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## IACP National Law Enforcement Policy Center

# Multi-Agency Investigative Teams

NCJRS

Concepts and Issues Paper

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ACQUISITIONS

## I. INTRODUCTION

### A. Purpose of Document

This paper was designed to accompany the Model Multi-Agency Investigative Team Policy developed by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their agency.

### B. Background

For decades, law enforcement agencies have recognized the advantage of interjurisdictional and interagency cooperation in combating crime in general and specific criminal offenses in particular. Major case squads have been used successfully by contiguous jurisdictions in a variety of contexts throughout the United States for many years. Therefore, it is easy to understand why this approach has been called into play in the fight against illegal drugs, serial murder, organized criminal enterprises and a wide variety of major crimes that involve multiple contiguous jurisdictions. A great deal of the experience of multi-agency investigative teams (MAIT) has been in the eradication of drug trafficking and sales.<sup>1</sup> However, it is clear that the concept and the operational procedures of MAIT can be easily adapted to any significant crime problem as identified and agreed upon by participating jurisdictions.<sup>2</sup> In any major crime investigation, there is special need for intelligence, specialized personnel and equipment, and additional resources that can often be addressed more fully and efficiently through a cooperative inter-jurisdictional enforcement approach.

The concept is simple, but many law enforcement agencies have learned that developing an efficient and successful operating unit of this type requires attention to numerous details of management and planning. The Model Multi-Agency Investigative Team Policy and this concept paper

examine the major legal and planning concerns that law enforcement agencies must address in establishing a cooperative unit of this type.

## II. LEGAL CONSIDERATIONS

This portion of the paper is a survey of the legal considerations involved in creating and operating a MAIT.

### A. Formal Agreement Establishing the Unit

The unit must be established by written agreement of the jurisdictions involved. Oral agreements are unacceptable because (1) they may not satisfy the legal requirements for such agreements imposed by applicable state and regional laws; (2) they are insufficiently detailed to be effective for such a complex undertaking; and (3) they often lead to misunderstandings, resultant ill will between participating jurisdictions and their departments and, potentially, the failure of the unit to accomplish its assigned mission. In addition, the lack of a written agreement significantly increases the exposure of the participating jurisdictions to civil liability as a result of the unit's activities. A written agreement is therefore an absolute prerequisite to form a MAIT.

**1. Drafting.** This agreement must be properly drafted. A poorly drafted instrument may create ambiguities or leave gaps that will cripple the unit's operations and lead to inter-jurisdictional disputes that may prove fatal to the success of the regional operation.

To be properly drafted, the agreement must be sufficiently detailed to cover all aspects of the regional unit's activities. It must, among other things, define the unit's goals, set the parameters of its operation, provide for administrative and logistical support, establish the chain of command and make clear the financial obligations of the participating localities. It should also set forth the responsibilities of the various jurisdictions in the event that civil liability is incurred for action of the unit.

**2. Compliance with Federal, State and Local Laws.** Any regional agreement must be authorized by the law of the state

or states in which the region lies. Enabling legislation already exists in most states, so that the authority of the localities to enter into such an agreement is seldom in doubt. However, the regional agreement must not only be authorized by, but also must be in strict compliance with, both state and local laws. The assistance of the appropriate prosecutors, city and county attorneys and, if necessary, the state attorney general's office should be sought on this issue.

If federal agencies are to be included in the unit, federal law must also be considered. Provisions relating to asset forfeitures in addition to complying with any applicable state laws, should also take into account federal forfeiture laws and procedures.<sup>3</sup> Coordination with federal law enforcement agencies and the appropriate U.S. attorney's office is highly desirable.

The agreement should include all local jurisdictions within the region. While it is possible to have a regional agreement among fewer than all of the jurisdictions and/or agencies in the region, failure to include all such jurisdictions and agencies will complicate the operation and decrease its efficiency. In extreme cases, such omissions may render the agreement completely unworkable.

