

# OKLAHOMA STATE BUREAU OF INVESTIGATION

*Pioneers in Oklahoma Law Enforcement Since 1925*

A. DeWADE LANGLEY, Ed.D.  
*Director*

THOMAS D. JORDAN  
*Deputy Director*

March 27, 2009

The Honorable Charles Key  
State Capitol Building, Room 405  
2300 N. Lincoln  
Oklahoma City, OK 73105

Dear Representative Key:

Fusion Centers were started in an attempt to break down barriers in the exchange of information. The need to enhance information sharing capabilities was clearly demonstrated by the terrorist events that have victimized our country and state. The barriers that were identified included lack of cooperation between law enforcement agencies, failure to include the private sector in the information exchange process and the secrecy in which intelligence units operated. Fusion Centers work to break down these barriers by bringing different agencies together in a communal working environment, by reaching out to the private sector to establish channels of communication and by operating in as transparent a manner as possible.

The Oklahoma Information Fusion Center exists to identify threats and prevent the loss of life that has occurred in previous attacks. The Oklahoma Information Fusion Center is committed to accomplishing this task while honoring and protecting individual privacy and civil liberties. The Oklahoma Information Fusion Center is an "all crimes" and "all hazards" center. Information received and developed by the center is useful to law enforcement in their duties as well as enhancing emergency response to natural disasters.

Fusion Centers throughout the country operate under intense scrutiny from the media and public. The situation with the Missouri Fusion Center is an example of what can happen when products are distributed without being vetted for the impact the bulletin might have on individuals.

The Oklahoma Information Fusion Center has been operational since May, 2008. The center is new and continues to develop. The OSBI is the host agency for the Oklahoma Information Fusion Center, which means that it is housed at OSBI and OSBI personnel are responsible for the day to day operation of the center. A steering committee composed of members of partner agencies guides the direction of the center. A governance board consisting of executive level managers approves policies and oversees the Fusion Center.

Currently, there is only one written Memorandum of Understanding (MOU) between the Fusion Center and one of its partners, the Oklahoma National Guard. The Oklahoma National Guard is a partner in the Fusion Center due to their Counterdrug and Critical Infrastructure Buffer Zone Protection programs. Their participation is restricted to those areas. Attached you will find a copy of the MOU between the Oklahoma Information Fusion Center and the Oklahoma National Guard. The need exists to have written MOU'S between all partners and an initiative to draft suitable MOU'S has been addressed and is currently being researched and drafted.

The partner agencies in this project have committed themselves and their resources to its success. Each Fusion Center operates in a manner that best suits their state. There was no model Fusion Center that fit the needs of Oklahoma, so the Fusion Center had to mature, develop and work on its procedures before committing to a course that was untested. The Fusion Center is now in the process of committing its processes, responsibilities, policies and procedures to written form. The privacy policy for the Fusion Center is in draft form and has been submitted for review and approval by the Department of Homeland Security. A general policy and procedures manual is also being drafted at this time. The Fusion Center has used existing state and federal laws to guide the performance of their duties, until a written document could be drafted.

Oklahoma Governor, Brad Henry signed Executive Order 2007-41, dated October 16, 2007 that authorizes the Oklahoma Office of Homeland Security to develop a State Information Fusion Center. The Oklahoma Office of Homeland Security created a Governance Board to provide strategic direction, ensure objectives are achieved, risks are managed appropriately and resources are used responsibly. The order also directs the Oklahoma State Bureau of Investigation to manage the Oklahoma Information Fusion Center and to make resources available to all participating local, state, tribal and federal agencies.

A steering committee was formed to guide the process of establishing the Fusion Center. The steering committee has representatives from each of the primary partners in the fusion project. They include the Agent in Charge of the OSBI Criminal Intelligence Office, the Supervisory Captain of the Oklahoma City Police Department's Intelligence Unit, the Supervisory Sergeant from the Tulsa Police Department, the Oklahoma Office of Homeland Security Fusion Project Coordinator, the Lieutenant supervising the Department of Public Safety's investigative unit, the Supervisory Special Agent for the Federal Bureau of Investigation, Field Intelligence Group and a Lieutenant Colonel from the Oklahoma National Guard. The members of this committee meet monthly to discuss and monitor the centers activities and to provide guidance as to its process.

