



REPLY TO  
ATTENTION OF:

**DEPARTMENTS OF THE ARMY AND AIR FORCE**  
CALIFORNIA NATIONAL GUARD  
COUNTERDRUG TASK FORCE  
10620 MATHER BOULEVARD  
MATHER, CALIFORNIA 95655

*"Combined Effort"*



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CALIFORNIA NATIONAL GUARD COUNTERDRUG TASK FORCE  
AND  
THE TULARE COUNTY SHERIFF'S DEPARTMENT**

**SUBJECT:** Memorandum of Understanding between the California National Guard Counterdrug Task Force (CDTF) and the Tulare County Sheriff's Department (TCSO) for Operation LOCCUST (Locating Organized Cannabis Cultivating Using Saturation Tactics).

**1. PURPOSE:** This Memorandum of Understanding (MOU) establishes policies, procedures, responsibilities, and financial arrangements between the California National Guard Counterdrug Task Force (CDTF) and the Tulare County Sheriff's Department (TCSO) for Operation LOCCUST (Locating Organized Cannabis Cultivating Using Saturation Tactics).

**2. AUTHORITY:** The CDTF is a reserve component of the United States Armed Forces. The Governor is the commander-in-Chief of the Army and Air National Guard units of his state when these units are not in a federal (Title 10) status. Such authority is derived from Article 1, section 8, clause 16 of the United States Constitution. Department of Defense (DOD) and National Guard Bureau (NGB) policy pertaining to the use of National Guard and Air National Guard Regulations.

- a. National Guard Regulation (NGR) 500-2 / Air National Instruction (ANGI) 10-801, Emergency Employment of Army and Other Resources, National Guard Counter drug Support.
- b. CDTF State Support Plan
- c. All applicable flight regulations of the United States Army, the Army National Guard, the United States Air Force, and the Air National Guard.
- d. CDTF Standard Operating Procedures (SOP)
- e. California Health and Safety Code, Section 11000 et seq, "California Uniform Controlled Substance Act."
- f. Code of Federal Regulations, Title 49, Transportation.
- g. United States Code, Title 32 et seq, National Guard
- h. United States Code, Title 28, Sections 2671-2680, The Federal Tort Claims Act (FTCA)
- i. CNG CDTF Rules for use of Force

**3. PLANNED DEPLOYMENT OF NATIONAL GUARD PERSONNEL AND/OR EQUIPMENT**

- a. The role of CDTF is to support TCSO in conducting eradication operations, air reconnaissance, intelligence support and logistics support throughout Operation LOCCUST (Locating Organized Cannabis Cultivating Using Saturation Tactics).

**SUBJECT:** Memorandum of Understanding between the California National Guard Counterdrug Task Force (CDTF) and the Tulare County Sheriff's Department (TCSO) for Operation LOCCUST (Locating Organized Cannabis Cultivating Using Saturation Tactics).

b. All CDTF support must have a primary counter drug nexus. All operations will be performed in accordance with NGR 500-2/ANGI 10-801 and the CDTF State Support Plan as approved by the Governor.

**4. REPORTING PROCEDURES:** CDTF is required to provide timely reports and share information with military and government agencies as part of its mission. Law enforcement classified and law enforcement sensitive information will not be included in such reports. When necessary, the TCSO agrees to assist the CDTF in making such reports by providing the CDTF information regarding seizures, plant counts, and arrests that are directly attributed to CDTF support. The TCSO further agrees to respond to law enforcement surveys when requested by the CDTF.

**5. COMMAND AND CONTROL:** CDTF will receive directions from TCSO, however, CDTF will retain operational and administrative control over all CDTF personnel and assets. TCSO will retain operational and administrative control over its employees.

**6. SCOPE OF OPERATIONS:**

a. Aviation.

(1) Aircraft Usage. Usage of aircraft will be limited to area observation, reconnaissance, transportation of personnel, seized property or contraband, and life-threatening emergencies. Counter drug support activities may include the observation or reconnaissance and assist in the tracking of vessels, aircraft or ground vehicles suspected of involvement in drug activities. The on-board TCSO officer in conjunction with the aircraft commander may, if necessary, deem it appropriate to perform medical evacuations.

(2) Aircraft Usage Limitation. Aircraft will not land for the purpose of placing law enforcement officers into a known hostile area except for exigent circumstances.

(3) Authorized Passengers. CDTF aircraft may be used for transportation of law enforcement personnel and equipment, persons in TCSO custody, and other government officials and employees essential to the conduct of operations associated with the counter drug surveillance or observation mission.

