

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

MEMORANDUM OF AGREEMENT

Between

The Los Angeles Police Department and the Los Angeles Department of Public Works,
Bureau of Sanitation, Watershed Protection Division, Environmental Enforcement &
Emergency Response Unit

I. PARTIES

This Memorandum of Agreement (MOA) is entered into by and between the Los Angeles Police Department (LAPD) and the Bureau of Sanitation (BOS) of the Department of Public Works.

II. BACKGROUND

The 1972 amendments of the Federal Water Pollution Control Act (also referred to as the Clean Water Act) prohibit the discharge of any pollutant into navigable waters of the United States from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit.

In 1987, Congress amended the Clean Water Act to require the Environmental Protection Agency (EPA) to establish requirements for stormwater discharges. To implement these requirements, the EPA published the initial permit application and requirements for certain categories of stormwater discharges associated with industrial activity, and discharges from municipal separate storm sewer systems located in municipalities with a population of 100,000 or more on November 16, 1990 (55 FR 47990).

On July 30, 1996, the Regional Water Quality Control Board named the City of Los Angeles (City), along with other municipalities, co-permittees under a joint municipal NPDES permit. Pursuant to the Clean Water Act Section 402 (p)(3)(B), municipal NPDES permits, given either on a system or jurisdiction-wide basis, shall effectively prohibit non-stormwater discharges into the storm drain system and shall require controls to reduce the discharges of pollutants to the maximum extent practicable. Under the municipal NPDES

permit, previously mentioned and in accordance with Title 40 of the Code of Federal Regulations (CFR) 122.26 (d) (2) (i) (B) (C), the City of Los Angeles (City) along with other co-permittees, is required to prohibit (by way of ordinance, order, or similar means) illicit discharges into the storm drain system. Additionally, the City must control the discharges of spills, dumping or disposal of materials other than stormwater to the public right-of-way that could potentially affect the storm drain system.

III. PURPOSE

The Department of Public Works, Bureau of Sanitation, Watershed Protection Division, Environmental Enforcement and Emergency Response Unit (BOS WPD EEERU) is responsible for the enforcement of applicable provisions of law related to the control of discharges and the contribution of pollutants to the public right-of-way that could potentially affect the storm drain system, the environment, and public health and safety. The City is further required to prohibit: discharges, illicit connections, control spills, illegal dumping, or disposal of materials to the public right-of-way that could potentially negatively affect the storm drain system. The public safety responsibility of the BOS WPD EEERU is mandated by Title 40 of the CFR 122.26 (d) (2) (i) (B) (C), which specifically requires that municipalities have adequate legal authority to prohibit and control at a minimum "discharges to a municipal separate storm sewer of spills, dumping, or disposal of materials other than storm water."

The Los Angeles City Charter states that the authority and responsibility for policing the City rests with the LAPD. In addition, the Charter authorizes the BOS WPD EEERU to enforce specific environmental related laws and ordinances. The BOS WPD EEERU employs Environmental Compliance Inspectors (ECIs), also known as Environmental Officers ("public officers" pursuant to Penal Code Section 836.5) with peace officer powers of arrest [L.A.M.C. Section 61.07 & 64.70 and Penal Code Section 830.7(j)], to fulfill this public safety responsibility. These peace officer powers of arrest are for specialized Public Works environmental law enforcement and intended to aid ECIs with working in a cooperative and supplementary role with the LAPD. It is in the best interest of the City of Los Angeles and City employees that BOS WPD EEERU ECIs and the LAPD officers coordinate their efforts to provide effective and efficient environmental and public safety service. This MOA is intended to delineate responsibilities of the BOS WPD EEERU and LAPD concerning the enforcement of illicit discharges, illicit connections, spills, dumping, or disposal of materials that could negatively affect the storm drain system, receiving waters and the public of the City of Los Angeles.

The parties agree that this MOA is subject to all applicable current and future Federal, state, and local laws, the Los Angeles City Charter, and any applicable rules and regulations enacted by independent commissions of the City (collectively, "Laws"). If any article, part, or provision of this MOA is in conflict

or inconsistent with such Laws, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, it will be suspended and superseded by such Laws and/or court ruling, and the remainder of this MOA will not be affected unless the essential purpose of this MOA will be materially impaired. Nothing in this MOA is intended to restrict or limit the authority and duty of the WPD Chief of the EEERU of the BOS, to carry out the law enforcement responsibilities mandated by the Los Angeles Municipal Code, the California Penal Code or any and all laws related to the enforcement of illicit discharges, illicit connections, spills, dumping, or disposal of materials that could negatively affect the storm drain system, receiving waters and the public.