**3. Acceptance and Execution of the Agreement.** The agreement must be accepted by the appropriate officials of all jurisdictions concerned. In order for the acceptance of a jurisdiction to be valid and binding, two conditions must normally be met:

- The governing body of the jurisdiction must approve the agreement in the manner prescribed by state and local laws.<sup>4</sup>
- The authorized local official (e.g., a city manager, county executive, city or county attorney, or other official) must sign the agreement on behalf of the jurisdiction.<sup>5</sup>

It is not normally a legal requirement that the chief executive of the participating police and sheriffs' departments sign the agreement. However, it may be advisable. Even where not required by law, the presence of the signatures of the appropriate law enforcement officials on the agreement establishes conclusively that such officials understand and have approved the agreement. This may in turn lead to better interdepartmental support of the unit in the future.

**4. Termination of the Agreement.** Termination of or withdrawal from the agreement should be provided for in the agreement. The termination and withdrawal provisions may be tailored to local needs, but should normally include, at a minimum, the following:

- The *circumstances* under which the agreement may be terminated, or under which a jurisdiction may withdraw from the agreement, should be stated. This may protect the agreement from arbitrary withdrawal by a jurisdiction at some later date.
- Participants in the agreement should normally be required to give *reasonable notice* of the intent to withdraw. This gives the participating departments an opportunity to adjust to the changed conditions and reduces the disruption that such a termination or withdrawal may cause.<sup>6</sup>
- A *procedure* should be specified for withdrawal or termination. For example, how is notice to be given? By whom? To whom? In what manner? How is the withdrawal to be accomplished? Who will assume the responsibilities no longer fulfilled by the withdrawing

jurisdiction or department? Providing an orderly procedure in such circumstances will minimize disruption of the unit's functions.

- The agreement should provide for the *settlement of all financial obligations* attributable to the unit at the time of withdrawal or termination. Provision must also be made for the disposition of any property or other assets possessed or used by the unit at the time of the withdrawal or termination. This is particularly important where such property or assets were purchased or otherwise acquired by the unit directly, rather than contributed by member jurisdictions or departments.

**5. Invocation of the Agreement.** The participating jurisdictions must clearly understand who may request activation of the MAIT and under what circumstances activation may be requested.

Each member agency should designate the person or persons within its organization who are authorized to request activation from other participating agencies. In addition, each member agency should be provided with a list of those currently authorized to request activation on behalf of the other member agencies.

The conditions under which a request may be made and granted should be clearly spelled out both in the mutual assistance agreement between agencies and in any internal policies promulgated by the participating departments. The model policy provides that such requests be made only where they conform to the investigative priorities and goals of the MAIT operation as defined in the MAIT agreement.

The responding agency should be obligated to provide assistance to another locality only to the extent that the responding agency's ability to provide adequate services within its own jurisdiction will not be threatened. This should be covered both in the mutual assistance agreement and in the internal policies governing the provision of assistance under the MAIT agreement.

Specific persons within each agency should also be designated to receive, evaluate and make decisions regarding any request for unit activation from another agency. Such persons should be trained to make these decisions rapidly and accurately, after duly considering the needs of the home jurisdiction.<sup>7</sup> Care should be taken that at least one such designated person is always on duty and immediately available to receive activation requests, regardless of the day or hour.

**6. Responsibilities of Chief Executive Officers.** Regular meetings of the chiefs, sheriffs or other chief executive officers of the participating agencies should be held. It is strongly recommended that chief executive officers attend these meetings *personally* whenever possible.

Each chief executive officer should personally ensure that (1) other participating agencies are fully apprised of the assistance capabilities of his department, (2) other departments provide the chief executive officer with similar information and (3) this information is adequately disseminated to those who will be receiving and evaluating the assistance requests.<sup>8</sup> Inadequate information, or a failure to make information available to departmental decision-makers, handicaps the mutual assistance effort and increases civil liability exposure.

