

**Memorandum of Understanding/
Investigative Partnership and Support Agreement
between the
Lake Superior Drug and Violent Crime Task Force
and the
U.S. Department of Homeland Security
Customs and Border Protection (CBP)
U.S. Border Patrol**

Participants

The Parties to this Memorandum of Understanding (MOU) are the Lake Superior Drug and Violent Crime Task Force (LSDVCTF) and the U.S. Department of Homeland Security (DHS), Customs and Border Protection (CBP), U.S. Border Patrol, Chief Patrol Agent, Grand Forks, ND Sector.

The Lake Superior Drug and Violent Crime Task Force (LSDVCTF) is a multi-agency endeavor comprised of local and federal law enforcement agencies with jurisdiction to investigate a variety of crimes related to the distribution of narcotics, gang activity, violent crime and/or other cases that have a multi-jurisdictional impact. The City of Duluth is the Coordinating Agency for the LSDVCTF. The LSDVCTF is partially funded under the Federal Edward Byrne Memorial Grant Program, a federal formula grant program funded by the United States Department of Justice, Bureau of Justice Assistance, and State and Local Assistance for Narcotics and Gang Control Program, administered under the auspices of the Minnesota Violent Crime Coordinating Council ("grant funds").

Authority

DHS is authorized to enter into this agreement pursuant to 6 U.S.C. § 112(b)(2). CBP/ U.S. Border Patrol is a federal law enforcement agency with enforcement authorities under the provisions of 8 U.S.C. § 1103(c); 8 U.S.C. § 1357; 18 U.S.C. § 981(e); 19 U.S.C. § 1589a; 19 U.S.C. § 1616a; and 21 U.S.C. § 873.

Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation that exists between the participating agencies.

Mission

The mission of the LSDVCTF is to investigate a variety of crimes related to the distribution of narcotics, gang activity, violent crime and/or other cases that have a multi-jurisdictional impact.

Purpose

The purpose of this MOU is to delineate the responsibilities of the LSDVCTF, maximize inter-agency cooperation, and formalize relationships between the City of Duluth as the Coordinating Agency and both affiliate and partner agencies that are responsible for investigating suspects

who are engaged in distribution of narcotics, gang activity, violent crime and/or other cases that have a multi-jurisdictional impact.

Definitions/Acronyms

Lake Superior Drug and Violent Crime Task Force (LSDVCTF)

Customs and Border Protection (CBP), U.S. Border Patrol, Chief Patrol Agent, Grand Forks, ND Sector.

Jurisdiction

Jurisdictional areas will include the affiliate's local community, consistent with the level of membership of that law enforcement agency and statutes governing mutual aid in a task force type environment. Nothing in this MOU shall otherwise limit or enhance the jurisdiction and powers normally possessed by an employee as a member of that employee's home agency.

Partnership & Investigative Responsibilities

All LSDVCTF investigations will be conducted in a spirit of cooperation. Investigations will follow guidelines established by each agency's respective policy manual or guidelines. This MOU is not intended to infringe on the ongoing investigations of any other agency or contradict member agencies' existing policies.

Both the LSDVCTF and U.S. Border Patrol agree to investigate and seek prosecution of crimes related to the distribution of narcotics, gang activity, violent crime and/or other cases that have a multi-jurisdictional impact.

The intention of the LSDVCTF is to have task force members working collaboratively in a task force location. From time to time this obligation is met through the attendance of training or by working at other LSDVCTF locations, or as a result of work completed at the employee's own agency.

Supervision

The day-to-day operational supervision and administrative control of the LSDVCTF is the responsibility of the Task Force Commander. The position of Task Force Commander is subject to reassignment by the Coordinating Agency; the Task Force Commander will always be a licensed and/or certified peace officer of the Coordinating Agency and shall be paid by the Coordinating Agency. The Task Force Commander will work cooperatively with other supervisors and investigators from the participating agencies to keep them informed of LSDVCTF issues and progress. Responsibility for the personal and professional conduct of LSDVCTF members remains with the respective agencies, in keeping with each agency's rules regarding conduct.

Liability

Task Force members and employees of affiliate or partner agencies, other than current federal employees, shall not be considered to be federal employees for any purpose, including but not limited to liability under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b)(1), 2671-2680, or *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or for purposes of the Federal Employees' Compensation Act, 5 U.S.C. § 8101, *et seq.* The United States shall be liable for the acts or omissions of federal employees acting within the course and scope of their federal employment only to the extent authorized by the FTCA and other applicable federal law.

Each Party is responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other Party and the results thereof.