IV. AUTHORITY AND RESPONSIBILITY

- A. Under Section 570 of the Los Angeles City Charter, the LAPD is the authorized law enforcement agency, and has the power and duty to enforce the penal provisions of the Charter, City ordinances, state and Federal law.
- B. Under Section 580 of the Los Angeles City Charter, the duties of the Department of Public Works include maintaining sanitary sewers and storm drains owned by the City and performing other duties as may be assigned by ordinance.
- C. California Penal Code Section 830.7(j) grants the arrest powers of a peace officer to illegal dumping enforcement officers, authorizing arrests pursuant to Penal Code Section 836 when specified requirements are met. Watershed Protection Division ECI peace officer arrest authority shall be limited to the course and scope of their employment as defined by Los Angeles Municipal Code Sections 61.07 and 64.70.

V. GENERAL RESPONSIBILITIES

- A. Environmental Enforcement & Emergency Response Unit

The BOS WPD EEERU ECIs will normally issue citations, conduct investigations and arrests (within the scope of employment) and complete reports involving the enforcement of laws and ordinances regarding illicit discharges, illicit connections, spills, dumping, or disposal of materials that could negatively affect the storm drain system, receiving waters, environment and public health and safety.

- B. Los Angeles Police Department

The responsibility as the lead agency for conducting felony preliminary and follow-up investigations will rest with the LAPD. The LAPD shall make arrests and conduct both the preliminary and follow up investigations of any complex felony crimes, cases involving juveniles, and crimes of violence involving the use of weapons.

VI. ARREST PROCEDURES

A. Environmental Enforcement & Emergency Response Unit

When a BOS WPD EEERU ECI makes an arrest, he/she is responsible for completing the necessary paperwork, including the notice to appear and, if applicable, arrest report and all related reports.

B. Los Angeles Police Department

When an arrest initiated by the BOS WPD EEERU ECI is determined to be the responsibility of the LAPD, as previously specified in this MOA, LAPD personnel will assume responsibility for the preliminary investigation and booking of the arrestee(s). When practicable, the BOS WPD EEERU ECI who made the initial arrest shall accompany the LAPD officers(s) to the appropriate LAPD division to be interviewed by the LAPD supervisor approving the booking.

VII. TRANSPORTING AND BOOKING PROCEDURES

A. Environmental Enforcement & Emergency Response Unit

- 1) If the arrestee is not cited and released at scene, the arresting BOS WPD EEERU ECI will be responsible for completing the booking process after the arrestee has been transported to the appropriate LAPD facility by LAPD officers. The BOS WPD EEERU ECIs will transport arrestees to the appropriate LAPD facility when using City vehicles that are properly equipped for arrestee transport.
- 2) Prior to booking a sick or injured person at any LAPD facility, the arresting BOS WPD EEERU ECI will provide the concerned LAPD watch commander with evidence from the Jail Division Dispensary or a City-approved contract hospital that the arrestee has been medically treated and is approved for booking at an LAPD jail facility.

B. Los Angeles Police Department

- 1) The LAPD may, when resources are available and BOS WPD EEERU ECIs are unable, transport any arrestee(s) who is not cited and released at scene to the appropriate LAPD facility without unnecessary delay.
- 2) The LAPD will be responsible for booking approval of all BOS WPD EEERU ECI arrests of individuals who are to be booked into an LAPD jail facility. When necessary and contingent upon available resources, the LAPD watch commanders may arrange for LAPD officers to be available

to assist the BOS WPD EEERU ECI with the booking and processing of the arrestee(s), as well as the handling of any related evidence.

- 3) The LAPD will normally furnish jail facilities for adult male and female prisoners arrested within the City by BOS WPD EEERU ECIs.

VIII. EVIDENCE AND PROPERTY PROCEDURES

A. Environmental Enforcement & Emergency Response Unit

- 1) It is the responsibility of the BOS WPD EEERU ECIs to retain custody of evidence related to the enforcement laws and ordinances of illicit discharges, illicit connections, spills, dumping, or disposal of materials that could negatively affect the storm drain system, receiving waters and the public. The BOS WPD EEERU ECIs will book all other evidence and property associated with an arrest into the custody of the appropriate LAPD facility. When booking evidence with the LAPD, BOS WPD EEERU ECIs will comply with LAPD Manual Section 4/510. The BOS WPD EEERU ECIs removing evidence from the LAPD Property Division will comply with procedures applicable to the LAPD personnel.
- 2) The BOS WPD EEERU ECIs will have the same responsibilities as the LAPD preliminary investigators in booking evidence, disposition of booked evidence and property.