(4) Exclusion of Nonessential Air Passengers. CDTF personnel and equipment will not be used to transport news media or other persons not directly and officially connected with the mission.

(5) Control of Aircraft Operations. Prior to the commencement of each flight operation, TCSO will designate a single officer aboard or in direct contact with the aircraft who shall have authority for establishing counter drug surveillance and observation objectives or modifying such objectives during the flight, and communicating such objectives, or modifications, to the aircraft commander. The aircraft commander shall have preemptive, absolute and final authority over all aspects of flight operations.

(6) CDTF aircrews will fully comply with US Army and US Air Force Regulations governing flying hours and crew rest requirements. The aircraft commander is responsible for informing the lead TCSO agent on site of the status of the crew and aircraft with respect to these planning considerations.

**SUBJECT:** Memorandum of Understanding between the California National Guard Counterdrug Task Force (CDTF) and the Tulare County Sheriff's Department (TCSO) for Operation LOCCUST (Locating Organized Cannabis Cultivating Using Saturation Tactics).

b. Intelligence:

(1) All intelligence activities must be conducted in accordance with appropriate Department of Defense Regulations. CDTF personnel will not conduct activities that involve them directly collecting intelligence of particular individuals.

(2) CDTF will not maintain or store intelligence in accordance with the appropriate Department of Defense Regulations. CDTF personnel will not conduct activities that involve them directly collecting intelligence.

(3) CDTF personnel will not participate in TCSO or other agencies internal investigations.

(4) CDTF translator support will be limited to the transcription of pre-recorded tapes or written documents. Translators will not provide "Certified" translations for admission in court; take possession of primary source tapes which will be admitted as evidence, sit-on or translate active wire taps, or provide translation during criminal suspect interviews except when exigent circumstances exist and the translation is needed for officer safety.

c. Ground Reconnaissance/Observation

(1) Unattended Sensor Report. CDTF personnel can support the TCSO in the emplacement, monitoring and maintenance of unattended sensors in areas where suspected drug activity is occurring.

(2) Visual reconnaissance/observation by mobile patrols and listening posts/observation posts (LP/OP) using binoculars, cameras, night vision devices, and infrared/thermal imagery, including FLIR (Forward Looking Infrared) or low light devices with a TCSO officer present or in direct contact with the CDTF team.

(3) Ground Surveillance Radar (GSR) Counter drug personnel can establish and operate ground radar sites using either Army or Air GSR systems. Missions include site security and may require transportation support.

d. Thermal Imaging/Aerial Photography

(1) CDTF Thermal Imagery Support can be used by the TCSO

(2) A Thermal Imaging System (TIS) will not be employed in a random area search of private property to gather information on suspected drug production sites.

(3) The TCSO provides a certified thermographer, recognized by the court, to ensure sound legal application of the Thermal Imagery data. If used for establishing probable cause in the issuance of a search warrant, and or to testify in court.

(4) TIS will not be used in random searches of private property to detect indoor marijuana cultivation sites.

(5) The CDTF is prohibited from keeping or maintaining intelligence, records or files on United States Persons. All original tapes photographs or other record of information taken during a TIS mission will be given to the TCSO at the end of the mission.

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## **7. FORCE PROTECTION AND RULES FOR USE OF FORCE:**

a. Policy and regulations governing the Rules for Use of Force for military support personnel will be outlined in detail with TCSO's point of contact during the planning phase of the operation. CDTF personnel will not, except for exigent circumstances, directly participate in the arrest of suspects, conduct searches that include direct contact of CDTF members with suspects or members of the public, or become involved in the chain of custody for any evidence. Exigent circumstances are situations in which immediate action is necessary to protect police officers; CDTF personnel; or other persons from death, or injury; destruction of evidence or property; or to prevent the escape of a suspect already in custody.

b. CDTF personnel will be briefed on the need to maintain operational security. Neither CDTF nor TCSO will disclose the identity of CDTF units and/or personnel conducting conterdrug support operations.

## **8. PUBLIC AFFAIRS (PA) SUPPORT:**

a. The TCSO will be the lead agency regarding all public affairs and media concerns. PA and media concerns where CDTF support is involved will be coordinated with the CDTF PA Officer.

b. Operational security is paramount to conducting successful counterdrug operations. The TCSO and the CDTF will conduct an interagency risk analysis prior to the release of information to the media. The purpose of the risk analysis is to protect the identity of CDTF personnel and/or units conducting counterdrug support operations, and prevent disclosure to the media by either agency. CDTF personnel will ensure that public affairs efforts, directed at complying with

the right of the public to know, do not jeopardize the safety of CDTF personnel and equipment by disclosing personnel identification in photographs or video recordings by the media. CDTF PA personnel may participate in PA events with other organizations, but will not disclose information related to the TCSO without explicit guidance from the TCSO PA and as directed by local agent in charge.