Mutual assistance agreements that impact MAIT operations and policies must be constantly reviewed by appropriate chief

executives. Changed conditions in the jurisdictions, increases or decreases in the capabilities of the participating agencies, and developments in applicable law may necessitate changes in the mutual assistance agreement, related internal policies or both. In addition to the adverse effect upon the mutual assistance effort that might result, a failure to modify the agreement to conform to changed laws or conditions may deprive the participating departments and/or officials of their legal defenses in the event of a civil suit.

5. **Costs.** The allocation of the cost of MAIT operations should be covered in the mutual assistance agreement or MAIT bylaws. A simple approach makes individual agencies responsible for the costs they incur in providing assistance. However, participating departments may wish to provide for different cost allocations in the event of extraordinary expenses incurred over and above those normally expected.

MAIT activities will not necessarily result in civil suits and/or civil liability, nor should they be avoided merely because of potential liability exposure. However, it is important that all participating jurisdictions understand that MAIT operations may result in civil suits against one or more of the jurisdictions providing support and/or the jurisdiction in which they operate.

Consequently, the participating jurisdictions may wish to provide for indemnification in their mutual assistance agreement in the event that civil liability is incurred by assisting agencies or the "host" agency. A "hold harmless" clause may suffice to meet this need. An indemnification or hold harmless clause should cover any and all liability incurred by virtue of the joint operation, including (1) failure or inability to provide assistance when requested, (2) errors or omissions occurring during the period when such assistance is being provided, and (3) withdrawal of assistance after it has been provided.

All indemnification provisions should be specifically examined and approved by the legal advisors of the participating jurisdictions to ensure that they comply with state and local laws.

## **B. Requests for Assistance**

As noted, it is essential that there be detailed agreement as to (1) which officials may request team assistance, (2) how such requests are to be transmitted, and (3) which officials may approve such requests. In addition, the participating jurisdictions should be in detailed agreement as to (4) the circumstances under which MAIT requests may be granted, and (5) the extent and duration of any MAIT operation.<sup>10</sup> *Detailed internal policies should be promulgated within each department regarding the foregoing matters.* In addition, all personnel within each department who may receive, process or respond to MAIT assistance requests must be familiarized with, and trained in the implementation of, these policies.<sup>11</sup>

All participating jurisdictions must understand that personnel and equipment may be withdrawn by the assisting jurisdiction if circumstances require their re-deployment to meet contingencies arising within the assisting jurisdiction during the period of assistance. The indemnification provisions of the agreement should include coverage of this contingency.

1. **Command and Control at Emergency Scene.** The applicable MAIT policies and mutual assistance agreements must clearly spell out the lines of authority over "borrowed"

personnel in MAIT operations. This is primarily an operational requirement rather than a legal one.<sup>12</sup>

It is, however, absolutely essential if MAIT operations are to be effective and civil liability risk minimized. In particular, assisting personnel must clearly understand both their responsibilities and the extent and limits of their authority as law enforcement officers while in other jurisdictions.<sup>13</sup> Failure to train personnel adequately in these respects prior to the implementation of the mutual assistance policy will greatly increase the potential for operational problems and civil liability exposure.

2. **Federal and State Law Enforcement Agency Assistance.** Summoning assistance from federal and state authorities requires thorough familiarity with federal and state laws and regulations that govern this assistance, as well as the jurisdictional problems that may be involved. If federal or state assistance is rendered under conditions that do not authorize such assistance, both civil and criminal penalties may ensue. Therefore, applicable federal and state laws and regulations must be thoroughly understood by departmental personnel empowered to request such assistance. Advance coordination and planning with appropriate federal and state agencies and the appropriate U.S. attorney and state attorney general's office are highly desirable.

3. **Special Areas Within the Participating Jurisdictions.** If the region participating in the mutual assistance pact includes areas with special jurisdictional problems, such as airports, parks, federal reservations or historic sites, where jurisdictions may be uncertain, these issues should be anticipated and resolved before the MAIT is implemented.

