

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the County Executive to execute a Memorandum of Understanding with the Houston High Intensity Drug Trafficking Area member agencies related to the sharing of electronic data information in support of law enforcement and public safety, at no cost to the County.

RESOLUTION NO. 19402, March 6, 2017

INTRODUCED BY Alfred Jordan, County Legislator

WHEREAS, the Houston High Intensity Drug Trafficking Area (HHIDTA), is a multi-jurisdictional public safety program that was established to reduce drug trafficking and production in the United States; and,

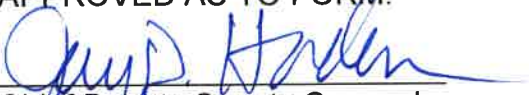
WHEREAS, the Sheriff recommends the execution of the attached Memorandum of Understanding with the HHIDTA for the sharing of electronic data information, specifically related to the County's automated license plate readers, at no cost to the County; and,

WHEREAS, the execution of the attached MOU is in the best interests of the health, safety, and welfare of the citizens of Jackson County; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the County Executive be and hereby is authorized to execute the attached Memorandum of Understanding with the Houston High Intensity Drug Trafficking Area, at no cost to the County.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19402 of March 6, 2017, was duly passed on March 13, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 8


Nays 0

Abstaining 0

Absent 1

3-13-17

Date



Mary Jo Spino, Clerk of Legislature



Memorandum of Understanding

Houston High Intensity Drug Trafficking Area

Mike McDaniel
Director
Houston High Intensity Drug Trafficking Area (HIDTA)

HOUSTON HIGH INTENSITY DRUG TRAFFICKING AREA

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter "MOU" or "Agreement") is made and entered into on this ___ day of ___ 20__ by and between the parties below and all future signers of this agreement, known collectively as "Member Agencies" or individually as a "Member Agency."

WHEREAS, the Member Agencies provide Public Safety services within their jurisdictions; and

WHEREAS, the Member Agencies have found it to be of mutual benefit to provide for the most efficient utilization of their resources and services in the application to Public Safety efforts within their jurisdictions; and

WHEREAS, the Member Agencies are committed to complete cooperation and coordination in providing the highest level of public safety services to the public, guided by the principle that performing cooperatively is in the best interest of the public; and

WHEREAS, the Member Agencies desire to facilitate the sharing of information contained within their electronic data systems, including but not limited to: Records Management Systems, Computer Aided Dispatch Systems, Automated License Plate Readers, Intelligence Management Systems, Jail Management Systems, and Law Enforcement Data Sharing Systems - which may include aggregated information collected from multiple individual or regional sources - into commercially available and custom developed data integration systems; and

WHEREAS, the Agency desires to share data owned, aggregated, or collected by the Agency under the conditions set forth in this MOU;

The following agencies are collectively known as the "Member Agencies":

City of Alice, TX Police Department
City of Baytown, TX Police Department
Brooks County Sheriff's Office / TX
Burnet County Sheriff's Office / TX
Chambers County Sheriff's Office / TX
City of Corpus Christi, TX Police Department
City of Durham, NC Police Department
Fort Bend County Sheriff's Office / TX
City of Freeport, TX Police Department
City of Galveston, TX Police Department
Georgia State Patrol / GA
City of Haltom, Texas Police Department
Harnett County Sheriff's Office / NC
Kingsville Task Force / TX
Kleberg County Sheriff's Office / TX
City of Mission, TX Police Department
City of Mobile, AL Police Department
Montgomery County Sheriff's Office / TX
North Carolina HIDTA
Orange County Sheriff's Office / NC
Padre Island National Seashore
City of Pasadena, TX Police Department
City of Rosenberg, TX Police Department
City of Round Rock, TX Police Department
City of Stafford, TX Police Department
Texas Department of Public Safety / TX
Victoria County Sheriff's Office / TX
Walker County Sheriff's Office / TX
City of West University Place, TX Police Department

Mission

The Houston High Intensity Drug Trafficking Area (HHIDTA) is a multi-jurisdictional public safety program that was established to reduce drug trafficking and production in the United States. The HIDTA is managed under an Executive Committee. The heads of nine federal and ten state and local law enforcement managers in Southeast Texas comprise the Executive Committee (EXCOM). Their direction and policies are administered on a daily basis by the HIDTA Director

The Houston HIDTA LPR Database was formed in support of this mission, under the leadership of the HHIDTA, it's Executive Board, and regional stakeholders, to develop, establish, and maintain an integrated system of information technology that maximizes the sharing of data and communication between Member Agencies in support of law enforcement and public safety, while maintaining the confidentiality of privileged or otherwise protected information shared through the system, and protecting privacy and civil liberties in accordance with applicable law.

Member Agencies shall work together in a variety of ways to facilitate sharing data in an effort to promote and improve the data sharing capabilities of the respective Agencies and the Houston HIDTA LPR Database itself.

Purpose

This agreement outlines the duties and responsibilities of each Member Agency, defines the working relationships and lines of authority for Member Agencies within the Houston HIDTA LPR Database, and provides for the addition of other eligible entities in the data-sharing program created by this Memorandum of Understanding (hereinafter "MOU").

Therefore, the Member Agencies hereby agree to the following:

1) Definitions

- 1.1 The Houston HIDTA LPR Database Information Sharing System is a collective group of law and justice agencies sharing data into one or more data aggregation systems, of which are represented on this or other information sharing agreements.
- 1.2 Data: electronic facts, records, analysis, images, or other information provided and shared by a Member Agency.
- 1.3 Data Set: a specific grouping, categorization, or subset of data included in a Member Agency system. For example, data sets in a law enforcement records management system may include crime reports, field investigations, citations, and calls for service, or data from automated license plate readers.