The Agent in Charge of the OSBI, Criminal Intelligence Office acts as the Director of the Oklahoma Information Fusion Center. He is assisted by a Fusion Liaison Officer and Supervisory Analyst for the OSBI. There are currently a total of 17 analysts from different agencies who work in the center regularly. The agencies represented are;

OSBI (9 analysts), Oklahoma City Police Department (2 analysts), Tulsa Police Department (2 analysts), Oklahoma National Guard (1 Analyst), Oklahoma Bureau of Narcotics (1 analyst), Federal Bureau of Investigation (1 analyst) and University of Oklahoma Police Department (1 analyst). Additionally analysts from the Federal Bureau of Alcohol Tobacco and Firearms, Oklahoma Department of Corrections, Stillwater Police Department and the Chickasaw Light Horse Police attend monthly meetings and participate in the project at a lesser level. Each analyst who works in the Fusion Center either has or is in the process of obtaining a secret level national security clearance.

The Oklahoma Information Fusion Center project is structured differently than many other Fusion Centers, in that the analysts who work in the project, from agencies other than the Oklahoma State Bureau of Investigation, report for work at their employing agency. They are connected to the Fusion Center virtually and are only physically at the Fusion Center when they are needed to work in the watch center, work on a project, attend meetings, training or when they have a need to access the Fusion Center. Each analyst has 24/7 physical access to the Fusion Center. The watch center is staffed Monday through Friday 8 am-5 pm.

One of the most important objectives of the Fusion Center concept is to partner with the private sector. The Oklahoma Information Fusion Center has addressed this objective by assigning analysts to functional categories. There are currently 11 private sector functional categories to which analysts are assigned. The categories are; Energy, Education, Banking and Finance, Information and Telecommunications, Emergency Services, Military/Defense Industrial Base, Agriculture, Chemical, Hospitality, Retail, and Public Health. The analysts assigned to these categories reach out to the organizations, businesses, and subject matter experts to build relationships that ease the flow of information between their entities and the Fusion Center. The relationships bring awareness of public safety concerns within a functional category and open channels to exchange information between the Fusion Center and its private sector partners.

Analysts monitor local, state, national and world news to be aware of incidents or situations which might have an impact on Oklahoma. The Fusion Center refers to this as asking the "Oklahoma Question." The "Oklahoma Question" is really a series of questions like, "Does Oklahoma have similar criminal groups, or individuals who are tied to the event?, Does Oklahoma have resources available that could be used to facilitate harm to its citizens?, if so who regulates it, where is it located, what could be done to prevent the incident from occurring in Oklahoma, and who needs to have the information that is discovered to protect themselves or the state of Oklahoma?"

Information is received by the Fusion Center through a variety of sources. The media, Federal, Tribal, State and Local law enforcement bulletins, citizen reports, law enforcement reports, and private sector entities are some of the sources who provide the Fusion Center with information. When information is received by the Fusion Center, an

analyst looks at the information and determines if it is related to other incidents or information received. The analyst determines how credible the information is, if it has a criminal element to it and then makes a determination as to what, if anything should be done with the information. Analysts have several data bases at their disposal to help them in the process. The analyst seeks to take disparate pieces of information and connect them to provide a better understanding of what is occurring. The phrase used to describe this process is "connecting the dots."

Once information is discovered that is of value, the Oklahoma Information Fusion Center creates products to disseminate to the people who need to know the information. The Oklahoma Information Fusion Center products should always be timely, relevant to the recipient and actionable. The products should give suggestions to the recipient on what to do with the information they received. If the information changes a policy, or the way a business operates that makes their employees safer, then the product is a success.

The Oklahoma Information Fusion Center has a very flexible product called a bulletin. The Public Information Bulletin can be used to disseminate information to the private sector or to the general public. This bulletin is used to make the private sector aware of a situation or potential threat in general terms. Privacy laws do not allow the release of personally identifiable information in these bulletins. Law Enforcement Sensitive Bulletins contain sensitive information which must be safeguarded.

In addition to the OIFC Bulletin, the Oklahoma Information Fusion Center produces the OIFC Weekly Brief, for law enforcement. It contains items of interest from the media, non urgent bulletins from other agencies and helps to provide situational awareness to law enforcement.

The Oklahoma Information Fusion Center produces both tactical and strategic products. Tactical products address a specific incident or threat. Strategic products look at trends, awareness of how Oklahoma relates to the situation and what future developments might occur.