Personnel of the participating departments should be alert to possible jurisdictional problems within the area of operations.<sup>14</sup> This is especially true where a department or jurisdiction within the region has not been included in the regional mutual assistance agreement or the MAIT cooperative agreement.

4. **Insurance.** Both the requesting and assisting jurisdictions and the officials thereof may be civilly liable for events occurring during the period of MAIT operations. Consequently, any participating jurisdiction that has commercial professional liability insurance should make certain that the policy covers liability incurred by virtue of the actions or omissions of officers while assisting in another jurisdiction. The typical commercial liability policy covers a department's officers only when acting within the home jurisdiction. An endorsement to the policy may be necessary and adequate to cover activities in other jurisdictions served by a MAIT or mutual assistance agreement.

In addition, each department's insurance coverage should extend to liability for acts or omissions of officers of *other* departments or jurisdictions that occur (1) while department personnel are working in another jurisdiction or (2) when officers of another jurisdiction are assisting the department in its own jurisdiction. Since insurance coverage normally extends only to the acts or omissions of a department's own employees, this additional coverage is necessary.

The foregoing comments apply both to those jurisdictions that have individual commercial liability insurance policies and those that participate in insurance pools. In either case, steps should be taken to ensure that the jurisdiction's policy covers all of the matters described above. It is highly preferable

that a policy endorsement be obtained or, in the absence of a special endorsement, that a statement be obtained *in writing* from the insurance company confirming that the policy covers all of these possibilities.

Self-insured jurisdictions, although not directly concerned with policy language, should be fully aware of the expanded liability associated with MAIT operations and should pay particular attention to the indemnification agreement provisions discussed above.

### III. PROCEDURAL ISSUES

#### A. The Supervisory Board

The MAIT should be subject to the overall direction and supervision of a board of directors. This is important both for the well-being of the unit and for the protection of the participating jurisdictions.

Service upon this board should be regarded by its members as a serious obligation. If the agreement permits the delegation of this assignment to someone other than the chief or sheriff of the participating department, only top-level command personnel should be allowed to serve, and assignment to the board should be treated as a major function of the designated person.

Regular meetings are a necessity. Attendance at such meetings should be given top priority by departmental executives. Inadequate attendance will have serious adverse effects upon the unit's overall effectiveness.

Members of the board should have an equal voice in the conduct of the board's responsibilities. Giving each participating jurisdiction one vote encourages a feeling of participation and control among all of the localities involved. This, in turn, avoids the adverse effect upon the morale of smaller jurisdictions or departments that may be experienced if the larger jurisdictions or departments control both the board and the unit itself.

The MAIT must have a single commanding officer who should be appointed by the supervisory board and should be responsible to it. The authority of the unit commander should be spelled out in the agreement. The chain of command from the members of the unit up through the unit commander to the board itself should likewise be included in the agreement's provisions.

**1. Reporting Requirements.** The MAIT Commander should be required to make periodic reports of the unit's activities to the board. This ensures accountability of the unit to those who are ultimately responsible for its operations.

In turn, the board should be required to report to the participating jurisdictions at agreed-upon intervals. This increases understanding of and support for the unit among the city and county officials who make budgetary and other decisions regarding the unit. It also helps to protect the unit against possible charges by discontented officials or citizens that the unit is an independent force operating outside of the knowledge and control of the cities and counties--and their taxpayers--that formed and financed the unit. However, caution must be used to make certain that such reports do not compromise ongoing operations of the unit or place undercover officers and/or informants at risk. This problem should be

discussed with the appropriate city and county officials at the inception of the agreement, so their understanding and support for these precautionary measures can be obtained.

**2. Settlement of Disputes.** Disputes regarding the operation of the unit will inevitably arise. The MAIT agreement should provide that such disputes will be settled by the board, rather than on a direct interdepartmental basis. Procedures for the settlement of such disputes, including the calling of any necessary special meetings, should be set forth in the agreement.

