



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 9/28/2023

File ID: TMP-3403

Department: Police

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into a Task Force Agreement Pertaining to the Use of Huntsville Police Department Body-Worn Cameras by Deputized Task Force Officers.

Resolution No.

Finance Information:

Account Number: N/A

City Cost Amount: \$ 0.00

Total Cost: \$ 0.00

Special Circumstances:

Grant Funded: \$ 0.00

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address: N/A

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments:

Agreement between the Drug Enforcement Administration (DEA) and Huntsville Police Department (HPD) that outlines how HPD task force officers will utilize their body worn cameras when assisting DEA

RESOLUTION NO. 23-____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Memorandum of Understanding by and between the City of Huntsville, by and through its Huntsville Police Department (HPD), and the United States Department of Justice, Drug Enforcement Administration (DEA), on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said Memorandum of Understanding is substantially in words and figures similar to that certain document attached hereto and identified as "Task Force Agreement Pertaining to Use of Huntsville Police Department Body-Worn Cameras by Deputized Task Force Officers," consisting of four (4) pages, and the date of September 28, 2023 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 28th day of September, 2023.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 28th day of September, 2023.

Mayor of the City of
Huntsville, Alabama

**Task Force Agreement Pertaining to Use of Huntsville Police Department Body-Worn
Cameras by Deputized Task Force Officers**

This Agreement is between the Drug Enforcement Administration (DEA) and the Huntsville Police Department. In addition to the task force named, this Agreement also applies to all deputized officers of Huntsville Police Department, including those granted case-specific or emergency deputizations. Pursuant to Executive Order 14074, Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety; Memorandum from Deputy Attorney General Lisa Monaco, Body-Worn Camera Policy, June 7, 2021 (DOJ Policy); DEA's Body Worn Camera Policy; and the most current Task Force Agreement between DEA and Huntsville Police Department (TFO Agreement), Huntsville Police Department has advised DEA that it will require its deputized officers participating in the Task Force or otherwise deputized by DEA to use Body-Worn Cameras (BWCs) owned and issued by Huntsville Police Department. This agreement governs that use only; it does not govern BWCs owned and issued by DEA to deputized officers of Huntsville Police Department. No Task Force Officer (TFO) shall be permitted to participate in any DEA operation that requires the use of BWCs, as outlined in DEA's BWC Policy until this agreement is ratified.

The Parties hereby agree that the most current version of DEA's BWC policy shall govern TFO BWC usage, even those not specified herein, to include the following:

- I. Task Force Officers (TFOs) will adhere to DOJ Policy and DEA's Body-Worn Camera Program Policy contained in the DEA Agents Manual (AM) § 6125 (attached to this Agreement), and other applicable DEA policies and procedures.
- II. Huntsville Police Department confirms that prior to executing this agreement it has provided to DEA details regarding the BWC system and cameras, including the details of any system protections, and any state or local policies or laws applicable to the TFO's use of BWCs, including any retention policies.
- III. Use of BWCs During Federal Task Force or Other Federal Operations:

TFOs will be allowed to wear and activate their BWC recording equipment in accordance with AM § 6125 and other applicable DEA policies.

 - A. TFOs will follow the provisions set forth in this agreement for use of BWCs, as more fulsomely articulated in the attached BWC Policy, and the provisions of this agreement will supersede any conflicting provision in the agency's policy for TFOs while serving on the federal Task Force.
 - B. TFOs may possess and use only one agency-issued and agency-owned BWC, under this agreement. TFOs will not be allowed to possess or use any privately owned BWC. TFOs may only wear one BWC, either one issued by the Parent Agency or one issued by DEA.

President of the City Council of the
City of Huntsville, AL
Date: September 28, 2023

- C. In the event a TFO's BWC is not working or inoperable due to a technical problem or cannot be used due to physical damage, and, in the judgement of the Task Force supervisor, delaying the operation to repair or obtain a replacement BWC is not practical or would impair the operation, the TFO may participate in the operation without using a BWC.
- D. Even when BWC use would be permissible in the circumstances set forth in Section III.A above, consistent with DEA BWC Policy, TFOs are prohibited from intentionally recording unless unavoidable to comply with the recording requirements of the BWC policy:
 - 1. Undercover personnel;
 - 2. Confidential informants or confidential sources;
 - 3. On-scene witness interviews prior to or after the operation; or
 - 4. On-scene actions by any non-law enforcement persons who are assisting law enforcement personnel prior to or after the operation.