Fusion Centers serve as the central hub for the receipt and dissemination of information. In that role, Fusion Centers are tasked with disseminating federal law enforcement bulletins to local and state agencies. The Fusion Center attaches a cover sheet to all bulletins released in this effort, detailing the source of the bulletin and to whom it was disseminated. The Fusion Center employs the "Third Party Rule," which prohibits the redistribution of information or products received from other sources without their permission.

When products are produced by analysts, they are reviewed by the Analyst Supervisor and the Director of the Oklahoma Information Fusion Center. The review process looks at whether or not the bulletins are professional in appearance, timely, relevant, actionable and in compliance with privacy laws. Additionally, the review

process considers the adverse effects that might occur upon the release of the bulletin. Specifically for Law Enforcement Sensitive information, the bulletin is reviewed for compliance with 28 CFR part 23, which provides guidelines for the sharing of intelligence. A dissemination list accompanies each bulletin which lists to whom the information will be provided. Once reviewed and approved the products may be disseminated.

Law Enforcement Sensitive Products are posted on Law Enforcement Online (LEO) and the Homeland Security Intelligence Network (HSIN). The Oklahoma Law Enforcement Exchange (OKLeX) will serve as the primary posting location for bulletins to be disseminated to Oklahoma Law Enforcement. The Oklahoma Law Enforcement Telecommunications System (OLETS) is utilized to provide a brief summary of the information contained in a bulletin and invites law enforcement to request copies of the bulletin from the Oklahoma Information Fusion Center, if the information is relevant to all law enforcement. Verified emails are used to send information directly to law enforcement officials with a right to know and a need to know.

Public Information Products are posted on websites of the relevant industry and sent via email to the agencies that would benefit from the information. Additionally, the Fusion Center is developing a website that will facilitate the posting of public safety information.

The Oklahoma Information Fusion Center is housed at the Oklahoma State Bureau of Investigation. A watch center was developed that serves as the central processing point for the receipt and dissemination of information. The Oklahoma Information Fusion Center watch room is staffed Monday through Friday 8 am to 5 pm by an analyst. Analysts are assigned to work in the watch center for 4 hour shifts. Analysts from agencies other than OSBI staff the watch center regularly. After hours information or requests are received by the OSBI communications department. An analyst is on call during the time that the watch room is not staffed. The Fusion Center monitors events as they occur and responds as quickly as possible. In the event of a major incident, the Fusion Center has the capability of bringing in its partners to support the response agencies.

Other than the previously addressed MOU's, the Oklahoma Information Fusion Center currently has no initiatives that require data sharing agreements. The Fusion Center does not hold information databases, other than tracking requests and assignments. The Fusion Center uses information from existing resources to accomplish its tasks.

The Fusion Center connects with other Fusion Centers and federal agencies virtually through several secure networks. The FBI's Law Enforcement On Line and the United States Department of Homeland Security, Homeland Security Intelligence

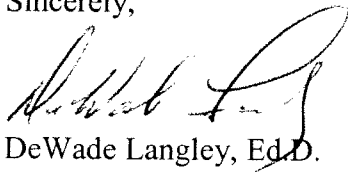
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Network provides a forum that allows Fusion Centers to securely share information with other Fusion Centers. The Oklahoma Information Fusion Center participates in the Homeland Security State and Local Information Sharing Community that provides a forum for the sharing of information between Fusion Centers. The Department of Homeland Security National Operations Center provides a national hub for the exchange of information.

Attached, please find a copy of the MOU between the Oklahoma Information Fusion Center and the Oklahoma National Guard, Executive Order 2007-41 and a copy of the mission statement and goals for the Fusion Center.

If you have any further questions, please do not hesitate to call me at 879-2585.

Sincerely,

A handwritten signature in black ink, appearing to read "DeWade Langley". The signature is fluid and cursive, with a large loop at the end.

DeWade Langley, Ed.D.  
Director

# **Oklahoma Information Fusion Center**

## **Mission Statement**

The Oklahoma Information Fusion Center will serve as the focal point for the collection, assessment, analysis, and dissemination of terrorism intelligence and other criminal activity information relating to Oklahoma.

## **Goal**

To establish and maintain an information clearinghouse designed to accept and appropriately process intelligence information provided by law enforcement agencies, public safety agencies, private sector agencies, and concerned citizens.

