



ASSOCIATION OF
CHIEF POLICE OFFICERS

[REDACTED]			
Author:	[REDACTED]	Force / Organisation:	ACPO(TAM)
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Association of Chief Police Officer of England, Wales & Northern Ireland

MOA BETWEEN ASSOCIATION OF CHIEF POLICE OFFICERS (ACPO) AND UNITED STATES VISITING FORCES (USVF) FOR THE PROCEDURES DURING CRIMINAL INVESTIGATIONS AND OTHER INCIDENTS INVOLVING USVF PERSONNEL

Status: This Crime Business Area Guidance, which has been developed to be used to assist in criminal and other investigations involving USVF personnel and to establishing reciprocal law enforcement support between USVF law enforcement personnel and UK law enforcement agencies. It has been agreed by ACPO Chief Constables' Council. It is disclosable under the FOIA 2000, has been registered and audited in line with ACPO requirements and is subject of Copyright.

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SECTION 1 - PREFACE

The Association of Chief Police Officers (ACPO) and the United States Visiting Force (USVF), a visiting force as defined by the Visiting Forces Act 1952, (hereinafter referred to as the Participants) have developed an Agreement for co-operation and partnership in conducting criminal and other investigations involving USVF personnel.

This agreement will be supplementary to the rights of the participants to investigate incidents involving USVF personnel under the provisions of the NATO Status of Forces Agreement 1951 (SOFA) and the Visiting Forces Act 1952 (VFA) and other applicable UK legislation.

This Protocol will be used to assist in criminal and other investigations involving USVF personnel and to establishing reciprocal law enforcement support between USVF law enforcement personnel and UK law enforcement agencies. The Participants are committed to increasing co-operation and partnership between the Participants and to provide an overarching framework for how criminal or other incidents will be investigated.

SECTION 2 - GUIDANCE, ADVICE AND PROCEDURES

Definitions

For the purposes of this MOA:

- 'USVF personnel' will include members of the force, the civilian component and dependents as defined in Article I, NATO SOFA.
- 'USVF law enforcement personnel' are United States Federal Agents and include special agents assigned to the Air Force Office of Special Investigations (AFOSI); Army Criminal Investigative Division (CID); Naval Criminal Investigative Service (NCIS) and USAF Security Forces Investigators.
- USVF law enforcement agencies are United States Federal Agencies operating in the United Kingdom in exercise of jurisdiction over USVF personnel and include; AFOSI; Army CID; NCIS and USAF Security Forces.
- 'Lead agency' will be the USVF law enforcement agency or UK police authority having jurisdiction, exclusive, waived or the primary right to exercise jurisdiction (as defined by the SOFA and VFA) and the intention to prosecute the alleged offender(s).
- 'Joint investigations' will be any investigation in which both Participants have an interest.
- 'Mutual investigations' will be investigations where, due to the nature and circumstances of the investigation, one or more of the alleged offenders is subject to the jurisdiction of the USVF and one or more of the alleged offenders is subject to the jurisdiction of a UK police authority.

SECTION 3 – OPERATIONAL TACTICS

Background

The Participants recognise that USVF law enforcement agencies have, in accordance with the provisions of Article VII SOFA, and section 3-5 VFA, the authority to investigate USVF personnel in connection with the USVF authority to prosecute by court martial active duty members of the USVF.

Information Sharing and Co-operation

The Participants will assist each other in the carrying out of all necessary investigations into offences and in the collection and production of evidence.

The Participants will during the course of any investigation share with each other information relating to an investigation unless there are specific legal reasons preventing the release of information from one to the other.

The Participants will provide access to their respective investigative procedures. The US Special Investigators' Crime Scene Manual can be released to Senior Investigation Officers of UK Police Force investigating cases involving USVF Personnel and can be used as a resource by UK Chief Constables.

