

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

DEPARTMENT: Police

AGENDA DATE: May 28, 2013

CONTACT PERSON NAME AND PHONE NUMBER: Assistant Chief Bob Feidner, 564-7166

DISTRICT(S) AFFECTED: All

SUBJECT:

Authorize the Mayor to sign an Interlocal Agreement between the City of El Paso, the County of El Paso, the El Paso County Juvenile Board, and the El Paso Independent School District for the sharing of Automated Fingerprint Identification System (AFIS) data in furtherance of law enforcement functions through information-sharing.

BACKGROUND / DISCUSSION:

The City of El Paso Police Department currently maintains fingerprint data within its AFIS on adult and juvenile offenders. This Interlocal Agreement expands the fingerprint data capture and sharing of information within statutory requirements among the Juvenile Probation Department and the El Paso Independent School District Police Department.

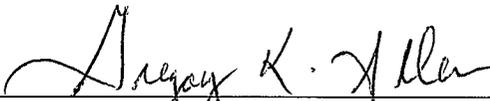
PRIOR COUNCIL ACTION: N/A

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Interlocal Agreement between the City of El Paso, El Paso County and the El Paso Independent School District for importation of fingerprint data to the automatic fingerprint identification system, to allow each party to share fingerprint information, with the initial term ending on December 31, 2013 and including an automatic renewal provision.

ADOPTED this _____ day of _____, 2013.

CITY OF EL PASO:

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:

Gregory Allen
Chief of Police

CITY CLERK DEPT. -
2013 MAY 21 AM 10:21

STATE OF TEXAS §

COUNTY OF EL PASO §

INTERLOCAL AGREEMENT

FOR THE IMPORTATION OF ARREST INFORMATION TO
THE AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM

This Interlocal Agreement is entered into by El Paso County a political subdivision of the State of Texas ("County"), on behalf of the El Paso County Sheriff's Office ("SO"), the El Paso County Juvenile Board, on behalf of the El Paso County Juvenile Probation Department ("JPD"), and the City of El Paso a Texas municipal corporation ("City"), on behalf of the El Paso Police Department ("EPPD"), and the El Paso Independent School District ("EPISD") on behalf of the El Paso Independent School District Police Department ("EPISD PD"), the "SO", "JPD", and "EPISD PD" are also each hereinafter referred to individually as ("Sharing Agency"), and collectively as (Sharing Agencies) for the purpose of sharing the Automated Fingerprint Identification System (hereinafter referred to as AFIS).

RECITALS

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

WHEREAS, entry into such an agreement serves a public purpose by increasing sharing of criminal justice information between authorized criminal justice agencies in furtherance of law enforcement functions.

WHEREAS, the Automated Fingerprint Identification System (AFIS) is a standalone system owned by the City of El Paso Police Department and is the depository for all finger and palm print impressions captured throughout El Paso County; and

WHEREAS, public safety in the region will be significantly enhanced by participating agencies contributing to the expansion of the AFIS database;

WHEREAS, each Party to this Agreement is aware that all information subject to this Agreement is not subject to disclosure to the public except as authorized by federal or state law or regulation; and

WHEREAS, each Sharing Agency is a criminal justice agency pursuant to Section 411.082 of the Texas Government Code, each Sharing Agency shall compile and maintain records needed for reporting to the Department of Public Safety (DPS) to include the submission of information required on the uniform incident fingerprint card in an electronic form compatible with the format required of electronic data supplied to the criminal justice information system and/or the juvenile justice information system when applicable; and

WHEREAS, the EPPD has purchased and installed Live Scan equipment at JPD for purposes of facilitating juvenile processing, collection, and dissemination of the information to the Juvenile Justice Information System under Title 3 of the Texas Family Code, to DPS under Chapter 60 of the Texas Code of Criminal Procedure where allowed and as required by law, relating to children who come in contact with the juvenile justice system; and

WHEREAS, the SO, JPD, and EPISD PD wish to avail themselves of such AFIS services through Live Scan equipment each has procured to include the necessary software and hardware, system maintenance services, operational staff, and supplies, and have located said equipment at remote worksites; and

WHEREAS, the Sharing Agency will assume all connectivity cost to interface with the AFIS. SO, JPD and EPISD and shall cover all costs associated to connectivity to the AFIS; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, and of other good and valuable consideration, and intending to be bound hereby, the SO, JPD and EPISD agree as follows:

1. ACCESS TO AFIS SERVICES

- A. EPPD shall allow the Sharing Agencies to electronically transmit a Field Packet from a Live Scan Terminal to include fingerprints, photographs, mug shots, photographs, palm prints and other demographic information to the Latent Print/A.F.I.S. Section of the EPPD. EPPD shall be responsible for quality control, approval and transmittal of the information to AFIS and assignment of a Reference Identification Number.
- B. EPPD shall allow the Sharing Agencies to electronically transmit a two finger search utilizing a Live Scan or EPPD approved mobile device (RAPID) to the AFIS which will verify a previous arrest or an active local warrant.
- C. The Latent Print/A.F.I.S. Section of the EPPD will provide latent print searching capability to those sharing agencies. This will consist of EPPD personnel utilizing AFIS workstations to search, compare and testify to electronic fingerprint examinations.

