



Agenda Report

File #: 18-2232

**AGENDA REPORT
REQUEST FOR CITY COUNCIL ACTION**

DATE: 11/7/2018

TO: Honorable Mayor and City Council Members

FROM: Police Department

SUBJECT:

City Council consideration authorizing the Riverside County District Attorney Gang Impact Team Memorandum of Understanding between the Riverside County District Attorney's Office and the Corona Police Department and the equitable distribution of the remaining Gang Task Force Region 8 Team's Asset Forfeiture funds being held at the City.

RECOMMENDED ACTION:

That the City Council:

1. Approve the Riverside County District Attorney Gang Impact Team (GIT) Memorandum of Understanding between the Riverside County District Attorney's Office and the Corona Police Department.
2. Authorize the Chief of Police to execute the Riverside County District Attorney Gang Impact Team Memorandum of Understanding between the Riverside County District Attorney's Office and the Corona Police Department.
3. Authorize the Chief of Police to negotiate and execute any amendments to this MOU which are either non-substantive or otherwise in compliance with the City Council's actions hereunder.
4. Authorize the distributions \$32,066.77 of Asset Forfeiture funding remaining from the Gang Task Force (GTF) Region 8 Team, with the cash to be shared among the participating team agencies equally, based on officer participation on the team, for Border Patrol, California Highway Patrol, Corona Police Department, Riverside County District Attorney's Office, Riverside County Probation and Riverside Sheriff's Department.

5. Authorize the distributions of any outstanding GTF Region 8 related cases that become available in forms of cash distribution from the Riverside County District Attorney's Office, be equally shared with the respective agencies as noted above.

ANALYSIS:

The Riverside County District Attorney's Office has drafted a Riverside Gang Impact Team proposal calling for coordination with local law enforcement agencies to effectively increase public safety by detecting, investigating, and enforcing state and federal laws related to organized crime. The proposal outlined by the Riverside County District Attorney's Office is intended to ensure well-coordinated violent and gang enforcement regionally and increase the flow of violent offender and gang-related intelligence information between the various law enforcement agencies participating on the task force.

It is recommended that Corona Police Department assigns one Detective position to the task force. Each partner agency would be responsible for all costs of each own's employee, including vehicle and equipment costs. The Riverside District Attorney's Office will provide some equipment as necessary and it is subject to funding availability. The current partners of the GIT would be the Riverside County District Attorney's Office, Hemet Police Department, Palm Springs Police Department and the Corona Police Department. Additionally, the MOU will allow Corona to participate in distribution of forfeitures as related to any GIT seizures.

The GIT is expected to be an ongoing task force for an indefinite period, however, its continuation is subject to the availability of necessary funding. There is a thirty-day written notice requirement allowing partners to terminate if needed. It is recommended that the Chief of Police be allowed authorization to determine continued participation, as long as there is no significant fiscal impact or other significant changes to the MOU.

The City Attorney has reviewed and approved as to form the proposed GIT MOU.

The GIT formed a Western Riverside County team after the dissolution on June 30, 2018 of the GTF Region 8 Team. Corona was a member of the GTF by City Council approval in April 2006. The team was composed of officers from Border Patrol, California Highway Patrol, Corona Police Department, Riverside County District Attorney's Office, Riverside County Probation and Riverside Sheriff's Department.

Together the agencies worked on anti-gang efforts on a regional level to significantly enhance law enforcement's ability to reduce gang related crimes. Additionally, the GTF MOU allowed Corona to participate in distribution of forfeitures as related to any GTF seizures. The funds that were seized by the GTF were collected in the Corona Asset Forfeiture account.

With the dissolution of the GTF Region 8 Team there is \$32,066.77 of cash (includes earned interest) that needs to be shared among the participating team agencies. It was decided by the task force to equally share the balance among the agencies, based on member participation. The funding will need to remain as Asset Forfeiture as it is subject to the applicable laws of the State and Federal seizures.

