

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CALIFORNIA STATE MILITARY DEPARTMENT  
AND  
THE UNITED STATES DEPARTMENT OF INTERIOR**

1. **PURPOSE:** To set forth policies and procedures as agreed between The Adjutant General of the California National Guard (CNG) and the Department of the Interior (DOI) regarding the utilization of California National Guard assets in support of counterdrug operations. The term (DOI) encompasses all subordinate bureaus, services and offices to include the Bureau of Land Management (BLM), the national Park Service (NPS), the Bureau of Indian Affairs (BIA), the Fish and Wildlife Service (FWS), the Bureau of Reclamation, the Office of Surface Mining, the United States Geological Survey, Minerals Management Service, and the Office of the Secretary.

2. **REFERENCE:**

- a. NGR (AR) 500-2/NGR (AF) 55-6
- b. CNG FY93 Counterdrug Operation Support Plan
- c. DOD Regulations governing the use of aircraft and USC Title 32 personnel.
- d. All applicable flight regulations of the FAA, US Army, US Air Force, NGB, DOI, and CNG.

3. **GENERAL:**

a. The CNG is a Reserve Component of the Armed Forces currently conducting counterdrug operations in a nonfederalized status under USC Title 32. while operating in this capacity the CNG is not subject to the provisions of the Posse Comitatus Act.

b. The CNG is not a law enforcement agency and is not empowered with arrest and detainment authority. The role of CNG personnel is limited to that of supporting law enforcement agencies (LEAs) in functional areas related to their military specialty/training.

c. The area of operation (AO) is limited to areas within the legal jurisdiction of the DOI and within the boundaries of the State of California.

d. The CNG is federally funded and all CNG support to the DOI will be paid from federal funds currently allocated to the CNG at no cost to the DOI.

4. **IS MUTUALLY UNDERSTOOD THAT:**

a. All CNG support must be directly counterdrug related and performed in accordance with NGR 502-2 and the state plan as approved by the Governor.

b. All requests for CNG counterdrug support must be routed to and coordinated with the CNG State Headquarters Counterdrug Branch (CAPO-CD). CAPO-CD will designate a point of contact responsible for handling all DOI counterdrug mission requests.

- c. CNG personnel will not be put in a situation requiring them to enter the chain of custody or the chain of evidence.
- d. CNG personnel will not handle or transport materials deemed to be hazardous waste.
- e. CNG personnel will not become directly involved in any DOI internal investigations.
- f. CNG personnel will not collect or maintain files on U.S. citizens. All information will remain with the specific DOI agency upon mission completion.
- g. DOI will be the lead agency regarding all Public Affairs and media concerns. Public Affairs and media concerns where CNG support is involved will be coordinated between both parties.
- h. In order to ensure adequate mission planning and execution, the DOI will provide specific objectives with each mission and designate a single DOI point of contact for that mission prior to actual execution.
- i. 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 deliberated.
- j. Policy and regulations governing the Rules of Engagement for military support personnel will be outlined in detail with the DOI point of contact during the planning phase of any mission.

## **5. AVIATION**

- a. Air assets will not be used to transport news media or other personnel not directly and officially connected with counterdrug missions. The senior DOI officer on site will have the authority to determine eligibility. Coordination must be made with the CAPO-CD POC prior to media personnel riding on CNG aircraft. Invitational Travel Orders will be secured prior to execution, for all media personnel. The pilot-in-command (PIC)/Aircraft Commander (AC) will have preemptive authority to exclude passengers for any cogent reason.
- b. Use of CNG helicopters will be limited to aerial reconnaissance, surveillance and insertion/extraction of law enforcement officers (LEA) and CNG personnel with the specified AO. CNG fixed wing aircraft will be limited to aerial photography and the transport of contraband and mission essential equipment and personnel.
- c. Aircraft may be used in assisting the efforts of a life-saving emergency. The on-board DOI officer, in conjunction with the PIC/AC, must deem the use of the aircraft appropriate to perform the assistance.
- d. Hostile Action. CNG aircraft will not fly into or land closer than 200 meters of a known hostile area. CNG aircraft will not be utilized in an aggressive manner. In the event of any hostile actions which could potentially endanger the aircraft, crew or its passengers, the PIC/AC has the authority to take the course of action he deems most appropriate.
- e. The PIC shall have preemptive and final authority over all aspects of flight operations and safety considerations. PIC/AC authority includes but is not limited to:
  - (1) Safety of aircraft, crew and passengers;
  - (2) Determination of safe weather conditions;

- (3) Safety assessment of landing zone locations;
  - (4) Other aviation matters customarily the responsibility of the PIC.
- f. The aircraft PIC will comply with the following:
- (1) DOI flight following regulations;
  - (2) Ensure that all passengers are instructed on the principles of aircraft safety;
  - (3) Applicable federal and state flight regulations and air space restrictions.
  - (4) US Army, AR 95-1, and US Air Force, AFR 60-16, regulations governing flight in the respective CNG aircraft in use.
- g. CNG aircrews will fully comply with US Army and US Air Force regulations governing flying hours and crew rest requirements. The aircraft PIC is responsible for informing the lead DOI agent on-site the status of the crew and aircraft with respect to these planning considerations.
- h. Use of Weapons In or Near Aircraft. When authorized, passengers may carry weapons aboard an aircraft:
- (1) Loaded side arms must be in the safe mode and carried in a secure holster. No loaded side arms may be removed from the holster while aboard the aircraft.
  - (2) All other firearms must be carried in the safe mode with an empty chamber and no round chambered.
  - (3) Weapons that fire from an open bolt such as an M-16 will have the magazine removed.
  - (4) Weapons, flares, and explosives will not be discharged from CNG aircraft while in the air or on the ground.
- i. CNG will assign only qualified, trained and experienced air crews. All PIC's/AC's will have a minimum of 500 hours experience in the airframe assigned.

6. **EFFECTIVE DATE:** This MOU shall become effective immediately upon being signed by both parties and remain in effect until written notice of termination by either party.

/s/ Tandy K. Bozeman  
Major General  
The Adjutant General

/s/ Robert L. Peterson  
Director, Office of Aircraft Services  
Department of the Interior

Date: April 26, 1993

Date: May 6, 1993