#### B. Personnel Assignments and Authority

Assignment of personnel to the unit should be made by the chief or sheriff of the participating departments or a designated command-level alternate. Normally, only full-time, sworn, fully-trained personnel should be assigned to the unit. This is important both for unit efficiency and to minimize the risk of civil liability attributable to unit operations.

In making such assignments, departmental executives should consider only those officers who are capable of working independently, without close or constant supervision, and those who are able to work well with officers from other departments.<sup>15</sup>

Although temporary, such assignments should be regarded as a full-time commitment of indefinite duration. Further, assignment to the unit should be treated by the department as a mark of approval for the officer being assigned. Under no circumstances should assignment to the unit be treated as a punishment, nor should the unit be regarded as a place for officers who have proven unable to perform other duties within their agencies. The complex legal and operational requirements of these units demand that only the best-trained and most capable officers be assigned to it. A violation of this principle will increase the liability exposure of the assigning jurisdiction and make the ultimate failure of the team almost certain.

**1. Number of Personnel.** Determining the number of officers to be assigned to the MAIT is a delicate and complex matter. The team's personnel strength must be sufficient to enable it to accomplish its mission, yet must be within the resources of the participating departments. The size of the region, the scope and objectives of the unit's operations, and the capabilities of the individual agencies must be considered. Once the total number of unit personnel has been determined, the burden of providing the personnel to make up this number must be distributed fairly among the participating jurisdictions. Care should be taken to make certain that the smaller departments are not required to provide more personnel than their departmental strength will permit. However, the smaller departments must be adequately represented in the unit's operations if the morale, and hence the effective participation, of the smaller departments is to be maintained.

**2. Supervision and Regulation of Unit Personnel.** Officers assigned to the unit must be subject to the supervision and control of the unit commander. Furthermore, the officers involved must clearly understand this if the commander is to have effective control of personnel.

The unit should have its own written regulatory policies and procedures, which all personnel should understand and observe.

Training of unit personnel should include thorough coverage of this subject, both at the time of the unit's formation and upon the later assignment of new personnel to the unit. Failure to observe this principal vastly increases the exposure of the unit and its parent agencies to civil liability.

One of the more difficult problems encountered in the formation and operation of a MAIT unit is the reconciliation of discrepancies between the policies and procedures of the unit and those of the participating departments. Since the policies and procedures of the various departments will often vary, it may be impossible to formulate a unit policy that is totally consistent with the corresponding policies of all of the member departments. Care must be taken to achieve agreement of the various members of the board to any unit policy that differs from that in force in their respective departments.

Of particular concern here are policies regarding (1) the use of deadly force; (2) motor vehicle responses and pursuits; (3) arrests, searches and interrogations; and (4) undercover operations. These are aspects of unit activity that are generally employed in MAIT operations and ones that are more likely to result in the filing of civil suits.

**3. Liability and Indemnification.** As noted earlier, MAIT operations can result in civil suits against the unit itself, against supervisors and officers, or against the participating departments and jurisdictions. In this regard, it should be noted that a participating department and/or jurisdiction may in some instances be sued civilly for activities of the unit even though MAIT officers involved in the incident were not members of that particular agency. This possibility must be considered when drafting indemnity provisions.

The agreement under which the unit is formed should therefore spell out appropriate provisions for indemnification between jurisdictions if civil liability is incurred by reason of the unit's activities. All such provisions should be specifically approved by the legal advisors of the participating jurisdictions to ensure that they comply with state and local laws.

**4. Powers of Unit Officers.** All necessary steps must be taken to ensure that unit officers have the powers of sworn law enforcement officers throughout the region served by the unit. Express language to this effect should be included in the MAIT agreement. In addition, any other necessary legal steps should be taken to make certain that unit officers have these expanded jurisdictional powers under applicable state and local law. If state law does not give local officers sufficient extra-jurisdictional powers, a statement in the agreement itself may not be sufficient. In that event, steps such as multiple deputization may have to be taken to avoid any possible claim that an officer lacked authority to act as a law enforcement officer in a town, city or county within the region but outside the officer's parent jurisdiction.

