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U.S. Department of Justice

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September 9, 2011

Jeffrey Risburg, Esquire  
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100 South Charles Street  
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Baltimore, Maryland 21201

Re: United States v. Craig Shepperd  
WDQ-11-0259

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to the Defendant by the United States Attorney's Office for the District of Maryland ("this Office"). If the Defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by September 15, 2011, it will be deemed withdrawn. The terms of the agreement are as follows:

Offense of Conviction

1. The Defendant agrees to plead guilty, pursuant to Fed. R. Crim. P. 11(c)(1) (C) to Count Seven of the Indictment now pending against him, which charges him with Threatening to Murder a Federal Law Enforcement Officer, in violation of 18 U.S.C. §115(a)(1). The parties agree to recommend a sentence of **96 months** imprisonment to the Court. The Defendant admits that he is, in fact, guilty of that offense and will so advise the Court.

Elements of the Offense

2. The elements of the offense to which the Defendant has agreed to plead guilty, and which this Office would prove if the case went to trial, are as follows:

THAT, on or about March 8, 2011, Defendant threatened to murder a Federal Law Enforcement Officer, ("M.S.") identified in the indictment; and,

THAT, at the time of the threat, M.S. was in fact a Federal Law Enforcement Officer; and,

THAT, the Defendant acted with the intent to impede, intimidate and interfere with that Federal Law Enforcement Officer, while engaged in the performance of his official duties and with the intent to retaliate against that Federal Law Enforcement Officer on account of the performance of his official duties.

#### Penalties

3. The maximum sentence provided by statute for the offense to which the Defendant is pleading guilty is as follows: up to 10 years incarceration followed by a period of up to three years supervised release and a fine of up to \$250,000. In addition, the Defendant must pay \$100 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court may also order him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.<sup>1</sup> If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The Defendant understands that if he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his supervised release could be revoked - even on the last day of the term - and the Defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The Defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the Defendant will serve any term of imprisonment imposed.

#### Waiver of Rights

4. The Defendant understands that by entering into this agreement, he surrenders certain rights as outlined below:

a. If the Defendant had persisted in his plea of not guilty, he would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, this Office, and the Court all agreed.

b. If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

c. If the Defendant went to trial, the government would have the burden

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<sup>1</sup> Pursuant to 18 U.S.C. § 3612, if the Court imposes a fine in excess of \$2,500 that remains unpaid 15 days after it is imposed, the Defendant shall be charged interest on that fine, unless the Court modifies the interest payment in accordance with 18 U.S.C. § 3612(f)(3).

of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.

d. The Defendant would have the right to testify in his own defense if he so chose, and he would have the right to refuse to testify. If he chose not to testify, the Court could instruct the jury that they could not draw any adverse inference from his decision not to testify.

e. If the Defendant were found guilty after a trial, he would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against him. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

f. By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the Defendant makes during such a hearing would not be admissible against him during a trial except in a criminal proceeding for perjury or false statement.

g. If the Court accepts the Defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find him guilty.

h. By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status. The Defendant recognizes that if he/she is not a citizen of the United States, pleading guilty may have consequences with respect to his/her immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including his/her attorney or the Court, can predict with certainty the effect of a conviction on immigration status. Defendant nevertheless affirms that he/she wants to plead guilty regardless of any potential immigration consequences.

#### Advisory Sentencing Guidelines Apply

5. The Defendant understands that the Court will determine a sentencing guidelines range for this case (henceforth the "advisory guidelines range") pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take

into account the advisory guidelines range in establishing a reasonable sentence.

Factual and Advisory Guidelines Stipulation

6. This Office and the Defendant understand, agree and stipulate to the following Statement of Facts, which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:

Members of the Baltimore County Police Department, Arson investigation unit along with the Bureau of Alcohol, Tobacco and Firearms, ("ATF"), were investigating a fire of a commercial barn which occurred on August 26, 2010, at 2808 Shepperd Road in Monkton, Maryland. The Defendant, Craig Allen Shepperd was identified as the primary suspect in the arson. On March 8, 2011, Baltimore County Detective Michael Ruby, along with ATF Task Force Officer, ("TFO"), M. Smith and Baltimore County Officer J. Sherfey went to the Baltimore County Detention Center for the purposes of serving an indictment issued by the Circuit Court for Baltimore County, upon the Defendant, charging him with arson. Defendant told the Officers that he knew TFO Smith was coming to charge him and that TFO Smith had been sleeping on it for the past 6 months. The Defendant became very agitated and stated that he, the Defendant, was a marksman and a very good hunter. Defendant told TFO Smith that he would shoot him in the head and mount him on the wall like a deer. Defendant told the officers he had a "hard on" for one person in the room as he looked at TFO Smith. Defendant stated that when he got out of jail, he would meet TFO Smith at a restaurant to have dinner and neither of them would come out alive. Defendant held his hand up imitating a pistol and pointed directly at TFO Smith and motioned as if pulling a trigger. Defendant stated that he was going to create a scene and when TFO Smith responded, Defendant would be waiting in the woods to shoot TFO Smith in the head and then shoot himself, splattering himself all over the police car. Defendant continued to ask TFO Smith, "How is your family doing?" TFO Smith asked Defendant if he was threatening him and Defendant replied that it was not a threat, that it was a promise. Defendant told the officers that where he lives in the country, people turn up missing and they feed you to the hogs. Defendant told TFO Smith that TFO Smith had no idea who he was dealing with. Defendant stated that TFO Smith opened up a big can of worms and he would pay. TFO Smith identified himself as a Federal Task Force Officer and Defendant stated he already knew that. TFO Smith was first appointed as a Special Deputy U.S. Marshal and Task Force Officer with ATF on January 16, 2009. TFO Smith was re-administered the oath of office as a Special Deputy U.S. Marshal and TFO with ATF on February 15, 2011. Investigators also obtained recordings of conversations Defendant had with a person identified as Cory Blizzard and Defendant's father, where Defendant repeats and confirms his threats to murder TFO Smith. On the recordings Defendant also acknowledges that he knew TFO Smith was a Federal Law Enforcement Officer. At the time of the

