

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is entered into, as of this \_\_\_\_ day of July, 2020, by and between Bob Gualtieri, as Sheriff of Pinellas County, Florida ("Sheriff"); the City of St. Petersburg Police Department, the City of Clearwater Police Department, and the City of Pinellas Park Police Department, (collectively referred to herein as "Parties" or "Party Agency" or "Party Agencies").

### RECITALS

**WHEREAS**, pursuant to F.S. § 776.05, law enforcement officers may use force, including deadly force, in the lawful performance of their duties;

**WHEREAS**, all force used by law enforcement officers must be objectively reasonable and consistent with law and agency policy;

**WHEREAS**, when a law enforcement officer uses force that results in death or serious bodily injury to any person, or the force used is deadly force, a criminal investigation must be conducted to determine whether the officer's force was permitted under law and a separate review or investigation conducted to determine whether the force used was permitted under agency policy;

**WHEREAS**, heretofore, it has been the practice of most Pinellas County law enforcement agencies, as well as many agencies around Florida and the United States, to conduct their own investigations into their officers' use of such force to determine whether the force used was permitted under law or policy;

**WHEREAS**, in addition to the investigation conducted by the law enforcement agency employing the officer using force, it has been the practice in Pinellas County that the State

Attorney for the Sixth Judicial Circuit conduct a contemporaneous and totally independent investigation to determine the lawfulness of the officer's use-of-force;

**WHEREAS**, it is essential that all investigations of officer use-of-force incidents be conducted fairly and impartially, and that the investigations are perceived to have been conducted fairly and impartially so that the public has confidence in the investigation's outcome and determinations made during the investigation;

**WHEREAS**, the Parties recognize and agree that to ensure public confidence in the outcome of each use-of-force investigation involving deadly force or force that results in death or serious bodily injury, it is necessary that the investigation be conducted by an entity other than the agency employing the officer using such force.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and promises herein contained, the Parties, intending to be legally bound, do hereby agree to create the Pinellas County Use of Deadly Force Investigative Task Force (Taskforce) pursuant to the terms and conditions as listed herein.

**1. Composition of Taskforce.** To accomplish the goals of this Agreement, the Taskforce will be comprised of three detectives from each of the following agencies: Pinellas County Sheriff's Office, St. Petersburg Police Department, and the Clearwater Police Department and one detective from the Pinellas Park Police Department. The Parties agree to maintain their minimum staffing commitment as set forth herein. However, nothing herein precludes any Party from assigning more than the minimum personnel set forth in this section upon the assent of all Parties. All Parties will assign experienced homicide or major crimes investigators to the Taskforce.

The Taskforce may call upon additional investigative resources from agencies, other than the one employing the officer who used force, as it deems necessary to conduct any investigation.

**2. Purpose.** The purpose of the Taskforce is to thoroughly and objectively investigate the use of deadly force, as defined by law, or force that results in death or serious bodily injury that may result in death, by law enforcement officers employed by Party Agencies to determine whether the officers' actions were lawful under Florida law.

In addition to conducting a criminal investigation to determine the lawfulness of an officer's actions, the Taskforce will present its investigative and factual findings to the agency employing the officer involved in the use-of-force and that agency will conduct an administrative review to determine whether the officer's actions were within agency policy, as required by Florida Police Officer's Bill of Rights.

**3. Independence.** The Taskforce will conduct its criminal investigation independent of the investigation conducted by the Office of the State Attorney for Sixth Judicial Circuit. Nothing herein is intended to or does affect in any way the State Attorney's independent investigation of officer use of deadly force or force that results in injury likely to result in death. The Taskforce may bring criminal charges against an officer if it determines that an officer's actions when using force violated the law, the Taskforce may refer charges to the State Attorney, or the State Attorney may independently bring charges against an officer regardless of the Taskforce's determination.

**4. Initiating Investigation.** When a use-of-force incident occurs where deadly force is used by an officer or the force used results in death or serious bodily injury, the Party Agency employing the officer who used force ("Employing Agency") shall immediately notify

the agency head of the Supervising Agency, as set forth below, or their designee, who will activate the Taskforce. The agency head of the Supervising Agency or their command staff designee will respond with the Taskforce. The sole decision whether an incident meets the criteria to activate the Taskforce and have it conduct an investigation rests with the agency head or designee of the Employing Agency.