**5. Financial Support.** The model policy sets forth broad provisions for allocating the financial burdens associated with MAIT operations. In some instances, participating jurisdictions may wish to establish additional provisions dealing specifically with such matters as responsibility for the cost of injuries or deaths among unit personnel, training costs, equipment costs, costs of special operations and the costs incurred when special units from member departments are called upon to assist in unit operations, among other potential matters.

In addition, some may wish to set forth specific formulas for determining the manner of allocating administrative and other overhead costs, especially if a disproportionate share of administrative support, office space, vehicles, equipment or other items is provided by one or more jurisdictions.

**6. Coordination of Asset Forfeitures.** Formal agreement among participating agencies should be made regarding the handling of asset forfeitures. In view of the present predominance of federal asset forfeitures, care should be taken that asset forfeiture provisions comply with federal requirements. Since these requirements are subject to change, the *current* status of federal law and policy should be determined before the agreement is promulgated.<sup>16</sup> In addition, legal advice should be sought to ensure that no asset forfeiture provision in the agreement is contrary to state law.

**7. Special Assistance from Member Agencies.** In addition to setting forth the normal chain of command to be followed in unit operations, the participating jurisdictions may wish the agreement to include the procedures to be followed when it becomes necessary for the unit to seek special assistance from member departments and jurisdictions, as noted above. Special assistance might include such things as laboratory analysis, evidence protection and storage, SWAT team assistance, prisoner transportation and detention, and medical care for arrestees or injured officers, among other matters. The determination of which department or jurisdiction will provide these services, the manner in which they must be authorized and how any resultant financial burden will be distributed should be made during the drafting of the MAIT agreement.

## C. Operational Planning

Operational planning is another component of any regional MAIT operation if it is to succeed. In fact, the unit's goals, operating guidelines, and logistic and financial support decisions should be incorporated in the written agreement previously discussed. The scope and intent of such cooperative units can vary widely, and law enforcement agencies are obviously very diverse in the types of resources that they can draw upon in these and other operations. Nevertheless, the manner in which law enforcement agencies deal with these planning issues should address several distinct concerns common to most planning functions. The following elements of this process are discussed below. While they are addressed here in sequential fashion, they are often addressed in an overlapping manner. For larger, more complex operations, however, it may be beneficial to address these issues in an orderly, structured manner so important issues will not be overlooked.

**1. Analysis of Environmental Information.** In forming a MAIT operation, it would appear self-evident that the parties involved understand what they want to accomplish. However, the perceptions and priorities of individual agency administrators concerning the operation may vary. Moreover, the political, social and economic environment of each jurisdiction differs to the degree that agency administrators are often heavily influenced by factors outside their control. For example, political pressures in one jurisdiction, driven by intense media coverage of multiple homicides within a close



time span, may make this an overriding priority for one administrator--far more than would otherwise have been the case.

These types of perspectives, attitudes and environmental pressures that may affect the scope and direction of the enforcement effort need to be aired and openly discussed. Objective data on the scope and level of criminal activity must be brought to these discussions, so a realistic appraisal may be made of the area(s) in which the operation should focus its efforts.

**2. Definition of Objectives.** Once decision makers have assessed the environment and evaluated the nature and depth of the crime problem, it is possible to identify the specific objectives that the unit will attempt to address. For example, the region may have collectively experienced a significant increase in PCP production. As a result, the unit may wish to target this for enforcement action by launching undercover investigations and conducting raids on identified laboratories.

Depending on the availability of resources and the scope of the regional problem, the unit may identify several enforcement objectives. Objectives can normally be reached by several alternative means, some of which are more costly than others to implement and sustain.

