

**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
U.S. Immigration and Customs Enforcement
Homeland Security Investigations
Office of the Special Agent in Charge, St Paul**

1. **PARTIES.** 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), U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Office of the Special Agent in Charge, St. Paul (HSI-St. Paul).

LSDVCTF is a multi-agency task force 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.

2. **PURPOSE.** This MOU sets forth the intended responsibilities of the LSDVCTF and HSI-St. Paul, maximizes inter-agency cooperation, and formalizes relationships among the Parties for policy, planning, training, and public media relations.

The LSDVCTF is a collaboration of local, state and federal law enforcement agencies that endeavor to investigate and to seek prosecution of crimes related to the distribution of narcotics, gang activity, violent crime and/or other cases that have a multi-jurisdictional impact.

3. **AUTHORITY.** This MOU is authorized under the provisions of the Homeland Security Act of 2002, as amended, 116 Stat. 2135, Pub. L. No. 107-296, Nov. 25, 2002, §§ 102(b) and 875(c) and all other applicable DHS/ICE delegation orders.

Nothing in this MOU is intended to conflict with applicable law, regulation, directive, policy or ordinance. Furthermore, nothing in this MOU is intended to restrict the authority of any of the agencies to act as provided by law or regulation, or to restrict any Party from enforcing any laws within its authority or jurisdiction. If any term of this Agreement is inconsistent with law, regulation, or other authority, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.

4. **JOINT POWERS AGREEMENT.** The terms and conditions of the Amended and Restated Joint Powers Agreement, Lake Superior Drug and Violent Crime Task Force (2016) are incorporated herein and made part hereof by reference.

5. **SUPERVISION AND CONTROL.** Overall supervision of LSDVCTFT is the shared responsibility of the respective participating agencies. Responsibility for conduct, both personally and professionally, remains with the respective agency head and each agency is responsible for the actions of their respective employees. Each LSDVCTF participating agency will continue to abide by and adhere to all its own policies and procedures regarding employee conduct.

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.

6. **PERSONNEL.** LSDVCTF does not directly or indirectly employ any personnel assigned to it. LSDVCTF is established for the coordination of applicable investigations and does not establish employer-employee relationships with the personnel assigned to the LSDVCTF from the participating agencies. No liability, right or benefit associated with any employer-employee relationship shall be implied by this MOU. Nothing in this MOU shall imply or create any duty or responsibility to comply with a collective bargaining agreement of another participating agency, or to create any right to insurance or any other employment right of a participating agency's employee from another participating agency to this MOU. No employee of any participating agency shall be deemed to have become an employee of another participating agency or to be covered by any insurance or pension plans of another participating agency due to the employee's participation in the performance of this MOU or LSDVCTF activities.

Personnel assigned to the LSDVCTF may not engage in any activity which, either in appearance or in fact, conflicts with their duties at LSDVCTF or reasonably impeaches the independence of their work for LSDVCTF. In addition to the requirements set forth in this MOU, each Party shall ensure that their employee participants remain subject to and adhere to standards of conduct, personnel rules, regulations, laws, and policies applicable to them.

Personnel selections for the LSDVCTF are at the discretion of the participating agencies. Personnel will be selected based on the needs of the LSDVCTF and the participating agencies.

7. **LIABILITY.** The Parties understand and agree that, except as otherwise noted in this MOU or allowed by federal law (i.e., when acting on behalf of or at the direction of the LSDVCTF in its official capacity), they will be responsible for their own liability and bear their own costs with regard to their property, resources, equipment, services and personnel expenses contemplated by this MOU. Each Party is responsible for its own

acts or omissions and the results thereof to the extent authorized by law and shall not be responsible for the acts or omissions of the other Party and the results thereof.

LSDVCTF participating agencies and employees of affiliate or partners, 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. This MOU is not intended and shall not be construed as a waiver of any immunity available to the United States and any signatory agency.