Evidence

Seized evidence and other related forfeitures will be handled in a manner consistent with the seizing/forfeiting law enforcement agency's policies. The seizing/forfeiting agency will be the lead agency in that particular investigation. Any forfeiture resulting from an investigation in which an affiliate is the lead agency will be to the benefit of that agency first and the LSDVCTF second. Any requests for sharing of forfeited assets will be in accord with the procedures for remission set forth by the forfeiting Party. Any payout to the requesting Party will be in accord with the policies set by the forfeiting Party.

Subpoenas

U.S. Border Patrol, as a federal agency, is not bound to comply with state subpoenas for information, evidence, or testimony; however, the CBP Office of Chief Counsel has the authority to authorize compliance with the same as long as disclosure of the information is not prohibited by federal statute, regulation, or DHS policy.

Records, Reporting, and Presentations

CBP/U.S. Border Patrol will maintain its own records and reports on cases originating in its home jurisdiction. The LSDVCTF will also require reporting according to Program protocol and policy to document task force related activity. To the extent possible, any and all investigative information will be available to the participating law enforcement agencies.

Resources

The LSDVCTF will continue to seek resources and funding opportunities to benefit the task force at large. These resources will be made available to all task force partners to the extent necessary to support and promote the LSDVCTF task force goals and objectives. Affiliate and partner agencies may benefit from funding in the form of training, equipment, and/or overtime.

Overtime

In some circumstances, task force affiliates will incur overtime expenses as a result of investigative or forensic activities. Provisions for overtime may be included as a benefit of task force affiliation. Requests for overtime reimbursement shall be submitted for approval through the LSDVCTF Commander. At no time will any overtime be provided or reimbursed without prior approval.

Confidential Information

All information pertaining to LSDVCTF investigations by the LSDVCTF will be held in the strictest confidence and safeguarded accordingly. Investigative information will be shared only with participating task force members with a need to know and with the approval of the law enforcement agency that authored or produced the information. All information sharing will be in accordance with federal and state statutes and regulations. Information provided by U.S. Border Patrol to the LSDVCTF shall not be released to non-law-enforcement entities. Re-dissemination of U.S. Border Patrol information by LSDVCTF to non- LSDVCTF participating law enforcement agencies requires the express approval of U.S. Border Patrol.

If LSDVCTF records are determined to be responsive to a request for records from a member of the public under Minnesota's Freedom of Information Act, the news media, or state legislature, the LSDVCTF agrees to coordinate any release of LSDVCTF records originating from U.S. Border Patrol with U.S. Border Patrol prior to dissemination.

Other Provisions

Nothing in this MOU is intended to conflict with current law or regulation or the directives or policies of DHS and/or CBP/ U.S. Border Patrol. If a term of this MOU is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees.

Further, no provision of this MOU shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. Each Participant is responsible for any expenses it incurs as a result of activities under this MOU. Nothing in this MOU is intended to imply that Congress will appropriate funds to either Party for activities under this MOU.

Points of Contact

Brent A. Everson
Patrol Agent in Charge, Duluth Border Patrol Station
Customs and Border Protection
U.S. Border Patrol
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(218) 720-5465 (Office)
(218) 720-5204 (FAX)

Lieutenant Jeff Kazel
Commander LSDVCTF
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Duluth, MN 55811
(218) 730-5463 (Office)
(218) 730-5905 (Fax)

Modification

This MOU may be modified upon the mutual written consent of the duly authorized representatives of the Parties. This MOU together with the terms and conditions of the Amended and Restated Joint Powers Agreement, Lake Superior Drug and Violent Crime Task Force (2016), which terms and conditions are incorporated herein and made a part hereof by reference, constitute the entire agreement between U.S. Border Patrol and LSDVCTF.

Dispute Resolution

Should disagreement arise on the interpretation of the provisions of this MOU, amendments and/or revisions thereto, or any matter arising under this MOU, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each Party and presented to the U.S. Border Patrol Point of Contact and the LSDVCTF Point of Contact, or their designees, for consideration. If agreement is not reached within 30 calendar days, the Parties shall forward the written presentation of the disagreement to the signatories of this MOU, or their designees, for resolution.

Effective Date

This MOU shall be effective upon signature of both Parties. This MOU may be terminated in writing by any agency signatory at any time.

Approval Authorization

By signing this MOU, each Party represents that it is fully authorized to enter into this MOU, and accepts the terms, responsibilities, obligations, and limitations of this MOU, and agrees to be bound thereto to the fullest extent allowed by law.

Lake Superior Drug and Violent Crime Task Force, Duluth, MN:

Jeffrey Kazel
Commander LSDVCTF
Duluth, MN

Date

Customs and Border Protection (CBP), U.S. Border Patrol, Chief Patrol Agent, Grand Forks, ND Sector:

Aaron Heitke
Chief Patrol Agent
Grand Forks, North Dakota

Date