IV. Huntsville Police Department Internal Controls:

- A. Chief Kirk Giles will serve as a point-of-contact (POC) for DEA on BWC matters.
- B. Huntsville Police Department will notify DEA of any change in state or local law that will modify how DEA TFOs must use BWCs or will affect release or redaction of BWC recordings from TFO BWCs made while working under federal authority on behalf of DEA. DEA will notify Huntsville Police Department of any changes in federal law, DOJ policy, or DEA policy that will modify how DEA TFOs must use BWCs or will affect release or redaction of BWC recordings from TFO BWCs made while working under federal authority on behalf of DEA, and will provide Huntsville Police Department with a copy of the updated policy.
- C. Huntsville Police Department will notify and consult DEA prior to making any change in agency policy that will affect the storage, release, or redaction of TFO BWC recordings.
 - 1. For purposes of this agreement, the term "TFO BWC recordings" refers to audio and video recordings, and associated metadata, from BWCs owned and issued by Huntsville Police Department made while the deputized TFO is working under federal authority.
- D. Huntsville Police Department will provide training to DEA task force personnel on the BWCs to familiarize them with the capabilities and operation of BWCs used during task force activities. DEA will provide training to deputized task force officers in DOJ and DEA policy regarding use of BWCs while working under federal authority.

- E. Huntsville Police Department will allow DEA Task Force supervisors to make decisions about recording or not recording under the same circumstances that Huntsville Police Department supervisors are allowed to make such decisions. Huntsville Police Department will provide training to DEA personnel as needed to implement this.

V. Handling of BWC Recordings Made During Federal Task Force or Other Federal Operations:

TFO BWC Recordings Made During Federal Task Force or Other Federal Operations will be handled in accordance with DEA's BWC and other applicable DEA policies.

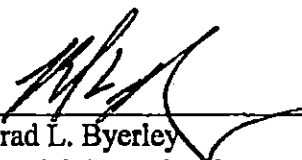
- A. Expedited Public Release: The procedures governing the expeditious release of TFO BWC footage will occur in accordance with DEA's BWC Policy and other applicable DEA policies.
- B. In all circumstances, TFO BWC recordings shall be treated as law enforcement sensitive information, the premature disclosure of which could reasonably be expected to interfere with enforcement proceedings, and as potential evidence in a federal investigation subject to applicable federal laws, rules, and policy concerning disclosure or dissemination (including but not limited to 28 C.F.R. Ch. 1, Pt. 16, Subpart B ("Touhy Regulations")); and therefore deemed privileged absent appropriate redaction prior to disclosure or dissemination.
- C. If a TFO BWC recording involves a "reportable incident" as defined in AM 6114.2 et. seq., or involves another time-sensitive or urgent situation, Huntsville Police Department will provide DEA copies on an expedited basis, including during non-business hours.
- D. Huntsville Police Department will provide witnesses as needed to authenticate TFO recordings in DEA cases.
- E. Huntsville Police Department will inform DEA of the length of time TFO BWC recordings will be retained by the agency before deletion. Huntsville Police Department will honor any request by DEA to retain the TFO BWC recordings for a longer period of time.
- F. The Huntsville Police Department will restrict access to TFO BWC recordings within the agency as mutually agreed between DEA and Huntsville Police Department.
- G. Huntsville Police Department will notify DEA immediately of any unauthorized access to TFO recordings discovered by the agency.
- H. Huntsville Police Department will cooperate fully with DEA in the investigation of any unauthorized access to or disclosure of TFO recordings, including providing

DEA the name(s) of any agency personnel determined by the agency to be involved in unauthorized access, copying, or disclosure.

- I. Huntsville Police Department will notify DEA as soon as possible regarding any request or demand for release or disclosure of TFO recordings, including but not limited to subpoenas, discovery demands or motions, open record/freedom of information requests, media requests, or union or other professional association requests.
- J. Huntsville Police Department will assist in the redaction of any video or audio portion of TFO recordings as requested by DEA prior to public release unless doing so would violate a federal court order. Redactions will be determined in accordance with DEA policy.

VI. Effective Date, Modification, and Termination:

- A. This agreement shall become effective when both Parties have signed it, and, unless amended or terminated in accordance with Sections VI.B or VI.C, shall remain in effect for the duration of the referenced Task Force Agreement and any successor Task Force Agreement(s).
- B. This agreement may be amended in writing by mutual agreement of the Parties.
- C. Either Party may terminate this agreement by providing written notice of same at least thirty (30) days in advance to the other Party. If this agreement is terminated, Huntsville Police Department will provide DEA with TFO BWC recordings made while the agreement was in effect and still in the custody and control of Huntsville Police Department, and continue to adhere to the provisions of the agreement relating to the storage, handling, dissemination, and release of such TFO BWC recordings.



Brad L. Byerley Date
Special Agent in Charge
New Orleans Division
Drug Enforcement Administration

Kirk Giles Date
Chief
Huntsville Police Department

Tommy Battle
Mayor
Date: September 28, 2023