**3. Resources and Constraints.** In selecting alternative strategies, unit decision makers will need to identify the types and extent of resources available through the participating jurisdictions, as well as any obvious constraints that will be faced in developing and implementing the operational plan.

Obvious resources include personnel, vehicles, weapons, and specialized equipment. However, the resource assessment must include qualitative judgments such as the availability of personnel with specialized training, the availability of highly reliable informants and other sources of dependable intelligence, and the cooperation and support of the prosecutor's office and the community in general, among numerous other factors.

Inadequacies in any of the above or other areas can be regarded as constraints to the unit's operations. A complete assessment of capabilities and constraints will allow the unit commanders to realistically determine whether unit objectives can be met using defined strategies or whether alternative strategies will be required.

**4. Establishment of Performance Measures.** MAIT commanders need to identify key performance measures for unit personnel. Perhaps the most common of performance measures is arrests, but additional indicators may include leads investigated, warrants served, raids conducted or other factors in keeping with the nature and strategies of the operation. The ability to objectively document performance is important in any operation. In the case of a multijurisdictional enterprise, it is important to maintain this information so parent jurisdictions will be assured that their personnel are being used in constructive and definitive roles. This data is also particularly useful when the unit is called upon to relate its performance statistics to measurable impact on the targeted crime problem.

**5. Evaluating Impact.** The ability to objectively measure the success of the unit is an important determination for each of the jurisdictions involved and will have direct bearing on whether the operation deserves to be continued or renewed at a later

date. The direct impact of unit operations will vary according to the unit's objectives and operational strategies. However, some of the more common impact measures involve arrests, cases closed, number of convictions obtained, the number of man years of incarceration imposed and the value of assets forfeited to cooperating jurisdictions, among other factors. It is important in the planning process to ensure that these and related statistics are compiled. Invariably, questions concerning unit effectiveness will be raised, and they can only be answered objectively if a procedure is established to compile this type of information.

## V. CONCLUSION

The foregoing discussion is designed to help interested jurisdictions form a MAIT. The model policy is intentionally broad in its coverage because individual situations will require additions or amendments to the model in order to provide complete treatment of concerns peculiar to a given region.

In all instances, state and local laws must be reviewed to determine the appropriateness of the provisions of the model policy and this paper for the regional area that the unit will serve. As noted earlier, consultation with prosecutors, city and county attorneys, and/or the office of the state's attorney general is strongly advised. In no instance should the principles discussed herein be implemented unless and until it has been conclusively determined that regional agreements are permitted under the statutes, ordinances, decisions and regulations of the states and localities concerned, and that the requirements of these have been fully satisfied.

### Endnotes

<sup>1</sup>See for example, "Multi-jurisdictional Narcotics Enforcement Task Forces: Lessons Learned from the OCN Program Model," The Organized Crime Narcotics Trafficking Enforcement (OCN) Program, Institute for Intergovernmental Affairs, Bureau of Justice Assistance, 1992. See also, from a managerial context: Multi-Agency Investigative Team Manual, U.S. Department of Justice, National Institute of Justice, Washington, D.C., 1988

<sup>2</sup>For example, the FBI's VICAP Program has devoted considerable attention to information management in multi-agency investigations of serial homicide. See proceedings of the "Serial Murder Investigation System Conference," Conference Report, December 16-20, 1991, Quantico, VA

<sup>3</sup>It is assumed that forfeitures resulting from the unit's activities will take place under federal procedures. Even if such forfeitures are intended to be accomplished by the unit under state law only, the possibility of using federal forfeiture mechanisms should be considered. Therefore, nothing in the policy should conflict with federal forfeiture provisions.

<sup>4</sup>In some instances, a single official, such as a city manager or county executive, may be authorized to bind the jurisdiction without formal approval by the governing body. Care must be taken to ensure that any agreement signed in the absence of prior formal approval by the governing body is authorized by, and valid under, state and local law.