## **9. SAFETY:**

a. Safety is the most important consideration when planning and executing Counterdrug missions. Both the TCSO and CDTF personnel will use all means available to ensure the safety of personnel and equipment during all phases of the mission.

b. In the event of a critical incident, responsibility for the investigation rests with the jurisdictional agency unless the jurisdictional agency relinquishes the investigation authority to another agency. If personnel from more than one agency are involved in the critical incident then consideration shall be given to utilize an agency uninvolved in the critical incident.

c. CDTF property involved in a critical incident shall remain under the care and control of CDTF, but will be made available to an investigating agency as needed.

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#### **10. RESPONSIBILITIES:**

a. TCSO and CDTF will be responsible for paying all of their respective staff salaries, fringe benefits and related expenses for Operation LOCCUST.

b. TCSO is responsible for:

(1). Determining the requirement for any and all search warrants and obtaining such search warrant if applicable.

c. CDTF is responsible for:

(1). Provide eradication, air reconnaissance, intelligence and logistical support.

#### **11. LIABILITY:**

a. It is agreed for the purpose of this MOU; employees, contractors and volunteers of TCSO to include other agencies supporting TCSO shall not be deemed employees of the CDTF for worker's compensation coverage, other employer insurance coverage or for other purposes. Likewise, the officers, agents, and employees of CDTF shall not be deemed employees of the TCSO for any purposes. Both parties agree that during the period this MOU is in force, the CDTF will be solely responsible for any claims arising out of injuries to, or death of, their own employees.

b. To the fullest extent permitted by law, claims for damages or injuries to a TCSO employee working in or around CDTF aircraft, vehicles, or support equipment will be limited to such recovery as the TCSO employee or his heirs or successors is entitled to receive through the TCSO pursuant to its obligations and responsibilities as an employer to provide worker's compensation benefits and coverage pursuant to the Federal Labor Code, California Labor Code and related applicable law.

c. To the fullest extent permitted by law, the CDTF, its agents and employees will not be considered to be third parties for the purpose of claims or indemnity.

d. Support provided by the CDTF is provided while its members are, or will be, performing duties pursuant to authority in federal law under Title 32 United States Code. Any, and all, claims against the CDTF for negligence arising from participation or support under this MOU shall be made under the Federal Tort Claims Act.

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e. Indemnification between CDTF and TCSO. Each party to this agreement shall release, defend, indemnify upon the request of the indemnified party, and hold the other harmless, including the elected officials, officers, employees, agents and volunteers of the other party against all claims, suits, actions, costs, expenses, including, but not limited to, reasonable attorneys' fees of the indemnified party's own employed attorney and counsel retained by such party, expert fees, litigation costs, investigation costs, damages, judgments of decrees by reason of any person's or persons' bodily injury, including death, or property, including property of the indemnified party, such damage resulting from or caused by the negligent acts, willful acts, or errors or omissions of such party.

**12. RENEGOTIATIONS:** Any and all modifications to this MOU must be mutually agreed upon in writing. This MOU will remain in effect while changes or amendments are being coordinated.

**13. TERMINATION OF AGREEMENT:**

a. The terms and conditions of this MOU are applicable to the TCSO and the CDTF in respect to one another as consistent with each agency's policies and procedures; governing statutes and regulations; and subject to the availability of appropriated funds or any continuing resolutions. Both parties have the authority to obligate their respective agencies to the provisions of this MOU.

b. This MOU shall become effective immediately upon being signed by both parties and will remain in effect until terminated by either party in writing, given thirty days notice, or at the end of the operation. Annual reviews by CDTF will occur in order to ensure appropriate levels of support.

**14. ASSET FORFEITURE AND SHARING:** The CDTF is authorized to participate in the U.S. Department of Justice's Equitable Sharing Program. Participation in this program will be governed by the U.S. Attorney General guidelines.

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Bill Wittman  
Sheriff-Coroner  
County of Tulare

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Timothy Swann  
COL, AR, USA  
Commanding

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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Jean Rousseau  
County Administrative Officer  
County of Tulare

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Connie Conway  
Chairman  
County of Tulare

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Date

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Date