- D. SO presently owns and operates a satellite AFIS workstation to be used by authorized SO personnel to enter, search and compare finger and palm prints against the permanent AFIS database.
 - E. EPPD may allow the Sharing Agencies to electronically transmit information and/or search the AFIS database based upon other criteria as technological advances are made without the necessity of an amendment to this Agreement .
2. Presently, the Latent Print/A.F.I.S. Section of the EPPD receives Field Packets regarding adults and juveniles in the following manner:
- A. **ADULTS**
 - i. Directly from EPPD command center adult live scans which are owned and maintained by the City of El Paso.
 - ii. Directly from adult live scan stations managed by the El Paso County Sheriff's Office. These Field Packets go through a store and forward which transmits the criminal justice information to the EPPD AFIS and to the Texas Department of Public Safety (DPS).
NOTE: EPISD PD will continue to process adult offenders per the current procedure via the SO (County Jail).
 - B. **JUVENILES**
 - i. Directly from EPPD command center juvenile live scans.
 - ii. Directly from the juvenile live scan located at JPD, which is owned and maintained by the EPPD.
 - iii. Directly from the juvenile live scan located at the SO, which is owned by the SO
 - iv. Directly from the juvenile live scan located at the EPISD PD, which is owned by the EPISD.
 - v. These Field Packets are also sent to the El Paso County Juvenile Information System (JIS)
 - vi. These Field Packets are also sent to a store and forward located at JPD for review and transmission to the Texas Department of Public Safety (DPS).
3. Each Sharing Agency shall establish written maintenance protocols which are routine, robust and regularly reviewed for effectiveness for their respectively owned equipment and work with the Sharing Agencies to assure they are following appropriate maintenance and repair protocols for equipment owned by the respective sharing agency. It shall be appropriate for EPPD, EPISD PD, or SO IT personnel to assist any other Sharing

Agency to install, setup, troubleshoot, update, repair and/or replace live scan related software and hardware.

4. EPPD shall have the authority to inspect and audit the equipment records and operation of the Sharing Agencies to determine compliance with this agreement, and all applicable state and federal laws.
5. EPPD reserves the right to immediately suspend AFIS store and search services to a Sharing Agency when the EPPD determines that this agreement or any applicable state or federal law, rule, or regulation has been violated by the Sharing Agency or an employee of the Sharing Agency. EPPD may reinstate the service upon EPPD's receipt of satisfactory assurances that such violations have been corrected and measures have been taken to prevent future violations by the Sharing Agency. All costs for service reconnection are the responsibility of the Sharing Agency.
6. Sharing Agencies reserve the right to immediately suspend the transmission of Field Packets for juveniles to the EPPD AFIS when a Sharing Agency determines that this agreement or any applicable state or federal law, rule, or regulation has been violated by EPPD or an employee of EPPD. JPD has the right to audit EPPD's AFIS system and procedures for proper handling juvenile crime records, by comparing the information contained in the EPPD AFIS system and EPISD PD's Livescan system to verify compliance with the annual certification provided to the El Paso County Juvenile Board by all law enforcement agencies in El Paso County regarding the destruction of fingerprints and photographs pursuant to § 58.002 of the Texas Family Code, as well as a comparison of all orders sealing juvenile records pursuant to § 58.003 (g) of the Texas Family Code to the EPPD AFIS system. If it is determined that EPPD is improperly storing or sharing juvenile information, the Sharing Agencies shall immediately suspend the transmission of Field Packets to EPPD's AFIS. The Sharing Agencies may reinstate the transmission of juvenile records upon their receipt of satisfactory assurances that such violations have been corrected and measures have been taken to prevent future violations by EPPD.
7. EPPD will allow the Sharing Agency to enter their biometric data into AFIS and enable them to share certain basic criminal justice data among Sharing Agencies for authorized law enforcement purposes only. EPPD will provide the Sharing Agency with technical assistance for the setup, configuration, and assistance in the operations and processes for the Sharing Agency to utilize Live Scan. EPPD will also assist with initial training to the Sharing Agency officers on the usage of Live Scan. Sharing Agency shall ensure that only Live Scan trained personnel shall use and have access to Live Scan.

8. Each Sharing Agency shall set up their own Livescan machine(s) so that each machine is compatible with both the DPS store and forward as well as the EPPD AFIS store and search specifications, which are each required and unique. Each Sharing Agency shall bear the expense for proper set up and any subsequent updates or changes.

B. MAINTENANCE OF AFIS EQUIPMENT

1. In the event of an AFIS failure, EPPD shall promptly notify the Sharing Agency's designated contact person of such failure. The Sharing Agency shall be responsible to make any adjustment(s) or repair(s) to the live scan equipment. The Sharing Agency shall permit the City's maintenance contractor prompt access to the live scan equipment at the Sharing Agency's remote worksites as necessary for service to the equipment.
2. EPPD shall bear all expenses associated with the operation, maintenance, and update of the live scan equipment and software located at the JPD facility as this live scan equipment is and shall remain the property of the EPPD.
3. Each Sharing Agency shall perform preventative cleaning and upkeep of its own live scan equipment.