The funding will be allocated to Border Patrol, California Highway Patrol, Corona Police Department, Riverside County District Attorney's Office, Riverside County Probation and Riverside Sheriff's Department as listed in the fiscal impact. Additionally, there are three GTF cases pending court judgement, and if those assets are deemed legally forfeited they will be shared equally once received.

COMMITTEE ACTION:

Not Applicable.

STRATEGIC PLAN:

This item supports the City Strategic Plan goal to Activity Engage in Public and Private Partnerships to Provide Services and Amenities (b) proactively develop partnerships with local and regional business interests and agencies.

FISCAL IMPACT:

No additional appropriation is requested for this position. CPD will support the GIT with these duties internally, with one Detective position, a vehicle, and related equipment are estimated at \$224,430 annually to support the team.

The GIT MOU will allow Corona to participate in distribution of forfeitures as related to any GIT seizures.

With the dissolution of the GTF Region 8 Team as of June 30, 2018 there are cash disbursement required from the Asset Forfeiture fund totaling \$32,066.77. Funding will be as distributed as listed:

- Border Patrol, 1 member, \$4,580.96
- California Highway Patrol, 1 member, \$4,580.96
- Corona Police Department, 2 members, \$9,161.97
- Riverside County District Attorney's Office, 1 member, \$4,580.96
- Riverside County Probation, 1 member, \$4,580.96
- Riverside County Sheriff's Department, 1 member, \$4,580.96

Funding needs to remain in the Asset Forfeiture accounting, as it is subject to the applicable laws of the State and Federal seizures. Additionally, any GTF cases pending court judgement, and if deemed legally forfeited, will be shared equally once received.

ENVIRONMENTAL ANALYSIS:

No environmental review is required because the proposed action is exempt under the California Environmental Quality Act.

PREPARED BY: BARBARA THIERJUNG, PUBLIC SAFETY FINANCE DEPUTY DIRECTOR

File #: 18-2232

REVIEWED BY: JAMES PATTON, POLICE CAPTAIN

REVIEWED BY: GEORGE JOHNSTONE, CHIEF OF POLICE

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES
DIRECTOR

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

Attachment:

Riverside County District Attorney Gang Impact Team (GIT) Memorandum of Understanding

RIVERSIDE COUNTY DISTRICT ATTORNEY

GANG IMPACT TEAM

(GIT)

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING
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This Memorandum of Understanding (MOU) is entered into by the Riverside County District Attorney's Office (RDA) and the other participating Partner agencies. The RDA and every other party executing this MOU shall be considered to be a GIT "Partner" agency, as that term is used throughout this MOU. Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation, which exists between all of the undersigned Partner agencies.

I. PURPOSE

The purpose of this memorandum is to set forth the responsibilities of the participating agencies as they relate to Riverside Gang Impact Team (GIT). Working in conjunction, the participating agencies will endeavor to effectively enforce the laws of the State of California including the Penal Code, Vehicle Code, Health and Safety Code, and applicable federal laws relating to violent and firearms-related crimes, street terrorism and gang-related crimes throughout Riverside County. Agencies participating in GIT will be organized into three (3) regionally based squads. These regional GIT squads will be targeting their investigations toward the apprehension and conviction of criminal street gang members and violent offenders. Use of this task force concept is intended to ensure well-coordinated violent and gang enforcement regionally and increase the flow of violent offender and gang-related intelligence information between the various law enforcement agencies participating in the task force.

This MOU is to formalize the working relationship between the RDA and the undersigned Partners, as well as to delineate the responsibilities and expectations of all parties. By signing this MOU, the undersigned Partners agree to join GIT for the primary purpose to increase public safety by effectively detecting, investigating and enforcing state and federal laws related to organized crime being perpetrated by criminal enterprises and their members.

II. MISSION STATEMENT

The mission of the Riverside County Gang Impact Team (GIT) is to make a direct impact on the public safety of Riverside County communities through the use of typical and unconventional law enforcement strategies and tactics to proactively address violent and firearm-related crimes and quality of life issues.