B. Los Angeles Police Department

- 1) When a BOS WPD EEERU ECI arrestee is booked into custody at an LAPD facility, the LAPD will assume responsibility for the custody of all evidence and property associated with that arrest that is booked into the LAPD by the BOS WPD EEERU ECIs. The LAPD will also accept excess personal property of such arrestees.
- 2) When property is booked, the concerned BOS WPD EEERU ECI will be given one copy of an LAPD Property Report, Form 10.01.00, or, if more convenient, a copy of an LAPD Receipt for Property Taken into Custody, Form 10.10.00.

IX. VEHICLE IMPOUND PROCEDURES

A. Environmental Enforcement & Emergency Response Unit

The BOS WPD EEERU ECIs will have primary responsibility to impound vehicles under any appropriate impound authority, when appropriate under applicable law, using the Official Police Garage for the involved LAPD division. In such cases, the impounding BOS WPD EEERU ECI will

complete the required LAPD reports and make the necessary notifications. The BOS WPD EEERU will have the responsibility for conducting impound hearings of vehicles impounded by BOS WPD EEERU ECIs when such vehicles are not otherwise subject to an investigation for which LAPD retains investigative responsibility.

B. Los Angeles Police Department

The LAPD will have secondary responsibility to impound vehicles under any appropriate impound authority, when appropriate under applicable law. In addition, LAPD officers will complete required reports and impound vehicles for which the LAPD retains investigative responsibility. The LAPD officers will be available to assist BOS WPD EEERU ECIs with advice regarding vehicle impounds, completion of reports, and required notifications.

X. ADMINISTRATIVE INVESTIGATIONS

A. Los Angeles Police Department

- 1) When an LAPD supervisor becomes aware that an arrest effected by a BOS WPD EEERU ECI appears improper, he or she shall request that a supervising BOS WPD EEERU ECI immediately review the matter and consult with the concerned LAPD supervisor. It will be the responsibility of the concerned LAPD watch commander to make the final determination on accepting the custody of an arrestee in such situations.
- 2) In any case where an arrestee complains of misconduct by a BOS WPD EEERU ECI or where there appears to be an issue of misconduct by a BOS WPD EEERU Inspector, the LAPD supervisor shall notify the supervising BOS WPD EEERU ECI who will cause a supervisor to respond and conduct an administrative investigation.
- 3) When misconduct constituting a crime is alleged against a BOS WPD EEERU ECI, the concerned LAPD supervisor will ensure that the appropriate crime report is taken. The commanding officer of the LAPD division responsible for the criminal investigation will ensure that the necessary information to allow BOS WPD EEERU ECIs to conduct their administrative investigation is provided to the Chief ECI.

B. Environmental Enforcement & Emergency Response Unit

- 1) Whenever a LAPD supervisor notifies the BOS WPD EEERU of an improper arrest by or possible misconduct of a BOS WPD EEERU ECI, the BOS WPD EEERU will have a supervisor respond to discuss the matter with the LAPD supervisor and conduct an administrative investigation, if appropriate.

XI. LOCAL AREA NETWORK

A. Los Angeles Police Department

The LAPD will provide the BOS WPD EEERU ECIs authorization to access the LAPD Local Area Network (LAN) in LAPD facilities and BOS WPD EEERU facilities. The LAPD's Information Technology Division (ITD) will assign LAN and Network Communications System user identification numbers to BOS WPD EEERU ECIs, provided that background checks of these inspectors have been completed by LAPD's Personnel Division. The LAPD will continue to provide training to BOS WPD EEE ECIs in the use of the LAPD LAN.

B. Environmental Enforcement & Emergency Response Unit

The BOS WPD EEERU will designate a supervisory level liaison and will maintain records of the BOS WPD EEERU ECIs receiving LAN user identification numbers and will notify the LAPD ITD of any changes, including new employment and terminations.

XII. TRAINING

A. Environmental Enforcement & Emergency Response Unit

The BOS WPD EEERU will be responsible for ensuring that ECIs meet Peace Officer Standards and Training (POST) as required by California Penal Code Sections 830.7 and 832, and Los Angeles Municipal Code Section 64.70. In order to ensure consistency in the knowledge of law, Department polices, tactics and proper completion of LAPD reports and citations, it is recommended that the BOS WPD EEERU ECIs attend POST certified training at the LAPD Academy.

