have to respond to a Checkpoint in furtherance of county law enforcement business. An example of a time when presence would be appropriate is when an impaired driver is stopped attempting to navigate through a Checkpoint. However, are personnel are now prohibited from being deployed to or otherwise lingering about a Checkpoint.

6. *At least 25% of the traffic stops and civil traffic issued citations must occur on a public street or highway under the exclusive jurisdiction of the County.*

I would not want to establish any quota in regard to an enforcement activity. That bad public policy has led to past abuses by law enforcement.

It is true that most of the focus of OPSG activities is on state highways. This is to increase the effectiveness of the mission of these deployments. That mission being to interdict and deter transnational crime threats, to include drug and human trafficking. State highways are used by transnational criminal elements to blend into regular traffic in an effort to avoid detection.

While a responsibility of the DPS to regulate and enforce, state highways in our county still pose public safety issues to our residents. The Sheriff's Department cannot ignore or otherwise fail to address crimes occurring on state highways. I do believe that DPS should have better presence on state highways. This is a view shared by all county Sheriffs. Transnational crime threats using our state highways do pose a public safety threat to our citizens. Co-occurring jurisdiction is not infrequent, as many state highways intersect municipal and county boundaries. Further, it is not uncommon for local law enforcement to address activity upon state highways when required to enforce presenting public safety issues occurring on them within their respective jurisdictions.

As we move forward under OPSG funded activities, I will ensure that as operationally appropriate our personnel will pay increased attention to those streets and roadways exclusively under county jurisdiction.

I appreciate the opportunity to address the issues raised in your memorandum. I believe there is a lot of common ground here and that working together we can advance OPSG funding to the benefit of all people in our county. In addition to the points above, I think it important to outline some additional relevant steps toward making OPSG approval by the Board a more palatable position.

1. The Sheriff's Department now has a Racial Profiling Policy. This was developed in cooperation with, and input from, the community and the ACLU. This policy did not exist previously.
2. We have removed ICE personnel from our Detention Facility. ICE no longer has dedicated office space or maintains a regular presence in our facility. We

understood this was a major concern of the community and some members of the Board.

3. We are now tracking every time that the department contacts Border Patrol. We have learned that in more than 80% of the instances it is at the request of a migrant in distress.
4. We now produce detailed reports about who is incarcerated. We have learned that OPSG operations were not a cost-driver with respect to incarceration costs. Further, that only a small percentage (about 5%) of the persons incarcerated are not U.S. citizens.
5. We are not extending detention of persons due to the presence of an ICE Detainer. An ICE Detainer does not provide a legal basis for the extension of detention.
6. If OPSG funding is approved in the future, we will welcome reengagement with the CLEPC with respect to our involvement and operations. We embrace transparent interaction with the community.
7. We are piloting the implementation of enhanced activity tracking through our Rural Safety Initiative. We will be tracking many more data points and publishing them to our website on a regular basis. If we receive OPSG funding in the future we will carry this forward. The community is correct in its desire for increased transparency.
8. We will continue to advocate for additional funding from the federal government to cover ancillary and collateral costs associated with acceptance of grants. There is no promise that this will be successful. However, we know that the right people in the administration are now listening to our concerns. This is a step in the right direction.

The Pima County Sheriff's Department's participation in OPSG funded activities is better because of this arduous and sometimes contentious process. We have policies where none existed before. We are engaging the community and listening to concerns more effectively than we have under prior Sheriffs. We have made increased commitment to enhancing transparency with respect to OPSG operations. We are more thoughtfully defining the boundaries of our relationships with our federal law enforcement partners. Many positive things have occurred and more progress can be gained as we move forward.

I look forward to working with the Board and the community to make the acceptance of OPSG funding a success story. How a community came together and addressed a controversial issue effectively. How persons and groups with very different viewpoints found common ground by listening and engaging one another. How we refused to be caught up in divisiveness and the charged rhetoric that permeates the political discourse of our country. I have stated before and I believe; we are better than this. OPSG funding is fundamental to public safety in our county and we enjoy great benefit from federally funded equipment that otherwise would be purchased by local tax dollars. We can move this forward.

Please feel free to share this communication with the Board.