III. OVERVIEW

Representatives from federal, state, county, and local agencies shall work under the direction of the Riverside County District Attorney's Office (RDA),

and will partner with RDA personnel to include District Attorney Investigators (DAI), District Attorney Investigative Technicians (IT), Deputy District Attorneys (DDA), and related support and management staff. The salaries, benefits, overtime, vehicle, and all other unspecified costs and expenses of GIT personnel shall be the sole responsibility of each Partner agency.

Each Partner agency shall provide their GIT members all safety equipment, investigative equipment, and supplies necessary to conduct investigations, prepare investigative reports, testify in court, or otherwise assist with the prosecution of a case. All other expenses including vehicle expenses shall be the responsibility of each Partner agency; unless a separate MOU with one of the federal agencies is entered into designating that Partner agency's Officer/Detective/Investigator as a Special Federal Officer.

IV. ORGANIZATIONAL STRUCTURE

Direction/Supervision

- a) The RDA shall direct and lead investigative efforts and operations of GIT. GIT Partners acknowledge that GIT is a joint operation in which all agencies act as partners in the work and operations of the task force. Selected GIT Investigators and Specialists shall be available to work on specific task force cases identified within Riverside County.
- b) Responsibility for the conduct of the individual GIT members, both personally and professionally, shall remain with their respective agency/department heads.
- c) RDA retains sole authority to remove a Partner task force member at any time, with a two (2) week notice to Partner supervision.
- d) The RDA shall designate two Supervising DA Investigators (SDAI) to direct the overall management and administrative control over the three regional squads. The assigned SDAs shall be responsible for the day-to-day operation of each regional squad.

Coordination

- a) Partners agree to not knowingly act unilaterally on any investigation being conducted by GIT without first coordinating with RDA;
- b) Partners agree that investigative matters being handled by GIT shall not knowingly be subject to non-GIT or non-RDA intelligence, law enforcement, or operational efforts by the Partner.
- c) Partners agree that intelligence, law enforcement, and operations will be coordinated and cooperatively carried out within GIT.

Investigative Exclusivity

- a) Partners agree that matters being investigated by GIT will not knowingly be subject to non-GIT law enforcement or regulatory efforts by any of the participating agencies/departments;
- b) Partners agree that investigations initiated prior to the commencement of GIT will not be designated to be handled by GIT without the prior consent of the participating agencies/departments;

- c) It is incumbent upon each Partner member to make proper internal notification regarding GIT's existence and areas of concern.

V. OPERATIONS

Case Information and Management

- a) Case information shall be directed to the SDAI responsible for the direction of the overall management and administrative control of GIT.
- b) The SDAI will oversee the prioritization and assignment of leads and the related investigative activity. Leads will be assigned to investigators based on experience, training, performance and expertise or the Partner agency's jurisdiction/area of responsibility.
- c) Information accepted by GIT will be consistent with the stated mission of GIT.

Case Files and Reports

- a) A case file will be opened and maintained by GIT for all cases adopted or initiated.
- b) All investigative reporting will be prepared in accordance with the GIT member's own department/agency's established policies and the California Public Records Act.

Evidence

- a) All physical evidence acquired from GIT investigations will be maintained pursuant to the California Rules of Evidence and the GIT member's own department/agency's established policies. In most instances, evidence will be booked and stored at Partner or participating agency facilities pending prosecution. In those instances, policies of the Partner or host agency will be applied to the storage and processing of evidence in accordance with California Rules of Evidence.
- b) Copies of any digital evidence (including but not limited to photos, video body worn camera footage) and paper or electronic documentation evidence acquired in a GIT case should also be provided, in a format acceptable to RDA, to the SDAI of GIT, as soon as practicable.
- c) All other evidence should be processed and maintained in accordance with an RDA Bureau policies and Procedures.

Undercover Operations

All GIT undercover operations shall be conducted and reviewed in accordance with the rules and policies of the RDA. When operations require, the designated GIT Deputy District Attorney will be consulted for legal advice and warrant review.