**5. Applicable Taskforce Response.**

**a. Pinellas County Sheriff's Office.** If it is a Pinellas County deputy sheriff who used the force and the incident occurred north of Ulmerton Road and/or Walsingham Road, the supervising agency shall be the Clearwater Police Department and the Clearwater Police Chief shall be the responsible authority for supervising the investigation. The Pinellas County Sheriff's Office detectives assigned to the Taskforce shall not participate in the investigation.

If the force was used by a Pinellas County deputy sheriff and the incident occurred south of Ulmerton Road and/or Walsingham Road then the supervising agency shall be the St. Petersburg Police Department and the St. Petersburg Police Chief shall be the responsibility authority for conducting the investigation. The Pinellas County Sheriff's Office detectives assigned to the Taskforce shall not participate in the investigation.

**b. St. Petersburg Police Department/Clearwater Police Department.** If deadly force was used by a St. Petersburg police officer or Clearwater police officer then the supervising agency shall be the Pinellas County Sheriff's Office and the responsible authority shall be the Pinellas County Sheriff. The St. Petersburg or Clearwater police department detectives assigned to the Taskforce shall not participate in the investigation as to its officers.

**c. Other Pinellas County Police Department.** If the force was used by a police officer of a Pinellas County agency other than St. Petersburg or Clearwater police

departments and that agency is a party to this agreement, including the Pinellas Park Police Department, or another Pinellas County police department requests that the Taskforce conduct the investigation, the Supervising Agency shall be the Pinellas County Sheriff's Office and the responsible authority shall be the Pinellas County Sheriff. All Taskforce members may participate in the investigation, excluding officers from any agency involved in the use-of-force incident. Pinellas County police agencies that have stated their desire for the Taskforce to conduct deadly force investigations involving their officers include the Gulfport Police Department, Treasure Island Police Department, Indian Shores Police Department, Kenneth City Police Department, Belleair Police Department, Pinellas County Schools Police Department, and the University of South Florida—St. Petersburg Campus Police Department. Any Pinellas County police agency may request that the Taskforce conduct a deadly force investigation regarding its officers regardless of whether that agency is named in this Agreement.

**d. Agency Outside Pinellas County.** If a law enforcement officer from an agency outside of Pinellas County uses deadly force or force that results in death or serious bodily injury within Pinellas County, the agency whose jurisdiction within which the force was used may either conduct the investigation itself or activate the Taskforce and in such a case all Taskforce members may participate in the investigation with the Supervising Agency being the one with primary jurisdiction, unless that agency requests not to lead the investigation (*i.e.* small police department without the resources to supervise the investigation). If the agency with primary jurisdiction declines to lead the investigation then the Supervising Agency will be the Pinellas County Sheriff's Office.

**6. Supervising Agency Duties.** The Supervising Agency shall be responsible for sending its detectives and supervisory personnel to the scene of the use-of-force immediately

upon notification that the Taskforce has been activated. Detectives from the other participating agencies (unaffected agencies) shall be notified by the Supervising Agency and that agency's detectives shall also immediately respond to the scene. The participating and unaffected agencies' investigative personnel shall be under the direction of the Supervising Agency.

Supervision and Command Staff of the agency whose officer used the force may respond to the scene and administratively communicate with their officer but they shall not participate in the Taskforce investigation. As soon as possible after conducting the initial investigation, the Supervising Agency shall brief the Police Chief or Sheriff, or designee, of the Employing Agency of its preliminary factual findings. It is understood that the preliminary briefing is not a final determination and the facts are subject to change upon further investigation. The Supervising Agency shall provide reasonable subsequent briefings to the Employing Agency as requested.

**7. Forensic Science Services.** The Supervising Agency may designate any Party Agency, or any other entity, to conduct crime scene processing and forensic science services, and such services shall be conducted under the direction of the Supervising Agency.