## **Goal**

To provide informative reports and intelligence assessments, both strategic and tactical, to be used in strengthening homeland security initiatives in Oklahoma and the United States.

## **Goal**

To act as a force multiplier and support structure for existing Emergency Operations Centers charged with coordinating Oklahoma's response to significant man-made incidents and natural disasters.



*Brad Henry*  
Governor

**FILED**

OCT 16 2007

OKLAHOMA SECRETARY  
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER 2007-41

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I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and the Oklahoma Homeland Security Act, 74 O.S. §§ 51, *et seq.*, hereby direct and order as follows:

The purpose of the Oklahoma Office of Homeland Security ("OKOHS") is to coordinate efforts in the State of Oklahoma to prevent terrorist attacks, reduce our vulnerability to such attacks, and to prepare Oklahoma's response and recovery efforts subsequent to such events. The Oklahoma Homeland Security Director reports directly to the Governor on any such matters, and to ensure the Governor receives the best information related to the security of our state, it is important such a single point of contact exists.

OKOHS is directed to continue their efforts in combating terrorism, and shall continue to oversee the implementation of any and all initiatives or efforts mandated by the United States Department of Homeland Security, including the development of a state information fusion center. A fusion center is a collaborative effort of two or more agencies that provide resources, expertise, and information to the center with the goal of maximizing their ability to detect, prevent, investigate, and respond to criminal and terrorist activity. Data fusion involves the exchange of information from different sources - including law enforcement, public safety, and the private sector - and, with analysis, can result in meaningful and actionable information. OKOHS will create a Governance Board over the Fusion Center that will provide strategic direction, ensure objectives are achieved, risks are managed appropriately, and resources are used responsibly. The Oklahoma State Bureau of Investigation will manage the Oklahoma Information Fusion Center, and Center resources will be made available to all participating local, state, tribal and federal agencies in accordance with the Center's policies and procedures. All state agencies, boards and commissions are directed to cooperate and comply with the OKOHS in its efforts to develop the state fusion center

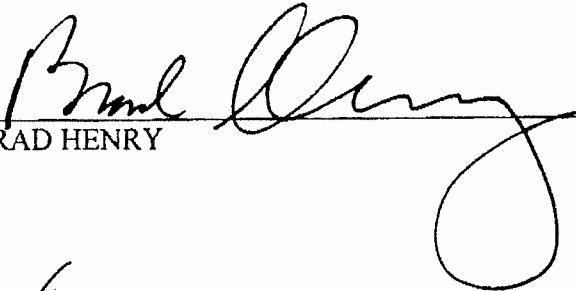
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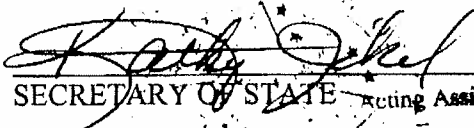
This Executive Order shall be distributed to all Cabinet and the Oklahoma Homeland Security Director for immediate implementation.

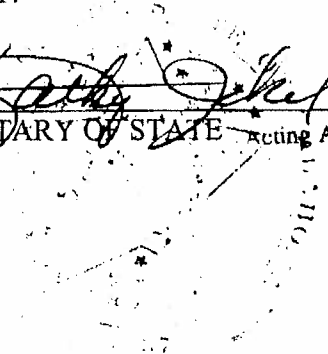
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 16<sup>th</sup> day of October, 2007.

OKLAHOMA  
BY THE GOVERNOR OF THE STATE OF

  
BRAD HENRY

ATTEST:

  
SECRETARY OF STATE ~~Acting Assistant~~





OKLAHOMA NATIONAL GUARD  
**JOINT FORCE HEADQUARTERS**  
3501 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398  
(405) 228-5000 OR DSN 628-5000

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE OKLAHOMA NATIONAL GUARD COUNTERDRUG PROGRAM  
AND  
THE OKLAHOMA INFORMATION FUSION CENTER

SUBJECT: Memorandum of Understanding (MOU) between the Oklahoma National Guard Counterdrug (OKCD) Program and the Oklahoma Fusion Center (OKFC) regarding OKCD participation in law enforcement counterdrug operations.

