

SMART PROSECUTION

EMBEDDING A CRIME ANALYST IN A PROSECUTOR'S OFFICE: The National Guard Counterdrug Task Force

The National Guard Counterdrug Task Force provides support to prosecuting attorney's offices by assigning criminal analysts to assist with projects, investigations and strategies where a counterdrug nexus is present. The crime analysts are trained and experienced members of the military. There are National Guard counter-drug coordinators in each state who receive requests from law enforcement agencies for National Guard crime analyst support.

Why Should a Prosecutor's Office Embed a Crime Analyst?

A crime analyst, also referred to as intelligence analyst, provides significant value to an agency's crime prevention and crime reduction efforts. A crime analyst can strengthen an agency's ability to identify emerging crime patterns and trends; provide tactical, strategic, operational, or administrative support; and assist in the development of comprehensive strategies and products to address crime problems. Overall, crime analysts have five main goals when assisting an agency:

- Analyze data in an effort to identify crime problems
- Assist with the identification of major crime drivers
- Implement strategic approaches for addressing crime problems
- Collect, collate, and analyze intelligence on key crime drivers
- Assist with case construction and create visually-compelling intelligence products for trial

What can a Crime Analyst Can do for a Prosecutor's Office?

- Use social media tools for criminal investigations:
 - Link suspects to crimes they advertise on social media
- Map crime in the jurisdiction:
 - Use data to create heat maps to determine where crimes are occurring

- Collect, collate, and analyze data and intelligence:
 - Assists in predicting crime patterns
- Advise prosecutors on what tools could best serve a particular need:
 - Provides guidance in many areas including intelligence-gathering, investigations, and crime prevention strategies
- Conduct short term and long-term projects

How does a Prosecutor Collaborate with a Crime Analyst?

- Data driven projects to identify hot spots and problem locations
 - Can be monthly, or daily, and include details such as locations and frequencies
- Data driven projects to identify frequent offenders
 - Can show organized data over time
- Investigative support through technology
 - Can include social media, mapping, and phone record analysis

“The National Guard Counterdrug Task Force has historically been an overlooked resource that is readily available to assist district attorneys across the country. The skills that the National Guard Counterdrug Task Force can provide to assist district attorneys in addressing their crime problems are unique and invaluable. Both entities strive to achieve the same goal, public safety. It only makes sense that the two entities collaborate, bring their unique sets of skills to the table, and work together towards this common goal.”

Will Morris,

*Section Chief, Crime Strategies Unit,
East Baton Rouge Parish District Attorney's Office*

How can a Prosecutor's Office Request a National Guard Crime Analyst?

- Establish contact
- Make a formal request to the national guard (sample request letter below)
- Encourage communication between local national guard and network national guard
- Identify guard analysts located across the county
- Establish the counter-drug Nexus
- Execute a Memorandum of Understanding (Sample MOU below)

For jurisdictions interested in requesting a Guard analyst, start by reaching out to your local National Guard Counter Drug Program. If you need assistance locating a National Guard counter-drug coordinator, contact First Sergeant Jairo Aquino, Crime Analyst and Team Leader, New York State, Counterdrug Task Force (Jairo.aquino.mil@mail.mil) or the Association of Prosecuting Attorneys at info@SmartProsecution.org.

Additional Resources:

Webinar

"Embedding A Crime Analyst in a Prosecutor's Office: The National Guard Counterdrug Task Force", visit <https://vimeo.com/221945176>.

For additional information explore the following resources:

Websites

- The National Guard
<http://www.nationalguard.mil/>
- U.S. Army
<https://www.army.mil/standto/archive/2009/03/09/>
- The National Guard: Counter Drug Program
<https://dmna.ny.gov/counterdrug/>
<https://dmna.ny.gov/counterdrug/criminal/>



Example Document:
Letter of Request

September 28, 2016

Captain Marshall E. Snowden
Louisiana National Guard
Counterdrug Coordinator
420 F. Street
Pineville, LA 71360

The East Baton Rouge Parish District Attorney's Office requests the services of three Louisiana National Guard Counterdrug Task Force Criminal Analysts to enhance drug enforcement investigations while working with the District Attorney's Crime Strategies Unit. The requested analyst support is for the period of October 1, 2016 through September 30, 2017.

The East Baton Rouge Parish District Attorney's Office will obtain and furnish all required legal authorizations, maintain communications with National Guard support elements, and respond to any emergency situations, as described within the Memorandum of Understanding and National Guard Regulation (NGR) 500-2/Air National Guard Instruction (ANGI) 10-801.