Confidential Informants and Cooperating Witnesses

- a) All GIT proffer interviews and immunity agreements done in furtherance of GIT investigations shall comply with RDA policies and procedures, and GIT Partners shall consult with the designated GIT DDA prior to entering into or offering any proffer interviews or immunity agreements;

- b) RDA policies and procedures for operating informants (CIs) and cooperating witnesses (CWs) shall apply to all GIT informants and CWs in furtherance of GIT investigations. Documentation of, and any payments made to, GIT CIs/CWs shall be in accordance with RDA and RDA Bureau of Investigation policies and procedures;
- c) An informant file shall be maintained for all CIs/CWs utilized by the GIT. This file shall contain all information furnished to the GIT, as well as information concerning any payments or recommendations for payments or any other consideration, express or implied, which have been made to the CI/CW. Deviation from this policy shall only be considered after timely consultation with both the SDAI and DDA designated to the GIT.

Confidentiality

- a) Partners agree that any confidential information pertaining to ongoing investigations of GIT and other related criminal offenses shall be held in the strictest confidence, and will only be shared with GIT members, Partner supervision/department heads, or other law enforcement agencies as necessary, or as otherwise permitted by federal and/or state law.
- b) Partners agree that any GIT evidence, cases, or investigations, presented before a Grand Jury for inquiry and/or possible Indictment shall be confidential and held in the strictest confidence within GIT members and Partner supervision/department head, or as permitted by federal and/or state law.
- c) Partners understand that Grand Jury proceedings are statutorily confidential and that GIT members must keep such evidence, cases, investigations, and testimony before the Grand Jury confidential, unless and until, an Indictment is unsealed. (Penal Code sections 924, 924.2, 938, 938.1); Partners further agree not to release post-unsealing information until GIT has coordinated a public release of this information in conjunction with Partner supervision.

Brady Compliance

- a) RDA policies and procedures for *Brady* compliance shall apply to all GIT investigations and prosecutions.
- b) GIT members and Partners agree to adhere to RDA policies, procedures and notification protocols set forth in the most recent Riverside County Law Enforcement Prosecution Team *Brady* Compliance Protocol.

Media Relations and California Public Records Act Requests

- a) All relations or contacts with the media, to include requests, responses, releases, and comments, pertaining to GIT and its operations, investigations, arrests or prosecutions, shall be coordinated through RDA.
- b) All Partners will take part in press conferences.
- c) Information for release on Partner social media and/or media releases and/or press conferences will be reviewed and mutually agreed upon by all Partners prior to publication or release.
- d) Partners will be informed to not give statements to the media concerning any ongoing investigation or prosecution under this MOU without the concurrence of the other participants and RDA.

- e) All California Public Records Act requests pertaining to GIT and all participating agency responses thereto, will be coordinated through the RDA to provide consistency and to ensure all appropriate legal exemptions are asserted, and if appropriate, defended by RDA.

Equipment

Vehicles

- a) GIT partners are expected to use their agency vehicles for official GIT business in accordance with applicable agency and/or county rules and regulations. The assignment of an RDA and/or GIT owned or leased vehicle to a GIT member will require the execution of a separate Vehicle Use Agreement through the SDAI with RDA Administrative Approval. Participating agencies agree that GIT or RDA vehicles will not be used to transport passengers unrelated to GIT business.
- b) RDA and GIT will not be responsible for any civil liability arising from the use of an RDA and/or GIT leased or owned vehicle by a GIT member while engaged in any conduct other than his or her official duties and assignments under this MOU.
- c) RDA and GIT will not be responsible for any tortious act or omission on the part of a GIT member agency and/or its employees for any liability resulting from the use of an RDA and/or GIT leased or owned vehicle by a GIT member, except where liability may fall under applicable state or federal law.
- d) To the extent permitted by applicable law, Partners in GIT agree to hold harmless RDA and GIT for any claim for property damage or personal injury arising from any use of a RDA or GIT owned or leased vehicle by a GIT Partner that is outside the scope of his or her official duties and assignments under this MOU.