In joint investigations the lead agency will, subject to coordination with any other agency or authority, be the final authority on case administration and will be the final decision authority on investigative issues such as developing an investigative plan, determining which investigative steps will be taken and in what order, how evidence will be preserved, and other procedures pertaining to the collection and storage of evidence, both physical and testimonial.

In mutual investigations the Participants will use their best endeavours to coordinate and agree all investigative procedures in a manner that best preserves the ability of the Participants to prosecute the alleged offenders. For the purposes of interviewing alleged offenders, the Participant defined as lead agency in relation to those alleged offenders will have primacy.

In some investigations the Participants may not be able to identify sufficient evidence or information to identify the lead agency. In such circumstances the Participants will proceed as if it is a mutual investigation until a lead agency can be identified.

In investigations involving the death of an individual and where the USVF law enforcement agency is lead agency, it is acknowledged that the UK coroner will retain an interest and the USVF law enforcement agency will use its best endeavours to accommodate the requirements of the Coroners officers.

In investigations involving USVF personnel or their property and where a UK police authority is the lead agency, the UK police authority will acknowledge the interest of the USVF law enforcement agency and to the extent permitted by this MOA share information relating to the investigation.

Waivers of Jurisdiction

In accordance with Article VII SOFA the primary right to exercise jurisdiction may be waived by one Participant to the other. When a waiver is requested by one of the Participants the following provisions will apply.

Requests for a waiver (whether by informal request that a case be handed over or formal written request for waiver) will be answered as quickly as possible and whenever possible within 7 days of receipt of the request.

In considering requests for a waiver it will be assumed that any ongoing or subsequent investigation will provide sufficient evidence to support a prosecution of the alleged offender. Requests for waiver will be decided upon policy grounds and not upon the actual or perceived strength of the evidence.

Points of Contact

The RAF Mildenhall Law Enforcement Desk will be used by UK Police Forces to establish US points of contact and to determine immediate action in the event of an incident. Their Telephone number is 01638 542667, and is manned 24hrs a day throughout the year.

US Law Enforcement Agencies wishing to contact their UK Police colleagues should use the contact details of the Police Force or Constabulary in whose area the crime or incident takes place.

Media Handling

In dealing with any media queries or requests for information or interviews each participant's organisation will manage media issues on its own behalf but will take due cognisance of the needs of any other party involved in the case. In the case of joint investigations it may be appropriate to establish which organisation has the media lead but regardless of who has the lead, close co-operation in the development and instigation of a media strategy will be essential.

Complaints

Existing internal procedures of USVF and UK civil police will be adhered to for handling complaints. If a complaint is made against a USVF person the investigation will be conducted by USVF in accordance with USVF rules and regulations. A complaint made against UK civil police will be conducted in accordance with UK civil police rules and regulations governing complaints. Complaints against USVF law enforcement personnel will be handled under the existing complaints review procedures.

Duration of Protocol

This MOA will remain in effect from the date of last signature, unless terminated as detailed below.

Either Participant may terminate this MOA by giving 6 months notice in writing to the other.

Review & Monitoring

An annual review of this MOA will take place between the Participants. The purpose of the review will be to assess the impact of the MOA and to update any details which may have changed.

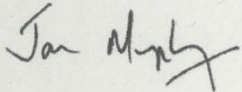
Any amendments to the sections of this MOA will be determined by the Participants.

Any dispute regarding the interpretation or application of this MOA will be resolved by consultation between the Participants, and will not be referred to any third party for settlement.

The foregoing record represents the understandings reached between the Participants as set out above.

A handwritten signature in black ink, appearing to read 'Mark R. Zamzow', with a long, sweeping horizontal stroke extending to the right.

Signed by: MARK R. ZAMZOW
Major General, USAF
Vice Commander, 3rd Air Force
United States Air Forces Europe

A handwritten signature in black ink, appearing to read 'Jon Murphy', with a stylized, cursive script.

Signed by: JON MURPHY QPM
Chief Constable
Merseyside Police
Chair of ACPO Crime Business Area
Date: Date: 13 March 2012