**8. Release of Information and Video or Audio Recordings.** Nothing in this Agreements prevents the Employing Agency from releasing to the media or anyone else any information or video or audio recordings of the incident involving the use of force. The Employing Agency or the Supervising Agency may release information and video or audio recordings within its sole discretion.

**9. Incident and Investigative Reporting.** The Records Management System (RMS) used to document the investigation will be the RMS system used by the Supervising Agency. All unredacted reports shall be provided to the Employing Agency by the Supervising

Agency upon request at the conclusion of the investigation or other time as mutually agreed by the agencies.

**10. Administrative Review or Investigation by Employing Agency.** The Taskforce will present its investigative and factual findings to the Employing Agency. It will be the Employing Agency's responsibility to assess and determine whether the officer's actions were in conformity with agency policy. It will be the responsibility of the Employing Agency to determine whether an internal affairs investigation is warranted and the Employing Agency shall retain the right to refer the matter to its internal affairs section to conduct an administrative investigation consistent with the requirements of Florida law, including the Police Officer Bill of Rights, F.S. § 112.532. The Employing Agency's right to conduct its own administrative investigation and make its own administrative findings is independent and regardless of any determinations made during the criminal investigation conducted by the Taskforce. During its administrative review or investigation the Employing Agency is also not bound or limited by the Taskforce's determinations in the criminal investigation.

**11. Term.** This MOA will remain in effect unless terminated as set forth herein.

**12. Costs.** The Party Agencies shall each bear their own personnel costs, including all overtime expenses associated with conducting the Taskforce investigation. The Supervising Agency shall bear all investigative costs, other than other agencies' personnel costs, directly or indirectly related to conducting the Taskforce investigation. All crime scene processing or forensic science services' costs shall be the responsibility of the Party Agency performing the services at the request of the Supervising Agency. If the Supervising Agency requests an agency other than a Party Agency to conduct crime scene processing or forensics science services and

there is a cost to be paid for the services then the cost is the responsibility of the Supervising Agency.

**13. Termination.** Any party can terminate this MOA by providing the other parties 15 days written notice to the remaining parties to the MOA. However, the termination pertains to new investigations only. For any on-going investigation, the duties and responsibilities of the Supervising Agency and assigned Taskforce members will continue pursuant to the terms set forth herein until completed.

This MOA will remain in effect for any party who has not elected to terminate.

**14. Sovereign Immunity.** Nothing herein is intended to waive or abrogate any parties entitlement to sovereign immunity or its provisions as set forth in F.S. § 768.28.

**15. Third Party Beneficiary.** Nothing herein is intended to create any third party benefit.

**16. Governing Law.** The validity, interpretation, and enforcement of this Agreement shall be governed by, construed and interpreted in accordance with, the laws of the State of Florida.

**17. Entire Agreement.** This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, and all other communications between the parties relating to such subject matter.

**18. Amendments and Modifications.** This Agreement shall not be amended, altered, modified, or changed except by a written agreement signed by the Parties.

**19. Notice.** All notices given under this Agreement shall be in writing and deemed effectively given when sent by certified mail, or in person with proof of delivery, to the



respective Party's headquarters. Any party changing their headquarters address or requesting notice to an alternative address must notify the other parties in writing at least 30 days prior to the new notice address becoming effective.

**20. Acknowledgement.** The Parties acknowledge having read this Agreement in full, understand all of its terms and obligations and they enter into this Agreement freely and voluntarily.

**IN WITNESS WHEREOF**, the parties have executed this Agreement.

PINELLAS COUNTY SHERIFF'S OFFICE

By \_\_\_\_\_  
Bob Gualtieri, Sheriff

Date: \_\_\_\_\_

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ATTEST:

CITY OF ST. PETERSBURG

\_\_\_\_\_  
CITY CLERK

By \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Anthony Holloway, Chief of Police

Date: \_\_\_\_\_

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ATTEST:

CITY OF CLEARWATER

\_\_\_\_\_  
CITY CLERK

By \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

By \_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Daniel Slaughter, Chief of Police

Date: \_\_\_\_\_

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ATTEST:

CITY OF PINELLAS PARK

\_\_\_\_\_  
CITY CLERK

By \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

By \_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Michael Haworth, Chief of Police

Date: \_\_\_\_\_