Other Equipment

- a) To perform GIT's mission, RDA will provide equipment as necessary and subject to funding availability. Partner members are encouraged to utilize laptop computers provided by their respective employers where possible. At the conclusion of GIT, all loaned property will be returned to the original Partner.

VI. ADMINISTRATIVE

Funding

- a) This MOU is not an obligation or commitment of funds, nor a basis for a transfer of funds or restricted sub-funds of RDA or Partners. When one party has agreed (or later does agree) to assume a particular financial responsibility, written agreement through future modification of this MOU must be obtained before incurring an expense expected to be assumed by another party. All obligations of and expenditures by the parties are subject to their respective budgetary and fiscal processes and availability of funds pursuant to all laws, regulations, and policies applicable thereto.

- b) The parties acknowledge that there is no intimation, promise, or guarantee that funds will be available in future years.

Salary/Overtime Compensation

The salaries, benefits and overtime cost of GIT members shall be the sole responsibility of respective Partners. Overtime shall be compensated in accordance with applicable Partner's overtime provisions and shall be subject to the prior approval of appropriate supervising personnel of Partner agencies/departments; unless a separate MOU is entered upon with a federal agency designating the Partner Officer/Detective/Investigator as a Special Federal Officer.

Forfeiture

RDA shall be responsible for the processing of assets seized for state forfeitures in conjunction with GIT operations, as provided by controlling state and federal laws, rules and regulations. In the case of a federal forfeiture, the host federal agency will be responsible to complete the forfeiture consistent with their agency policy.

Asset sharing

- a) GIT operations which result in a state civil or criminal asset seizures will be brought to the attention of RDA Asset Forfeiture DDA to determine whether or not an application for asset forfeiture sharing will be made under applicable state and federal law.
- b) GIT operations which result in a federal forfeiture will be handled by the federal agent tasked with the case agent duties in accordance with their respective agency's policy.
- c) Any forfeited funds shall be distributed to GIT Partners in proportion to the number of participants on GIT and in accordance with applicable state and federal laws.

Civil Penalty Allocation

Any non-asset forfeiture monies resulting from civil penalties and judgments shall go into the District Attorney's Office. At the discretion of the District Attorney, portions of those funds may be used to reimburse some investigative and legal expenses.

Deadly Force, Shooting Incidents, Pursuits

GIT members will follow their own department/agency's established policies regarding the use of deadly force and pursuits. Any conflicts that arise shall immediately be brought to the attention of the SDAI of GIT responsible for the day-to-day operations, as well as the involved Partner's management for a mutually agreeable resolution.

Liability

Partners acknowledge that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to GIT, remains vested with his or her employing department/agency.

Express Reservations

Nothing in this MOU shall be deemed to create an employment relationship between RDA and any Partner other than for the exclusive purposes of GIT as outlined herein.

- a) Partners do not waive any available defenses and/or limitations on liability.
- b) No Partner or GIT member shall be considered to be an agent of any other Partner; unless mutually agreed upon in a separate MOU between those agencies.
- c) Each Partner shall have full financial responsibility for their respective Officer/Detective/Investigator while assigned, including but not limited to vehicle accidents, officer-involved uses of force, industrial injury claims, and any and all other liability incurred as a result of participation on GIT.
- d) Each partner shall also be responsible for any all workers' compensation claims of their respective Officer/Detective/Investigator if he/she should become injured in the course and scope of his/her duties while assigned to GIT.
- e) The Riverside County District Attorney's Office, its officers, agents, and employees shall not be deemed to have assumed any liability for the negligence or other actions of any Partners or any of their officers or employees; All other Partner agencies and their officers, agents, and employees shall not be deemed to have assumed any liability for the negligence or other actions of the RDA or any of their officers or employees; Partners shall each hold the County, its officers, and employees harmless from any and all claims and damages resulting from the negligence or other actions of its officers or employees; and the RDA shall hold the other Partner agencies and their officers and employees harmless from any and all claims and damages resulting from the negligence or other actions of the RDA's officers or employees.
- f) Each Partner to this Agreement agrees to defend, indemnify, and hold harmless the other Partners to this Agreement in regard to any liability imposed for the negligence or other actions of that Partner's officers or employees. Since each of the Partner agencies is a public entity, to the extent that liability may be imposed on the Partner agencies by the provisions of Government Code Section 895.2, each Partner agency shall be liable for their own acts or omissions, including all claims, liabilities, injuries, suits, and demands and expenses of all kinds which may result or arise out of any alleged negligence or other actions of such Partner agency or its officers or employees when performing under this MOU. All immunities available to the Partner agencies as a government entity under the laws of the State of California shall apply in performing the services under this MOU. For tort liability purposes, no Partner agency in the GIT shall be considered the agent of other Partner agencies.