1. PURPOSE. This MOU is intended to set forth policies and procedures and identify the terms and conditions regarding the utilization of OKCD in support of Counterdrug Operations, as agreed between the OKFC and the Counterdrug Coordinator (CDC) of the OKCD Program.
2. AUTHORITY. OKCD 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 resources in a support role are contained in National Guard and Air National Guard Regulations.
  - a. National Guard Regulation (NGR) 500-2/Air National Guard Instruction (ANGI) 10-801.
  - b. OKCD State Support Plan.
  - c. All applicable flight regulations of the United States Army and the Army National Guard.
  - d. OKCD Standard Operating Procedures (SOP).
  - e. United States Code, Title 32 et seq, National Guard.
  - f. United States Code, Title 28, Sections 2671-2680, The Federal Tort Claims Act (FTCA).
3. REPORTING PROCEDURES. OKCD is required to provide timely reports and share information which is essential to the success of the OKCD Program. Sensitive information is not included in such reports. When necessary OKFC agrees to assist

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OKCD in making such reports by providing OKCD information of seizures and plant counts, arrests, and DDR audience numbers that are directly attributed to OKCD support. OKFC further agrees to respond to any surveys when requested by OKCD.

### 4. COMMAND AND CONTROL:

- 4-1. The office of the Adjutant General is the higher headquarters of the OKCD Program. The Adjutant General (AG) controls the activities of OKCD through the Counterdrug Coordinator (CDC). The AG and the CDC retain the right to recall any and all OKCD personnel or equipment at any time.
- 4-2. All requests for counterdrug support must have a primary “counterdrug nexus” and be routed to, and coordinated with, OKCD. Requests for support shall be in writing using a standard office memorandum with OKFC’s letterhead.
  - a. If urgency is a consideration, a verbal request for support will suffice, but shall be followed up in writing within 48 hours.
  - b. The CDC will establish and Officer in Charge (OIC) and military Chain of Command (COC) for each operation. The OIC is responsible for on-site command and control and administration of the military aspect of any operation.
- 4-3. In order to ensure adequate mission planning and execution, OKFC will provide specific objectives with each mission and designate a single OKFC point of contact for that mission prior to actual execution.

### 5. SCOPE OF OPERATIONS

#### 5-1. AVIATION OPERATIONS

- a. Aircraft Usage: Usage of aircraft will be primarily limited to aerial observation or reconnaissance. When approved by the CDC on a case by case basis, aircraft may be used for the transportation of personnel, seized property or contraband as part of ongoing time-sensitive counterdrug operations, and life-threatening emergencies, when security or other special circumstances reasonably necessitate OKCD support. Law Enforcement Agency (LEA) officers are responsible for the security of any evidence or persons in their custody. Routine administrative aerial transportation is not permitted. Counterdrug support activities may include the reconnaissance and assistance in the tracking of vessels, aircraft or ground vehicles suspected of involvement in drug activities. The AG, the CDC, or his designated representative must first authorize requests for variation to these issues.

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- b. Landing Zone/Pickup Zone (LZ/PZ) Limitations. OKCD aircraft will primarily use only airports and helipads that are listed for military and public use. Landing at sites other than this will only be if it is mission essential as determined by the OKFC senior agent present. OKFC will be responsible for any legal prerequisites required for landing at the site. Aircraft will not be landed for the purpose of placing law enforcement officers into a known hostile area.
- c. OKCD personnel and equipment will not be used to transport news media or other persons not directly and officially connected with the mission. The AG or CDC must give prior approval to exceptions from this policy.
- d. The OKFC senior agent on site shall have the authority to determine eligibility of passengers with the following guidelines; any officer that can produce official credentials as an LEA and is essential to the mission is an eligible passenger. Potential passengers that do not meet this requirement but are determined essential to the mission as determined by the OKFC senior agent must be approved by the CDC. The Pilot in Charge (PC) shall have preemptive authority to exclude passengers for any safety reason.
- e. OKFC will contact OKCD as far in advance as possible, prior to the date the aircraft is required. The designated OKFC agent in charge will provide OKCD with a minimum of the following information when requesting support:
  - i. Time and location of pickup;
  - ii. Approximate duration of the mission, if known;
  - iii. Type of mission;
  - iv. Point of contact, if available.
- f. Due to the large number of support requests and limited number of aircraft resources, conflicts will be resolved by OKCD on a case by case basis. A pilot will at no time be placed in a position of establishing priorities between LEAs.
- g. When authorized, LEAs may carry weapons on board an aircraft; the weapons may be carried with no rounds chambered and on "safe." Side arms will remain in their holsters while aboard the aircraft. Any weapon that fires from an open bolt position will have the magazine removed. Weapons, flares, explosive or incendiary devices shall not be discharged from OKCD aircraft while in the air or on the ground, and all devices will be carried in accordance with (IAW) military aircraft safety procedures.
- h. In addition to other guidance on aircraft safety, OKCD pilots will not fly into, or land in, known hostile fire areas. Further, OKCD pilots shall be instructed that in the event of any hostile actions which could potentially endanger aircraft, crew or passengers, the pilot shall immediately take the most appropriate evasive and

