

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Police

**AGENDA DATE:** September 23, 2014

**CONTACT PERSON NAME AND PHONE NUMBER:** Michelle Gardner, Assistant Chief, 564-7301  
Bruce Collins, Purchasing and Strategic Sourcing,  
212-1181

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

That the Mayor be authorized to sign a Memorandum of Understanding (MOU) between the City of El Paso and the State of New Mexico, Department of Public Safety, for the exchange of fingerprint information through a connection between the respective Automated Fingerprint Identification System (AFIS) databases of the City through its Police Department and the New Mexico Department of Public Safety (NMDPS).

**BACKGROUND / DISCUSSION:**

The City through its Police Department and NMDPS each own and manage separate AFIS databases of fingerprint records created by internal law enforcement activity. This MOU establishes the relationship and responsibilities between the parties for access to and sharing of fingerprint information, and allows fingerprint examiners of each agency to launch latent fingerprint searches against, and receive results from, the AFIS database of the other. Information-sharing through this MOU serves a public purpose, furthers the law enforcement mission of the agencies, and is beneficial to the community.

**PRIOR COUNCIL ACTION:**

City Council approved a related purchase on August 26, 2014.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

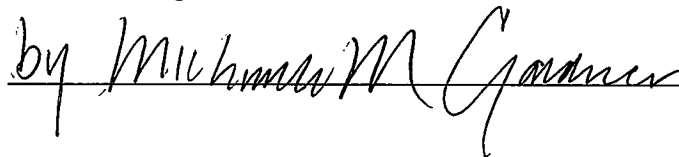
---

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

by 

STATE OF TEXAS           §  
COUNTY OF EL PASO     §

## **INTERLOCAL AGREEMENT/MEMORANDUM OF UNDERSTANDING**

### **TO ENABLE LATENT PRINT SEARCHES BETWEEN THE EL PASO POLICE AND THE NEW MEXICO DEPARTMENT OF PUBLIC SAFETY**

**This Interlocal Agreement/Memorandum of Understanding** ("Agreement") is entered into by the City of El Paso, a Texas municipal corporation ("City"), on behalf of the El Paso Police Department ("EPPD"), and the New Mexico Department of Public Safety ("NMDPS"). The "City" and the "NMDPS" are hereinafter collectively referred to as the "Parties" to this Agreement. The "EPPD" and the "NMDPS" are hereinafter referred to as "Sharing Agencies" for the purpose of enabling latent print searches through each Sharing Agency's Automated Fingerprint Identification System ("AFIS").

#### **RECITALS**

**WHEREAS**, the Interlocal Cooperation Act, Sec. 791.001, et seq., Texas Government Code, authorizes local governments to contract with one another and with agencies of this state or another state to carry out their governmental functions to increase efficiency and effectiveness; and

**WHEREAS**, each Sharing Agency is a criminal justice agency pursuant to Section 411.082 of the Texas Government Code; and

**WHEREAS**, each Sharing Agency manages a separate AFIS database of fingerprint records created by internal state law enforcement activity; and

**WHEREAS**, public safety in the region will be significantly enhanced by EPPD and NMDPS allowing each other to perform inter-AFIS latent print searches against the other Sharing Agency's ten-print databases;

**WHEREAS**, entry into such an agreement serves a public purpose by enhancing both Sharing Agencies ability to identify individuals based on a fingerprint search and therefore furthering the law enforcement mission of authorized criminal justice agencies;

**WHEREAS**, each Party to this Agreement is aware that all criminal justice information exchanged by this Agreement shall not be disclosed to the public except as authorized by federal or state law or regulation; and

**WHEREAS**, the Parties wish to avail themselves of such cooperative AFIS services;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and of other good and valuable consideration, and intending to be bound hereby, NMDPS and EPPD agree to enable inter-AFIS latent print searches against each other's ten-print databases as follows:

**1. Compliance with Applicable Laws**

Each Sharing Agency will process, store, search and disseminate fingerprint and palm print record information in compliance with their respective local, state and federal statutes, laws, regulations and formal protocols including but not limited to the following:

- a. Title 28 (Judicial Administration) of the Code of Federal Regulations.
- b. Technical specifications established by the following documents:
  - i. FINGERPRINT DATA ROUTER INTEGRATION MODULE (FOR) to METAMORPHO AFIS INTERFACE CONTROL DOCUMENT (ICD), Document Number D325-020A, Version 3.0, March 26, 2008
  - ii. EL PASO POLICE DEPARTMENT AFIS DATA DICTIONARY, Document Number D325-011A, Version: 3.2.1, April 12, 2010
  - iii. NEW MEXICO DEPARTMENT OF PUBLIC SAFETY FINGERPRINT IDENTIFICATION SYSTEM DATA DICTIONARY, Document D742-008A, Version 1.4, March 22, 2013 (Available at MorphoTrak)
  - iv. NEW MEXICO DEPARTMENT OF PUBLIC SAFETY FINGERPRINT DATA ROUTER TO METAMORPHO AFIS, Document Number D742-004A, Version 1.2.3, April 27, 2011
- c. New Mexico statutes and regulations including, but not limited to, the Arrest Record Information Act: 29-10-et seq.

**2. Sharing Information**

Each Sharing Agency shall, upon proper request, receive and identify criminal latent fingerprint records submitted by the other Sharing Agency.

- a. The identification data pertinent to such records shall be shared in full.
- b. The criminal history information associated with such records shall be shared in accordance with the laws and regulations of the releasing agency.
- c. This Agreement shall not pertain to civil fingerprint records such as those submitted for applicants for non-criminal justice activities.

**3. Supported Functionality**

The AFIS of both Sharing Agencies shall be electronically connected in such a manner that fingerprint records, administrative transmissions and identification responses freely pass between systems, supporting the following functionality:

- a. Latents are scanned and coded at the local AFIS, and latent search can be launched against the local AFIS database or remote AFIS database.
- b. A search of the remote AFIS can be conducted without first searching the local AFIS.
- c. The local operator selects the latent to search against the remote AFIS.
- d. The remote AFIS processes the Latent Ten Print (hereinafter "LTTP") search request, initiates a search, and compiles a candidate list.
- e. When the response is returned to the initiating AFIS, the operator views and validates the candidate list.

**4. Security Considerations**

- a. Connectivity and operations under the provisions of this Agreement shall be consistent with the need for safeguarding of the AFIS, connected systems, and the networks through which AFIS records move. Both parties shall participate in defining operational security standards, agree on the standards and ensure that those standards are met.
- b. Records generated by inter-state queries or records movement shall be afforded security commensurate with the rules, procedures and standards for document security of the party state obtaining the records.
- c. The searches would not allow for any changes, deletions, or additions to each other's database.

**5. Retention of Records**

Tenprint, latent fingerprints and latent palm print records generated by one Sharing Agency shall not be retained in the Sharing Agency's AFIS unless both Sharing Agencies mutually agree that a particular record or group of records is to be retained.

**6. Host Access**

Each Sharing Agency shall access the other Sharing Agency's AFIS via the host systems in El Paso or Santa Fe. Thus, EPPD users will access the NMDPS AFIS only through the EPPD, and NMDPS users will access the EPPD AFIS only through the NMDPS.

**7. Financial Considerations**

This Agreement shall not obligate either Party for expenses other than those defined herein.

- a. The EPPD assumes responsibility for purchasing AFIS goods and services necessary to establish connectivity with NMDPS, develop software and implement the functionality defined herein.

- b. The NMDPS assumes responsibility for purchasing AFIS goods and services necessary to establish connectivity with EPPD, develop software and implement the functionality defined herein.
  - c. Each Sharing Agency is responsible for their own costs of maintaining connectivity with each other once established, to include network transmission costs, vendor fees for system maintenance and future enhancements.
  - d. There shall be no fees for any services rendered under this Agreement.
8. **Point of Contact**  
Both Sharing Agencies shall appoint a single point-of-contact to coordinate and administer the terms of this Agreement.
9. **Termination of this Agreement**  
This Agreement may be terminated at any time by either Party. Termination shall be accomplished by written communication from one Party to the other, and shall be effective 30 days after the receipt of such communication. Upon breach of any provision by either Party, this Agreement may be terminated immediately.
10. **Warranty of Capacity to Execute Agreement**  
By signing below, each authorized representative warrants that he/she has the authority to bind his/her Party or Sharing Agency to the conditions enumerated in this Agreement without reservation. This Agreement is in effect until replaced by a new Agreement or terminated in accordance with paragraph 10, above, by either party.
11. **Liability**
- a. No employment relationship is intended to be created by this Agreement.
  - b. The City of El Paso shall only be held liable for tort claims to the extent allowed under Chapter 101 of the Texas Civil Practice & Remedies Code.
  - c. New Mexico shall be liable for losses arising from personal injury, death or property damage caused by the negligent or wrongful act or omission of any employee of New Mexico in accordance with New Mexico Tort Claims Act, NMSA 1978, Section 41-01-1 et seq., as amended.
12. **Term**  
The Term of this Agreement is for one year and it shall automatically renew annually unless terminated in writing pursuant to Section 9 of this Agreement by any Party.
13. **No Third Party Right**  
The Parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

