

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE RAPID CITY POLICE DEPARTMENT
AND THE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
FEDERAL PROTECTIVE SERVICE**

PURPOSE

The expressed purpose of this agreement is to establish criteria of mutual assistance between the Federal Protective Service (FPS) of the Department of Homeland Security (DHS), hereafter referred to as FPS, and the Chief of the Rapid City Police Department, hereafter referred to as RCPD. Both the FPS and the RCPD having mutual law enforcement and security responsibilities within the City of Rapid City, agree to assist one another for the purposes of providing protection to government employees, the general public, and the properties under the cognizance and control of the respective agencies.

RECITALS

The FPS is established under the authority of Title 40, United States Code, Section 1315, for the purpose of protecting the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government. This includes the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

FPS Police Officers, FPS Special Agents, and all other FPS and DHS law enforcement personnel credentialed under 40 USC 1315 may enforce Federal laws and regulations for the protection of persons and property; carry firearms; make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony; serve warrants and subpoenas issued under the authority of the United States; conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property; and, carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

South Dakota Statute (SD) 9-29-1. Territorial jurisdiction of municipalities. Every municipality shall have power to exercise jurisdiction for all authorized purposes over all territory within the corporate limits and over any public ground or park belonging to the municipality, whether within or without the corporate limits, and in and over all places, except within the corporate limits of another municipality, within one mile of the corporate limits or of any public ground or park belonging to the municipality outside the corporate limits, for the purpose of promoting the health, safety, morals, and general welfare of the community, and of enforcing its ordinances and resolutions relating thereto.

SD 9-29-3. Prohibition of disorders and disturbances. Every municipality shall have power to provide for keeping and preserving the peace and quietness of the municipality, to prevent disorderly conduct, to prohibit public intoxication, and to prevent and suppress riots, affrays, noises, disturbances, and disorderly assemblies in any place.

SD 9-29-17. Mayor's power to summon aid in preserving order. The mayor of every first or second class municipality shall have the power, when necessary, to call upon every inhabitant of the municipality over the age of eighteen years to aid in enforcing the laws and ordinances, and to call out any organized militia within the county in which the municipality is situated, in suppressing riots and other disorderly conduct, or carrying into effect any law or ordinance, subject to the authority of the governor as commander in chief thereof.

SD 23A-3-6, Aid to law enforcement officer on request. Every person must aid a law enforcement officer in making an arrest if the officer requests his aid.

SD 23A-3-25. Authority of federal law enforcement officer. Any federal law enforcement officer holds the same authority as a state or local law enforcement officer in this state when making an arrest for a nonfederal crime under any of the following circumstances:

- (1) The officer has reasonable grounds to believe that a state felony has been committed and that the person arrested committed such felony;
- (2) The officer is rendering assistance to a state or local law enforcement officer in an emergency or at the request of the state or local law enforcement officer; or,
- (3) The officer is participating in a task force composed of state or local law enforcement officers and federal law enforcement officers.

SD 23A-45-9 (9), defines a law enforcement officer as "an officer or employee of the state or any of its units of local government, or of the United States, or an employee of a railroad or express company while on duty, who is responsible for the prevention or detection of crimes or for the enforcement of the criminal or highway traffic laws of the state. This definition shall not be construed as extending the territorial jurisdiction, statutory jurisdiction, or statutory authority of any law enforcement officer included in this definition".

SD 23A-45-9 (13), defines "Peace officer," a law enforcement officer.

It is the policy of the DHS that the FPS and the RCPD shall coordinate their law enforcement efforts to provide quality police services for the protection of all persons and property on or involved in the use of property owned or occupied by the Federal Government located in the City of Rapid City.

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AGREEMENT

In recognition of the foregoing and in consideration of the possible need for mutual assistance the FPS and RCPD agree to the following conditions:

1. FPS shall maintain certification of those FPS law enforcement personnel per current agency policies and directives.
2. The Chief of Police, by signing this Memorandum of Understanding, consents to the exercise of peace officer authority by FPS law enforcement personnel when they are engaged in the enforcement of applicable state and local laws on property owned or possessed by the United States, or on any street, sidewalk, or property adjacent thereto. FPS officers or agents while in the performance of their official duties may act on emergent situations occurring in their presence within the City of Rapid City where there is a threat or a potential of threat to the well being of life and/or property. This includes protection of persons identified as proper individuals for protection (protectees) by the FPS Director.
3. FPS law enforcement personnel shall be authorized to exercise the powers of arrest of a peace officer for violations of state or local laws and such arrest powers are exercised incidental to their federal duties, and shall be peace officers when they are engaged in the enforcement of applicable state and local laws on all property within the City of Rapid City.
4. If either the FPS or the RCPD, under exigent or other emergency circumstances, requests assistance the other agency is authorized to render any and all assistance possible and shall attempt to do so subject to the availability of resources. The agency requesting assistance can project needs based on the circumstances or the event, the assisting agency's support will be based on availability of resources.

The requesting agency shall maintain command and control of the situation; the assisting agency's personnel will be under the technical command of the on-scene commander. The deployment of law enforcement personnel will be at the discretion of the requesting agency. Consistent with relevant state and federal laws, the FPS and RCPD shall make copies of their police incident reports available to each other upon request.

5. The primary goals of this agreement are to provide assistance for:
 1. The protection of life and property;
 2. response to officer assistance calls;
 3. major demonstrations;
 4. civil disobedience; and,

5. response to disasters.
6. Federal agencies are self insured. To the extent allowed under federal and state law, FPS will be liable only for the acts or omissions of its personnel. RCPD shall be individually liable for worker's compensation claims filed by its respective personnel arising from injuries sustained as a result of this MOU. With respect to the Use of Force, each individual will be governed by his or her respective agency's Use of Force policy.
7. This agreement shall remain in effect until such time as either agency cancels or modifies the terms and conditions of the agreement. The parties agree that termination of this agreement will be in writing with at least 30 days notice.

Steven Schaad
Region 8 Director
Federal Protective Service
Denver, CO

Craig Tieszen
Chief of Police
Rapid City Police Department
Rapid City, SD