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defensive action. Under no circumstances shall the aircraft be utilized in an offensive manner. Aircraft should maintain a minimum safe distance from any known hostile elements if a landing becomes necessary.

- i. In case of an aircraft accident, OKCD will initiate an accident investigation. OKFC may be required to provide an investigator to assist and provide liaison to the military investigation team, as required.
  - j. When OKCD aircraft are operated from or parked at an airfield other than a military airfield or controlled access civilian airfield, OKFC will assist in providing sufficient security for the aircraft when it is within their jurisdiction to prevent unauthorized access, tampering, or damage to the aircraft.
  - k. **MINIMUM ALTITUDES:** All aircrews will adhere to a “fly neighborly” policy. Aircraft are restricted to a minimum operational altitude of 500 feet AGL except during taking off and landing. Descent below 500 feet AGL requires prior approval by the OKNG State Aviation Officer or their designee. If single pilot operations are to be conducted below 500 feet AGL, the law enforcement agent must be trained and current when seated in the front left seat. Descent will be at the discretion of the Law Enforcement Agent on board. Descent will be no lower than 200 feet AGL and upon verification of the reconnaissance objective the pilot must return to a minimum of 500 feet AGL. Sustained flight below 500 feet AGL is not authorized. The PC will be ultimately responsible for the safety aspect of the descent while the LEA is ultimately responsible for the legal aspect.
- 5-2. **TECHNICAL SUPPORT: INTELLIGENCE, TRANSLATION, COMMUNICATIONS, AND OPERATIONAL INVESTIGATIVE SUPPORT.**
- a. All intelligence activities must be conducted in accordance with appropriate DoD regulations. OKCD personnel will not conduct activities which involve them directly in covert surveillance deliberately directed at particular individuals.
  - b. OKCD personnel will not maintain or store intelligence or investigative final products in National Guard facilities or databases. All intelligence data will remain in the custody of OKFC.
  - c. OKCD personnel, as a general rule, will not participate in OKFC or other agency’s internal investigations. The CDC is the approval authority for exemption to this policy.
  - d. OKCD intelligence, translator, or investigative support personnel may not participate in off-site location work or field operations without prior approval from the CDC. OKCD translator support will be limited to the transcription

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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.

- e. Communications support is limited to personnel to establish operate and maintain communications stations, bases, and equipment in support of counterdrug operations.
- f. Operational support to OKFC is designed to enhance the effectiveness of OKFC and assigned duties must be consistent with the unique military capabilities of assigned OKCD personnel. This support excludes such tasks as secretarial, janitorial, or receptionist assistance.
- g. OKFC will provide office space and applicable supporting office equipment when OKCD analysts or translators are deployed to OKFC’s regional and task force office(s), sufficient to support the assigned duties of OKCD personnel.
- h. OKFC will be responsible for ensuring work site safety and compliance with all applicable health, safety and hazardous material regulations.
- i. OKCD will ensure a favorable local police check from their current home of record is conducted prior to assignment of any personnel. Additionally, OKCD will attempt to only place personnel with “SECRET” security clearances in sensitive assignments. OKFC maintains the right to perform an independent background investigation at OKFC’s expense for any and all positions they deem necessary.
- j. Due to the sensitive nature of OKFC operations, OKCD personnel assigned to the Fusion Center will wear appropriate civilian attire, but will maintain proper military hygiene standards set forth in AR 670-1.
- k. OKCD personnel will be placed under the supervision of an OKFC agent who is responsible for the daily accountability and performance of the assigned OKCD personnel. If the OKFC has any problems or issues with the assigned OKCD personnel, the supervisor is to contact the CDC as soon as possible in order to allow for corrective actions to be taken.