threats, TFO Smith was, in fact, a Federal Law Enforcement Officer as defined in 18 U.S.C. §115(c)(1). Defendant made the threats to TFO Smith with the intent to impede, intimidate and interfere with that Federal Law Enforcement Officer, while engaged in the performance of his official duties and with the intent to retaliate against that Federal Law Enforcement Officer on account of the performance of his official duties.

The parties agree that the Defendant is a career offender pursuant to U.S.S.G. §4B1.1, because the Defendant has at least two prior convictions for crimes of violence. The parties further agree that pursuant to §4B1.1(b)(E), the offense level is offense level **24**, and the criminal history category is category **VI**.

This Office does not oppose a two-level reduction in the Defendant's adjusted offense level, based upon the Defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. This Office may oppose *any* adjustment for acceptance of responsibility if the Defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty. The parties agree therefore that the resulting offense level is level **21** and criminal history category **VI**.

The parties stipulate and agree pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) that a sentence of **96 months incarceration in the custody of the Bureau of Prisons**, is the appropriate disposition of this case. This agreement does not affect the Court's discretion to impose any lawful term of supervised release or fine or to set any lawful conditions of probation or supervised release. In the event that the Court rejects this plea agreement, *either* party may elect to declare the agreement null and void. Should the Defendant so elect, he will be afforded the opportunity to withdraw his plea pursuant to the provisions of Federal Rule of Criminal Procedure 11(c)(5).

7. This Office and the Defendant agree that with respect to the calculation of criminal history, the calculation of the advisory guidelines range and application of the 18 U.S.C. § 3553(a) factors, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines or in 18 U.S.C. § 3553(a) will be raised or are in dispute.

### Obligations of the United States Attorney's Office

8. At the time of sentencing, this Office will recommend a sentence of **96 months incarceration in the custody of the Bureau of Prisons**. At the time of sentencing, this Office will move to dismiss any open counts against the Defendant.

9. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the Defendant's background, character and conduct, including the conduct that is the subject of the counts of the Indictment that this Office has agreed to dismiss at sentencing.

### Waiver of Appeal

10. In exchange for the concessions made by this Office and the Defendant in this plea agreement, this Office and the Defendant waive their rights to appeal as follows:

- a) The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal the Defendant's conviction;
- b) The Defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed (including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release), except as follows: (i) the Defendant reserves the right to appeal any term of imprisonment to the extent that it exceeds **96 months'** imprisonment; (ii) and this Office reserves the right to appeal any term of imprisonment to the extent that it is below **96 months'** imprisonment.
- c) Nothing in this agreement shall be construed to prevent the Defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from appealing from any decision thereunder, should a sentence be imposed that resulted from arithmetical, technical, or other clear error.
- d) The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

### Obstruction or Other Violations of Law

11. The Defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the Defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the Defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the Defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The Defendant acknowledges that he may not withdraw his guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph.

### Court Not a Party

12. The Defendant expressly understands that the Court is not a party to this agreement. In the federal system, sentence is imposed by the Court, and the Court is under no obligation to accept this plea agreement. In the event the Court rejects this Rule 11(c)(1)(C) plea agreement, pursuant to Rule 11(c)(5)(C), the Defendant will be informed that he may withdraw his plea. If he persists in the guilty plea thereafter, the Defendant understands that the disposition of the case may be less favorable than that contemplated by this agreement. The Defendant understands that neither this Office, his attorney, nor the Court can make a binding prediction or promise that the Court will accept this agreement. The Defendant agrees that no one has made such a binding prediction or promise.


### Entire Agreement

12. This letter supersedes any prior understandings, promises, or conditions between this Office and the Defendant and, together with the Sealed Supplement, constitutes the complete plea agreement in this case. The Defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the Defendant and this Office other than those set forth in this letter and the Sealed Supplement and none will be entered into unless in writing and signed by all parties.

If the Defendant fully accepts each and every term and condition of this agreement, please sign and have the Defendant sign the original and return it to me promptly.

Very truly yours,

Rod J. Rosenstein  
United States Attorney

By:   
A. David Copperthite  
Assistant United States Attorney

I have read this agreement, including the Sealed Supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Craig Allen Shepperd

I am Craig Allen Shepperd's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement, with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey Risburg, Esquire