C. RESPONSIBILITIES OF THE SHARING AGENCIES

1. The Sharing Agencies will transmit their juvenile criminal justice information (CJI) from the live scan machines to EPPD AFIS and the El Paso County Juvenile Information System (JIS). Only JPD will transmit juvenile CJI to the Texas Department of Public Safety (DPS) through the Field Packets as described in Section A of this Agreement. The Sharing Agencies will ensure that only authorized persons performing authorized functions have access to the live scan machines.
2. The Sharing Agency retains sole ownership of, and sole responsibility for, the information it contributes, including but not limited to, the accuracy of the information.
3. The Sharing Agencies shall ensure that all law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be, if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults.

4. Computer security-related incidents must be reported to the EPPD by the Sharing Agency and vice versa. EPPD reserves the right to suspend AFIS store and search services. Each Sharing Agency reserves the right to halt transmission of Field Packets.
5. Each Sharing Agency agrees that the information it contributes can be utilized by the EPPD for purposes of reporting regional crime statistics and performing crime analysis, field operation, and investigation functions.
6. Each party to this Agreement agrees that it shall have no liability whatsoever for the actions and/or omissions of the other party's employees, officers, or agents, regardless of where the individual's actions and/or omissions occurred. Each party is solely responsible for the actions and/or omissions of its employees, officers, and agents; however, such responsibility is only to the extent permitted by Texas law. Where injury or property damage result from the joint or concurring acts and/or omissions of the parties, any liability shall be shared by each party in accordance with the applicable Texas law, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of the parties hereto and not for the benefit of any person or entity not a party hereto; nor shall any provision hereof be deemed a waiver of any defenses available by law.

D. TERMINATION

1. This agreement shall be effective upon its execution by the parties and shall remain in effect until December 31, 2013. It shall automatically renew annually unless terminated in writing pursuant to Section D. 2. of this Agreement by any party. The EPPD may choose to terminate the agreement as it pertains to one, or all of the Sharing Agencies. If the EPPD chooses to terminate the agreement with less than all of the other Sharing Agencies, the Agreement remains in effect with the remaining Sharing Agencies. If one or all of the Sharing Agencies chooses to terminate the agreement, the Agreement remains in effect with the remaining Sharing Agencies.
2. Any Party to this Agreement may upon 30 days written notice discontinue service or participation in this Agreement for convenience. Any cost associated with termination and the movement of the Sharing Agency's data shall be borne by the Sharing Agency.

E. VENUE

1. The laws of the State of Texas shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and performance under it.

F. MISCELLANEOUS

1. The Parties to agree to observe all local, federal and state laws, rules and regulations that in any manner affect or govern the services to be performed under this Agreement and the operation of the sensitive law enforcement information.
2. The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.
3. Any alterations, variations, modifications or waivers of provisions of this Agreement shall only be valid if executed as a written amendment to this Agreement.

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.

APPROVED this the _____ of April, 2013

ATTEST:

CITY OF EL PASO:

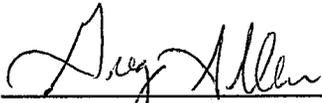
Richarda Duffy Momsen
City Clerk
Date: _____

John F. Cook
Mayor
Date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

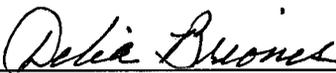
Assistant City Attorney



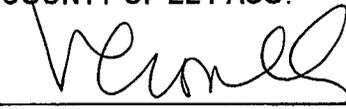
Greg Allen, Chief of Police
El Paso Police Department
City of El Paso, Texas
Date: _____

ATTEST:

COUNTY OF EL PASO:



Delia Briones
County Clerk
Date: 4-9-13

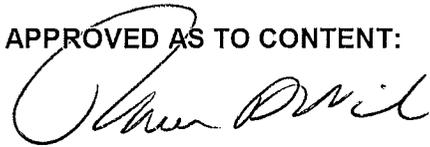


Veronica Escobar
County Judge
Date: 4/8/13

APPROVED AS TO FORM:

Assistant County Attorney

APPROVED AS TO CONTENT:



Richard Wiles, Sheriff
El Paso County Sheriff's Office
Date: 3/8/13

EL PASO COUNTY JUVENILE BOARD:

Hon. Yahara L. Gutierrez, Chair
Date: _____

APPROVED AS TO FORM:

Assistant County Attorney

APPROVED AS TO CONTENT:

Chief Juvenile Probation Officer
Roger Martinez
Date: _____

ATTEST



Board Secretary
Date: 4-29-13

EL PASO INDEPENDENT
SCHOOL DISTRICT



Isela Castañon-Williams
Board President
Date: 4-29-13

APPROVED AS TO FORM



Linda Samples
District Legal Counsel, El Paso ISD

APPROVED AS TO CONTENT



EPISD Police Chief Victor Araiza
Date: 4-29-13