XIII. INVESTIGATION AND REVIEW OF CATEGORICAL USE OF FORCE INCIDENTS

A. A categorical use of force is defined as:

- 1) The use of deadly force by an LAPD or BOS employee;
- 2) All uses of an upper body control hold by an LAPD or BOS employee, including the use of a modified carotid, full carotid, or locked carotid hold;
- 3) All deaths while the arrestee or detainee is in the custodial care of an LAPD or BOS employee;
- 4) A use of force incident resulting in death;
- 5) A use of force incident resulting in an injury requiring hospitalization; and,
- 6) All head strikes with an impact weapon.

- B. The BOS WPD EEERU Use of Force Policy will be consistent with the existing LAPD Use of Force Policy. The LAPD's Force Investigation Division (FID) will respond to and investigate all categorical use of force incidents involving the BOS WPD EEERU ECIs in the same manner as would be done for an LAPD officer. Force Investigation Division will be solely responsible for assembling the investigative report.
- C. When FID conducts a categorical use of force investigation of an incident involving BOS WPD EEERU ECIs, the report and findings of the investigation will be provided to the Director of the Bureau of Sanitation, and the BOS WPD EEERU Chief. The BOS WPD EEERU understands that the LAPD will comply with all procedures delineated in the "Protocol for District Attorney Officer-Involved Shooting Program", as established by the Los Angeles District Attorney Justice System Integrity Division.
- D. The BOS Director and BOS WPD EEERU Chief will conduct reviews of categorical use of force incidents by BOS WPD EEERU ECIs. The review process of categorical use of force consists of the following:
 - 1) The BOS Director and BOS WPD EEERU Chief will review the FID report to determine if the categorical use of force was consistent with the BOS WPD EEERU Use of Force policy.
 - 2) The BOS Director will conduct a final review of the incident and adjudicate the incident in accordance with BOS WPD EEERU established procedures for review of categorical use of force incidents.

**XIV. NON-CATAGORICAL USE OF FORCE INVESTIGATION –
BUREAU OF SANITATION, WATERSHED PROTECTION
DIVISION, ENVIRONMENTAL ENFORCEMENT AND
EMERGENCY RESPONSE UNIT**

- A. The BOS WPD EEERU will have sole responsibility for investigation of non-categorical uses of force by BOS WPD EEERU ECIs. Such investigations will be investigated by the on duty BOS WPD EEERU watch commander (i.e. senior duty officer) or an investigator of their division's Special Investigation Section.

**XV. RESOLUTION OF DISPUTES REGARDING TERMS OF THIS
AGREEMENT**

- A. Any MOA related disputes between the parties will be resolved through the appropriate chain of command. If the matter in dispute involves a law enforcement issue that requires immediate resolution, the decision of the

watch commander of the LAPD division in which the incident occurred will be followed until such time that the matter can be reviewed at a higher level.

XVI. NOTIFICATIONS

A. General

The watch commanders of the BOS WPD EEERU (i.e. senior duty officers) and the LAPD are responsible for maintaining communications with respect to operational and administrative situations that are likely to involve or be of concern to the other agency.

B. Immediate Notification

The LAPD and BOS WPD EEERU agree to immediately notify each other when they receive intelligence information, receive calls for service involving, or become aware of any of the following:

- 1) Los Angeles Police Department Emergency Services Division, Hazardous Materials Unit, shall receive notifications of the following:
 - a. Residential storage of reportable quantities of hazardous materials;
 - b. Suspected illicit laboratories;
 - c. Reports of chemical odors emitting from structures;
 - d. Illegal disposals of all industrial and reagent grade chemicals;
 - e. Discovery or disposal of chemicals that can be utilized in the illicit manufacture of explosives, chemical weapons, biological pathogens, and narcotics;
 - f. Radiological materials;
 - g. Calls involving hazardous materials/waste that have suspect information or potential follow up information;
 - h. Disposal or dumping of flammable, toxic, or corrosive materials; and,
 - i. Illegal transportation of hazardous materials.

- 2) The BOS WPD EEERU shall receive notifications of the following:
 - a. Illicit discharges, illicit connections, spills, dumping, or disposal of materials that could negatively affect the storm drain system, receiving waters, environment and public health and safety.

XVII. EFFECTIVE DATE

- A. This MOA becomes effective when both the Director of the BOS and the LAPD Chief of Police have affixed their signatures below.
- B. This MOA shall remain in effect until modified by written mutual agreement between the involved parties or when terminated in writing by either Department.



CHARLIE BECK
Chief of Police
Los Angeles Police Department

4-9-15

Date



ENRIQUE C. ZALDIVAR
Director
Bureau of Sanitation

4/27/15

Date