Duration, Modifications and Work Product

Withdrawals. Any Partner may withdraw from this agreement at any time by providing a thirty (30) day written notice of its intent to withdraw to the SDAI.

Modifications. This agreement may be modified at any time by written consent of all Partners. Modifications to the MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each Partner.

Continuation. Continuation of this MOU may be subject to the availability of necessary funding.

Termination. RDA may terminate this MOU with thirty (30) days written notice with or without cause to the address provided herein.

Return of Property. Upon withdrawal of a Partner from GIT, and upon termination of GIT, all equipment will be returned to the supplying Partner(s).

Work Product. Upon withdrawal of a Partner from GIT, and upon termination of GIT, all work product of the task force shall remain the sole and exclusive property of GIT and RDA.

VII. GENERAL PROVISIONS

Notices. Any notice, requests, invoices or reports required or intended to be given to any Partner under the terms of this MOU shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, transmitted electronically via internet/email or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the Partner's address set forth herein or at such other address as the Partners may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

Contact information for purposes of notice in compliance with this MOU is as follows:

Joseph DelGiudice, Chief Investigator
Office of the District Attorney, County of Riverside
3960 Orange St.
Riverside, CA 92501

Binding. Once this MOU is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs,

successors, assigns, transferees, agents, servants, employees and representatives.

Compliance with Law. Each Partner shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matters herein.

Waiver. The waiver by any Partner of a breach by the other of any provision of this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this MOU. No provisions of this MOU may be waived unless in writing and signed by all parties to this MOU. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

Headings. The section headings in this MOU are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this MOU.

Severability. The provisions of this MOU are severable. The invalidity or unenforceability of any one provision in this MOU shall not affect the other provisions.

Interpretation. Partners acknowledge that this MOU in its final form is the result of the combined efforts of the parties and that, should any provision of this MOU be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this MOU in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

Extent of MOU and Certification of Authority. Each Partner acknowledges that they have read and fully understand the contents of this MOU and is fully authorized to execute it. This MOU represents the entire and integrated agreement between the Partners with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This MOU may be modified only by the written instrument duly authorized and executed by all Partners.

[SIGNATURES OF EACH PARTNER AGENCY ON FOLLOWING PAGES]

VIII. AUTHORIZATION

The participating partner agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the Riverside Gang Impact Team (GIT) of the original MOU with all its attachments. All future amendments must be forwarded to the Riverside County District Attorney's Office and will become effective upon receipt.

SIGNATURE_____
DATE

Joseph DelGiudice, Chief Investigator
Riverside County District Attorney's Office

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SIGNATURE_____
DATE

Robert Fisher, Interim Chief of Police
Banning Police Department

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SIGNATURE

DATE

Travis Walker, Chief of Police
Cathedral City Police Department

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SIGNATURE

DATE

Rob Webb, Chief of Police
Hemet Police Department

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SIGNATURE

DATE

Bryan Reyes, Chief of Police
Palm Springs Police Department

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SIGNATURE_____
DATE

George Johnstone, Chief of Police
Corona Police Department