8. **INFORMATION SHARING.** Participation in the LSDVCTF does not permit open and indiscriminate communication about investigations, suspects, victims, witnesses, tactical operations, or other sensitive information. Efforts to keep the LSDVCTF informed, and likewise gather and share information within the group, are a core function of the task force.
 - A. Non-Disclosure Agreement: LSDVCTF information may only be disseminated on a need-to-know basis and as expressly permitted by HSI-St. Paul. No LSDVCTF information may be disseminated outside the LSDVCTF without the express permission of HSI-St. Paul and in accordance with applicable law, regulations, policies, and procedures governing HSI-St. Paul, or agreements between HSI-St. Paul and other third-party agencies.
 - B. Media: No member of LSDVCTF will unilaterally discuss or otherwise reveal information relating to LSDVCTF investigations, or other HSI-St. Paul related investigations known to them, to any media representatives. All release of information to the media will be mutually agreed upon by task force members and in coordination with ICE Privacy.
9. **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 remuneration set forth by the forfeiting participating agency. Any disbursement to the requesting participating agency will be in accord with the policies set by the forfeiting participating agency.
10. **SUBPOENAS.** ICE, as a federal law enforcement agency, is not bound to comply with state subpoenas for information, evidence, or testimony, as state courts lack jurisdiction to issue or enforce subpoenas seeking evidence or testimony from a federal employee or federal agency; however, the ICE Office of the Principal Legal Advisor may authorize

compliance with the state subpoena when disclosure of the information is not prohibited by federal statute, regulation, or DHS policy.

11. **RECORDS, REPORTING, AND PRESENTATIONS.** HSI-St. Paul 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 allowable by federal law, policy, or regulation, any and all investigative information will be available to the participating law enforcement agencies.

12. **SALARIES AND FUNDING.**

- A. Salary and Compensation: Salaries, benefits, taxes, and withholdings of the LSDVCTF members will be paid by their respective agencies. 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.
- B. Overtime: Overtime may be compensated to the LSDVCTF members by their respective agencies in accordance with their applicable overtime provisions.
- C. Funding and Resources: This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds. This MOU is instead a basic statement of the understanding between the Parties of the tasks and methods required for a successful LSDVCTF. Unless otherwise agreed to in writing, each Party shall bear its own costs in relation to this MOU. Expenditures by each Party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The Parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures. Further, no provision of this MOU shall be interpreted to require obligation or payment of funds in violation of any law or regulation, including but not limited to, the Anti-Deficiency Act, 31 U.S.C. § 1341. Nothing in this MOU shall imply a duty to levy additional taxes, appropriate funds, or enter into specific terms of a collective bargaining unit in order to effectuate this MOU.

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.

13. **MODIFICATION OF THE MOU.** This MOU may be amended by deletion or modification of any provision contained herein, or by adding new provisions after written

concurrence of the Parties. Any modifications to the MOU shall be in writing and executed in the same manner as the original MOU.

14. **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 HSI point of contact (POC) and the LSDVCTF POC, 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.
15. **EFFECTIVE DATE.** The terms of this MOU will become effective on the date the last Party signs the MOU.
16. **TERMINATION.** The term of this MOU shall be for the duration of the LSDVCTF's operations, contingent upon approval of necessary funding, but may be terminated at any time by either party upon a 30-day written notice to the other Party.
17. **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.
18. **OTHER PROVISIONS.** Nothing in this MOU is intended to conflict with current law or regulation or the directives of the Parties. 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.

19. **POINTS OF CONTACT.** The following representative for each Party are as follows:

Brett Peterson
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U.S. Immigration and Customs Enforcement
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Commander LSDVCTF
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For the LSDVCTD:

Lt. Jeff Kazel
Commander LSDVCTF
Duluth, MN

Date

**For the Department of Homeland Security, U.S. Immigration and Customs Enforcement,
Homeland Security Investigations, Office of the Special Agent in Charge, St. Paul:**

Jae A. Khu
Special Agent in Charge
St. Paul, Minnesota

Date