### 5-3. TRAINING.

- a. Counterdrug Sponsored Training. Training of OKFC personnel is limited to military subjects and skills useful in conducting counterdrug operations, aircraft safety and employment, operation of specialized military equipment used in counterdrug operations, and other related topics. Authorized training

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includes, but is not limited to basic marksmanship, basic first aid, cover and concealment methods, and land navigation techniques. More advanced law enforcement training should be coordinated with national level counterdrug training sites. Training such as cardio-pulmonary resuscitation (CPR) and advanced military training sniper techniques to certify law enforcement is prohibited. OKFC agents participating in military training are responsible for their own associated travel and per diem expenses.

- b. OKFC training to OKCD Personnel. OKFC may provide training and instruction applicable to counterdrug operations to enhance the skill sets of OKCD personnel. If approved by the CDC, OKCD is responsible for associated travel and per diem expenses of its personnel.
- 5-4. GROUND TACTICAL RECONNAISSANCE AND OBSERVATION. On a case by case basis and when approved by the CDC, counterdrug personnel can reconnoiter or perform area observation by land or water to detect and report illegal drug activities, which include, but is not limited to, cultivated marijuana, suspected isolated drug trafficking airstrips, drug drop zones, drug trafficking corridors, illegal drug labs, suspicious aircraft, watercraft, or motor vehicles. Pursuing or targeting specific persons for surveillance is prohibited.
- 5-5. THERMAL IMAGING SYSTEM (TIS) GROUND, VEHICLE AND AERIAL MOUNTED.
- a. TIS may be used to confirm the location of indoor marijuana cultivation after OKFC has obtained the appropriate level of legal authorization.
  - b. TIS will not be used in random area searches of private property to detect indoor marijuana cultivation sites. TIS will not be employed in a random area search of private property to gather information on suspected drug production sites.
  - c. OKCD 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 OKFC special agent supervisor at the end of the mission.
- 5-6. MARIJUANA ERADICATION SUPPORT. OKCD will provide staffing and equipment to support any OKFC marijuana eradication efforts on a year-to-year basis per annual request outlining the nature and scope of support required, which may include, but is not limited to, training, analyst support, and aviation assets.
- 5-7. DRUG DEMAND REDUCTION (DDR).

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- a. All DDR activities must be conducted in accordance with appropriate DoD regulations and OKCD policies. DDR personnel are prohibited from participating in law enforcement activities that would put them into contact with suspects and place them into a chain of custody without the expressed written consent of the OKCD CDC.
- b. DDR personnel will not exclusively support the OKFC but will support all requesting agencies as directed and assigned by the DDR Administrator (DDRA). DDR personnel supporting specific OKFC drug education activities will require supporting documentation and audience numbers in accordance with OKCD policies and SOPs.
- c. OKFC will be responsible for ensuring work site safety and compliance with all applicable health, safety and hazardous material regulations.
- d. OKCD will ensure a favorable local police record check, from the individual's current home of record, is conducted before assignment to any mission. OKFC maintains the right to perform an independent background investigation, at OKFC expense, for any and all positions they deem necessary.
- e. OKCD DDR personnel will wear an appropriate military uniform during the performance of their assigned military duties.

### 6. FORCE PROTECTION AND RULES FOR USE OF FORCE.

- 6-1. OKCD personnel will follow the Rules of Engagement and Force Protection as supplemented by applicable state law. Arms and ammunition will only be issued after approval from the Adjutant General and then only for personal protection. When issued, weapons will be secured on individuals at all times. The weapons will be loaded and a round chambered only on the order of the senior military member present. Guardsmen may use force to protect themselves, other members of their team, innocent bystanders or law enforcement officers. Before using deadly force, all lesser means must be exhausted, risk of injury to innocent persons is not increased by the use of deadly force and deadly force is the minimum force necessary to prevent death or serious injury to the Guardsmen, law enforcement officers, or innocent bystander. OKCD personnel will not, except for exigent circumstances, directly participate in the arrest of suspects, conduct searches that include direct contact of OKCD 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 law enforcement officers, OKCD personnel, or other persons from death, or injury; prevent the destruction of evidence or property; prevent the escape of a suspect already in custody.

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- 6-2. OKCD personnel will be briefed on the need to maintain operational security (OPSEC). Neither OKCD, nor OKFC will disclose the identity of OKCD units and/or personnel conducting counterdrug support operations.
- 6-3. OKFC will be responsible for ensuring work site security. OKFC will provide a response team if hostile personnel confront OKCD personnel. OKCD personnel will avoid contact or confrontation with civilians and foreign nationals encountered in the area of operations.