Please answer the following question (please circle Yes or No):

1. Is your area of responsibility in a High Intensity Drug Trafficking Area (HIDTA)? Yes/No
2. Does your office investigate large Drug Trafficking Organizations (DTO's)? Yes/No
3. Does your office investigate Consolidated or Regional Priority Targets (CPOTs/RPOTs)?
Yes/No
4. Does your office investigate Transnational Organized Crime (TOC)? Yes/No
5. Does your office investigate money laundering cases? Yes/No
6. Are you part of a Multi-Jurisdictional Task Force? Yes/No
7. Are you part of a Multi-Agency Task Force? Yes/No Violent Crime Unit (VCU)
List the participating agencies: East Baton Rouge Parish District Attorney's Office, Baton Rouge City Police, East Baton Rouge Parish Sheriff's Office, Louisiana State Police, ATF, Probation and Parole

If you have any questions, please feel free to contact the undersigned at 225-389-3390 or will.morris@ebrda.org

Sincerely,

William K. Morris
Assistant District Attorney
Section Chief, Crime Strategies Unit

Example Document:
Memorandum of Understanding

For Official Use Only

**Memorandum of Understanding
Between
The Louisiana National Guard
And
The 19th Judicial District Attorney**

SUBJECT: National Guard Counterdrug Support to Law Enforcement Agencies

1. Purpose of Agreement: This memorandum of understanding (MOU) sets forth policies and procedures concerning the management, use and support of Louisiana National Guard personnel and equipment assigned to conduct counterdrug support missions.

2. Authorities: National Guard Regulation (AR) 500-2 / Air National Guard Instruction 10-801 is titled National Guard Counterdrug Support to Law Enforcement Agencies. This regulation covers the utilization of National Guard resources and prescribes the policies, procedures, and responsibilities governing National Guard counterdrug support to Law Enforcement Agencies.

3. Deployment of National Guard Personnel and Equipment and Scope of Operations: National Guard personnel will function as part of a team in support of Law Enforcement Agency personnel when performing specific counterdrug support missions. These missions may include the following:

a. Linguist Support. National Guard personnel may transcribe or translate audio tapes, seized documents and other information media. They will not participate in real-time Title III conversation monitoring or directly participate in interrogation activities. They will not maintain or store final products in National Guard facilities or databases.

b. Intelligence Analyst Support. National Guard personnel may assist in the establishment of counterdrug intelligence systems and provide intelligence analysis support. All intelligence activities must be conducted in accordance with appropriate Department of Defense Regulations.

c. Operational and Investigative Case Support. National Guard personnel may assist in developing investigations and cases for prosecution. Activities may include, but are not limited to, inputting, reviewing, and analyzing collected information. They may also provide paralegal and auditing assistance. This support is designed to enhance the effectiveness of the supported agency and free police officers for drug enforcement duties. This support does not include such tasks as secretarial, janitorial or receptionist assistance.

Example Document:
Memorandum of Understanding (*cont.*)

Memorandum of Understanding

SUBJECT: National Guard Counterdrug Support to Law Enforcement Agencies

d. Communications Support. National Guard personnel may establish, operate and maintain communications stations, bases, and equipment in support of counterdrug operations.

e. Engineer Support. National Guard personnel may provide engineer support where the project has a counterdrug nexus. This will exclude drug laboratories or hazardous materials.

f. Domestic Cannabis Suppression / Eradication Operations Support. National Guard personnel may provide the following support to these operations: aerial, logistical, communications, intelligence, planning, operational staff coordination, medical, physical security.

g. Transportation Support. National Guard personnel may provide aerial, ground or maritime transportation for Law Enforcement personnel and equipment, persons in Law Enforcement custody, seized property or contraband, or other circumstances with a counterdrug nexus. The Law Enforcement Agency is responsible for the security of any evidence or persons in their custody. National Guard personnel may provide transportation for individuals and associated equipment and supplies for drug demand reduction activities.

h. Aerial Reconnaissance / Observation. National Guard personnel may perform reconnaissance and observation of airspace, maritime, or surface areas for illegal drug activities. Aerial tracking of suspicious vehicles, vessels, aircraft or persons to provide their continuous location is permitted. For Reconnaissance and Interdiction missions, a Law Enforcement officer must be present or in direct contact. Equipment and techniques which may be used include radar, aerial visual, infrared imagery, thermal imagery and photographic reconnaissance.

i. Drug Demand Reduction. National Guard personnel support community activities primarily designed to educate, train, or otherwise prevent drug abuse among youth. This includes, but is not limited to, support of youth centers, drug-free events, community recreational programs, safe havens and community mobilization events. They may support activities that focus on educational institutions. This includes, but is not limited to, tutoring, mentoring, D.A.R.E. support, after school programs, role modeling, and sports drug awareness programs. They may provide information programs such as speaker's bureaus, static displays, Red Ribbon Campaign, and educational material distribution. They may support camps, retreats, seminars and programs that focus on developing drug abuse prevention leadership skills in youth and adults. They may assist in the development of a community coalition organized to reduce the illegal use of drugs.