<sup>5</sup>If prior approval by the governing body is required, this approval must be obtained before, not after, the official signs the agreement.

<sup>6</sup>Such notice may be waived where all parties to the agreement agree to it.

<sup>7</sup>Should damage or injury to persons or property within the home jurisdiction be traced to an overcommitment of resources to a neighboring jurisdiction when such resources were needed locally, political and legal repercussions may follow. Therefore, assistance decisions must be made by a knowledgeable official in light of existing conditions within the home jurisdiction.

<sup>8</sup>The department from which assistance is requested must make the final decision as to whether it has the capability to provide such assistance. However, it will help requesting jurisdictions to direct their requests properly, and to keep them within reasonable limits, if the participating jurisdictions are aware of each other's current capabilities.

<sup>9</sup>In this regard, it should be noted that the jurisdiction receiving the assistance may incur liability for the actions of the personnel "borrowed" from the assisting department(s). Similarly, a jurisdiction providing assistance may be sued civilly for both the activities of its own personnel while providing assistance and the activities of members of the other department(s) in connection with the receipt of such assistance.

<sup>10</sup>In particular, the availability of specialized assistance that may not be included in the MAIT bylaws, such as SWAT teams or bomb disposal, should be covered in a mutual assistance agreement.

<sup>11</sup>Failure to observe the requirement will substantially increase the department's civil liability exposure. See *Canton v Harris*, 109 S.Ct. 1197 (1989).

<sup>12</sup>It is probable that any operationally acceptable guidelines regarding control of the assisting personnel will expose both requesting and assisting departments to civil liability for the actions of the assisting personnel. Since it is essential operationally that the requesting department be able to direct and control the borrowed personnel, the requesting department will in all probability be held legally responsible for the actions of the assisting personnel by analogy to the common law "borrowed servant rule." It is also highly probable that since assisting personnel will still be subject to some control by their parent departments, the parent departments will also be held responsible for any errors and/or omissions committed by the assisting personnel. Since this situation cannot be avoided, this liability exposure should be provided by indemnification provisions and liability insurance.

<sup>13</sup>Since borrowed personnel will perform law enforcement functions in other jurisdictions, all necessary steps must be taken to ensure that participating MAIT officers have the powers of sworn law enforcement officers throughout the region served by the MAIT agreement. All necessary legal steps should be taken *in advance* to make certain that officers who may be rendering assistance in other jurisdictions have these expanded jurisdictional powers under applicable state and local laws. If state law does not give officers suffice extra-jurisdictional powers, a statement in the MAIT bylaws or the regional mutual assistance agreement may not be sufficient. In that case, steps such as multiple deputization may have to be taken to avoid any possible later claim that an assisting officer lacked authority to act as a law enforcement officer in the jurisdiction in which he was working.

<sup>14</sup>Officers of one jurisdiction may not be aware of unusual jurisdictional boundaries or other jurisdictional problems existing in another city or county. These matters should be covered prior to rendering any cooperative assistance in the jurisdiction in question.

<sup>15</sup>This must include the ability to work harmoniously with officers of lesser, equal or greater rank, who may be of greater or lesser seniority, and who may be of a different age, race, sex or background as well as being from a different law enforcement agency. While this is important in any law enforcement assignment, it is especially critical in the case of multijurisdictional units, where any lack of harmony among the members may prove disastrous to the unit's mission. In addition to the above, team members must be able and willing to adopt a unit identity and sense of common purpose and put aside partiality for individual agency or jurisdictional affiliations. Personal attempts to "grab the

glory" or the credit for one's parent agency have no place in a multijurisdictional unit that is designed to confront common problems between agencies.

<sup>16</sup>After execution and implementation of the regional agreement, federal forfeiture provisions should be reviewed periodically for changes which may necessitate amendment of the agreement.

### Acknowledgement

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands, often divergent law enforcement strategies and philosophies, and the impact of varied agency resource capabilities, among other factors.