14. **Amendments**

Any alterations, variations, modifications or waivers of provisions of this Agreement shall only be valid if executed as a written amendment to this Agreement.

15. **Severability**

All agreements and covenants contained in this Agreement are severable. Should any term of provision of this Agreement be declared illegal, invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will not be affected.

16. **No enforceability of Impermissible Obligations**

No provision of this Agreement that imposes an obligation or restriction on either Party not permitted by applicable law shall be enforceable.

17. **No Authority to Bind the Other Party to Obligations Beyond this Agreement**

New Mexico and NMDPS acknowledge and agree that they do not have, and will not attempt to assert, the authority to make commitments for or to bind the CITY or EPPD to any obligation other than the obligations set forth in this Agreement. The CITY and EPPD acknowledge and agree that they do not have, and will not attempt to assert, the authority to make commitments for or to bind the New Mexico or NMDPS to any obligation other than the obligations set forth in this Agreement.

18. **Form of Notice**

Any notice, demand, request, consent or approval that either party may or is required to provide to the other, shall be in writing and either personally delivered or sent via United States Postal Service certified mail return receipt requested, addressed to the other party at the following addresses provided below:

CITY:	City of El Paso	New Mexico Department of Public Safety:
	Attn: City Manager	Attn: Chief Information Officer
	300 N. Campbell	PO Box 1628
	El Paso, TX 79901	Santa Fe, NM 87504-1628

Changes may be made to the above addresses through timely written notice provided to the other party.

19. **Execution of Counterparts**

This Agreement may be executed in any number of counterparts; each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement, and no Party shall be required to produce an original or all of such counterparts when making such proof.

20. **Complete Agreement**

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof, and this Agreement, together with any Attachment(s) attached hereto, constitutes the entire agreement

between the Parties relating to the terms and conditions of the Agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements, or assurances with respect to such matters except as are set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement by the signatures of the duly authorized representative of each on the dates indicated. This agreement is effective upon the last signature date.

[SIGNATURE PAGES FOLLOW]

APPROVED this the \_\_\_\_ of \_\_\_\_\_, 2014

**ATTEST:**

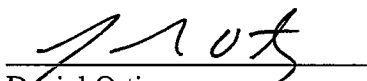
**CITY OF EL PASO:**

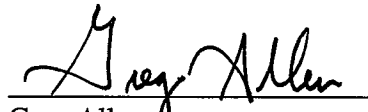
\_\_\_\_\_  
Richarda Duffy Momsen  
Municipal Clerk  
Date: \_\_\_\_\_

\_\_\_\_\_  
Oscar Leaser  
Mayor  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**


  
\_\_\_\_\_  
Daniel Ortiz  
Assistant City Attorney  
Date: 7/7/14

  
\_\_\_\_\_  
Greg Allen  
Chief of the El Paso Police Department  
Date: 7/9/14

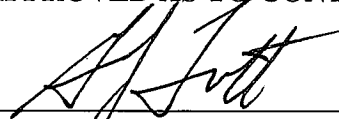
APPROVED this the 15<sup>th</sup> of July, 2014

**NEW MEXICO DEPARTMENT OF PUBLIC SAFETY:**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Rosemary P. McCourt  
Deputy Chief Counsel/Designee  
Date: 7/29/14

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Gregory V. Fouratt  
Cabinet Secretary/Designee  
Date: 7/15/14