7. PUBLIC AFFAIRS.

- 7-1. OKFC will be the lead agency regarding all public affairs (PA) and media concerns. PA and media concerns where OKCD support is involved will be coordinated with the CDC and OKCD PA.
- 7-2. Operational security is paramount to conducting successful counterdrug operations. OKFC and OKCD will conduct interagency risk analysis prior to the release of information to the media. The purpose of the risk analysis is to protect the identity of OKCD personnel and/or units conducting counterdrug support operations, and prevent disclosure to the media by either agency. OKCD personnel will ensure that public affairs efforts, directed at complying with the right of the public to know, do not jeopardize the safety of OKCD personnel and equipment by disclosing personnel identification in photographs or video recordings by the media. DDR personnel may participate in PA events with other organizations, but will not disclose information related to OKFC without explicit guidance from the OKFC Public Affairs Office and as directed by local agent in charge.

8. SAFETY. Throughout all missions the assigned individual(s) must continuously perform a risk assessment and implement the necessary control measures to prevent unnecessary loss of personnel and equipment.

9. RESPONSIBILITIES (WARRANTS AND PERMITS). OKFC will be responsible for determining the legal basis for searches, inspections and observations. This includes determining the requirement for a search warrant and obtaining such search warrant.

10. RELATIVE LIABILITIES (HOLD HARMLESS AGREEMENTS).

10-1. It is agreed that for the purposes of this MOU, the officers, agents and employees of the OKFC shall not be deemed employees of the OKCD for workers compensation, other insurance coverage or for any other purpose. Likewise, the officers, agents, and employees of the OKCD shall not be deemed employees of OKFC for any purpose. The OKNG will be solely responsible for any claims


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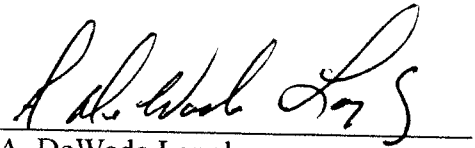
arising out of property damage or injuries to, or death of its own employees and agents that occur as a result of the officer, agent or employee's action(s) or omission(s) while that person is in the performance of his/her duty. The OKFC will be responsible for any claim arising out of injuries to, or death of its own agents or employees in accordance with applicable state and federal law.

- 10-2. The OKFC agrees to indemnify, defend and hold harmless the OKCD, its members, officers, agents and employees from and against any and all claims, demands, damages, costs and expenses of whatever nature including court costs and attorney fees arising out of or resulting from the negligence of the OKFC, its officers, agents or employees. It is understood that such indemnity shall survive the termination of this agreement.
  - 10-3. To the fullest extent permitted by law, the OKCD Program, its agents and employees will not be considered to be third parties for the purpose of claims or indemnity.
  - 10-4. To the fullest extent permitted by law, the OKFC, its agents and employees will not be considered to be third parties for the purpose of claims or indemnity.
  - 10-5. Support provided by OKCD is provided while its members are performing duties pursuant to authority in federal law under Title 32 of the United States Code. Any and all claims against OKCD for negligence arising from participation or support under this MOU shall be made under the Federal Tort Claims Act.
11. ASSET FORFEITURE AND SHARING. Although OKCD does not currently participate in the federal asset forfeiture program, OKFC supports their efforts in seeking authorization to participate in this program. If approved, assets seized by OKFC as the result of enforcement operations supported by OKCD under this MOU will be forfeited to the extent permitted by federal law. Assets will be shared equitably among the law enforcement agencies whose personnel participated directly in the seizure or forfeitures pursuant to Federal law.
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.
- 13-1. The terms and conditions of this MOU are applicable to OKFC and OKCD in respect to one another. Both parties have the authority to obligate their respective agencies to the provisions of this MOU.

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13-2. This MOU shall become effective immediately upon being signed by both parties and will remain in effect until terminated by either party, or as described in the support request letter. Annual reviews by OKCD will occur in order to ensure appropriate levels of support.

  
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ROY K. TACKETT  
LTC, AV, OKARNG  
Counterdrug Coordinator

  
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A. DeWade Langley  
OSBI Director  
OSBI

17 NOV 08  
DATE

Nov. 18, 2008  
DATE