Example Document:
Memorandum of Understanding *(cont.)*

4. Reporting Procedures: All National Guard personnel will report to their designated Team Leader for all military issues and concerns; they will report to their agency supervisor for all Law Enforcement Agency concerns.

5. Command and Control: National Guard personnel performing counterdrug support missions are under the command of, and directly responsible to, the military chain of command. These National Guard personnel are under the operational control of the Law Enforcement Agency while in the execution of their counterdrug support missions.

6. Force Protection/ Rules of Engagement: National Guard personnel who perform counterdrug support missions are not permitted to serve as a Law Enforcement Officer or hold an active or reserve law enforcement commission from any Law Enforcement Agency. National Guard personnel will not attempt to enforce the law beyond protection of themselves and other members of the National Guard, law enforcement personnel, and innocent bystanders against loss of life and / or safeguarding of federal property.

a. **Unarmed.** National Guard personnel who perform counterdrug support missions are not authorized to carry fire arms and ammunition.

7. Public Affairs Support: Public Affairs is the responsibility of the Law Enforcement Agency. The National Guard will not release information regarding counterdrug support without first coordinating and gaining approval from the Law Enforcement Agency. Specific National Guard personnel and units will not be identified in media releases.

8. Safety: Soldiers and Airmen assigned to Counterdrug support operations are to ensure safety and risk management are incorporated into all aspects of operations. Personnel are to immediately report any unsafe act or occurrence through the chain of command to the Counterdrug Safety Officer/NCO. Personnel are to correct any known deficiencies. Report all unsafe conditions to the Counterdrug Coordinator when on-the-spot-corrections cannot be made.

Example Document:
Memorandum of Understanding (*cont.*)

9. Responsibilities: Responsibility and liability for action on the part of personnel involved in counterdrug support missions will be as follows:

a. Law Enforcement. The Law Enforcement Agency is responsible for personal injury, death, or property damage caused by its own personnel and equipment.

b. National Guard. Liability for personal injury, death, or property damage caused by National Guard personnel in Title 32 status is governed by the Federal Tort Claims Act.

c. State Active Duty. Responsibility and liability for actions by National Guard personnel on state active duty will be provided by state law.

d. Loss or Damage. Responsibility for loss or damage to National Guard equipment will be determined by Department of the Army Report of Survey, and as to third parties by applicable state and / or federal law.

10. Hold Harmless: The supported agency, the 19th Judicial District Attorney, agrees to indemnify and hold the Louisiana National Guard, and any of its members or agents, wholly harmless from any damages, costs, and expenses (including attorney fees and other costs of defense), demands, or suits by any person or persons, arising out of any acts or omissions by the supported agency, its agents, employees, or Louisiana National Guard members assisting the supported agency in accordance with this MOU.

11. Asset Forfeiture / Sharing: Since this Memorandum of Understanding contemplates Federal Agency activities, asset forfeiture may be anticipated.

12. Funding: Federal funding for counterdrug support is provided to the Louisiana National Guard in accordance with Title 32, United States Code, Section 112. National Guard support is provided to Law Enforcement Agencies on a non-reimbursement basis.

13. Uniform Policy: National Guard personnel must wear their military uniform while performing their counterdrug duties.

Example Document:
Memorandum of Understanding (cont.)

14. Student Policy: Selected National Guard personnel may be permitted to enroll as college students. However, the student policy is strictly controlled by the National Guard Counterdrug Coordinator. Class schedules and outside of classroom study requirements are not allowed to interfere with performance of the assigned counterdrug duties.

15. Unit Participation: Participation by National Guard personnel in counterdrug support operations should not adversely affect individual training and readiness to perform wartime military missions. Therefore, personnel are required to attend their National Guard unit training assemblies. Typically, these training assemblies involve one weekend each month and two consecutive weeks annually.

16. Assistance Request: All requests for assistance under this Memorandum of Understanding shall be directed to: Counterdrug Coordinator, Headquarters, Louisiana National Guard, Gillis W. Long Center, Bldg 11, Room 201, 5445 Point Claire Rd, Carville, LA, 70721

17. Renegotiation/Termination of Agreement: This Memorandum of Understanding is effective upon signature and will remain in effect until rescinded, revised, or suspended. This Memorandum of Understanding may be rescinded, canceled, or suspended by either party with written notice.



Hillar C. Modre, III
19th Judicial District Attorney
Parish of East Baton Rouge
222 St. Louis St, Suite 550
Baton Rouge, LA 70802

Glenn H. Curtis
Major General
The Adjutant General
Louisiana National Guard

Date 7/23/15

Date _____

Marshall E. Snowden
Captain
Counterdrug Coordinator
Louisiana National Guard

Date _____