- 1.4 Data Record: a unique individual record or document associated with an incident or person, which may include a variety of associated information.
- 1.5 Criminal Justice Practitioners: personnel from the Member Agencies that have the appropriate clearance and authority to utilize and access shared data as a function of their employment, also referred to as “users.”
- 1.6 Host: the entity providing the facilities, labor, and expertise used to maintain, operate, and manage a core component of the Houston HIDTA LPR Database, such as software which aggregates data from multiple sources or provides unified access to disparate systems.
- 1.7 Member Agency: a law enforcement or public safety organization, whose leadership has signed this agreement, that actively participates in information sharing with other Member Agencies.

2) Member Agency Rights, Powers and Authority

Each Member Agency expressly retains all rights and powers to finance, plan, develop, construct, maintain, repair, manage, operate, and control equipment, facilities, properties, projects, and information that it deems in its sole discretion to be necessary or desirable for its own information system needs, and that are authorized by the laws governing it. This agreement shall not be interpreted, and the Houston HIDTA LPR Database shall not have authority, to impair or control any of the Member Agencies' respective rights, powers, or title to such equipment, facilities, properties, information, and projects, nor shall any Member Agency be required to provide additional personnel, equipment, or services to the HHIDTA, which are not already a part of the Member Agency's current operational costs, or which requires them to modify their non-Houston HIDTA LPR Database systems or services, without their consent.

Nothing in this Agreement shall be construed to require a Member Agency:

- 1) To disclose any information that the Member Agency determines, in its sole discretion, it does not have the ability or authority to disclose; OR
- 2) To do any act that the Member Agency determines, in its sole discretion, is contrary to law or public policy.

Member Agencies are not required to seek approval from the HHIDTA to purchase, install, or modify their own LPR Database equipment, services, or work performed in conjunction with any legislative mandate/authority granted to or required of Member Agencies in order to carry out their respective responsibilities.

Furthermore, the HHIDTA has no power or authority to control, interfere with, or inhibit Member Agencies from conducting their own internal business and/or providing their own resources or services to other entities, which may or may not be members of or served by the Houston HIDTA LPR Database.

Participation in the Houston HIDTA LPR Database and any associated data interfaces or other customizations shall not prevent the Member Agency from operating systems independent of the Houston HIDTA LPR Database.

Notwithstanding anything to the contrary herein, a Member Agency shall have no obligation to seek approval from the HHIDTA for any modification to that Member Agency's internal systems or processes that is mandated by the State of California, or by any law or regulation governing the affected member Agency.

In gathering and sharing information, and in all other respects in performing acts related to this Agreement, the parties will comply with all applicable laws, rules, and regulations.

3) Effective Date and Term of MOU

The effective date of this agreement is the date noted above and/or the date each subsequent Member Agency executes this agreement. This agreement shall remain in effect and shall be reviewed every five years. The agreement can only be terminated as provided herein.

4) Data Sharing

All Member Agencies agree to share data with other Member Agencies who have a need to know and a right to know, with comprehensive, timely, accurate information about a suspect, incident, or offender to include, but not limited to, identity, prior agency contacts, citations, arrests, investigations, criminal history, and current justice status. All parties agree not to facilitate information sharing between Member Agencies and law enforcement entities that have not entered into agreements allowing for such sharing.

Each agency will have the prerogative of not sharing those items of data that it deems sensitive or confidential. Nothing in this MOU shall be construed to mean that any Member Agency must share any type of data.

Any data shared by a Member Agency that the agency later declares should be, deleted, confidential, or otherwise exempt from data sharing,

Each Member Agency shall determine, in the exercise of its sole discretion, which data records are to be shared within the system and shall maintain the databases to share the information that has been agreed upon in advance. Each Agency shall strive to identify and achieve common interests to enhance public safety and due process while maintaining individual privacy rights. Any data to be shared will be the data that the Member Agency already has in its own Database and no agency will be required to collect any data that it does not collect in the normal course of business.

5) Data Access

Data exchange and user access shall be achieved using secure networks, including encrypted virtual private networks, or other reasonably secure configurations that follow current best practices for information technology and are acceptable to both the Member Agency sharing data and the Host receiving data or providing user access.

The information residing in the Data Repositories shall generally be available. Member Agencies agree to inform other Member Agencies in advance, whenever possible, of scheduled down times of specific data feeds. All Member Agencies will be required to sign this Memorandum of Understanding prior to gaining access.

6) Information Ownership, Release and Accuracy

6.1 Ownership and Release Constraints

Member Agencies shall retain control of and remain the official custodian of all information they contribute to the Houston HIDTA LPR Database. All requests for information will be referred to the Member Agency that is the owner of the requested data, and the Member Agency that is the owner of the requested data will be responsible for responding to the request for information.

6.2 Information Accuracy

Member Agencies and Authorized Users acknowledge that Data maintained in the Houston HIDTA LPR Database consists of information that may or may not be accurate. Neither party warrants nor may rely upon the accuracy of such information. Each party understands and agrees to convey that fact to anyone they authorize to access shared information. It shall be the responsibility of the person or entity requesting or using the data to confirm the accuracy of the information with the agency that authored or originated the information before taking any enforcement-related action.

6.3 Audit

An Audit log will be maintained for a period of no less than twelve months to record user accessed to shared data, including the date and time when the data was accessed.

6.4 Criminal Discovery

Prior to releasing any data in furtherance of its statutory and constitutional obligations relating to the criminal discovery process, a member prosecuting agency shall seek express permission from the originating agency. In order to aid in the release of data, it is recommended that each contributing agency designate a

Criminal Discovery Coordinator or equivalent contact person to receive, evaluate and promptly reply to such requests.

In any instance where an originating agency declines to grant such disclosure permission, the originating agency and the prosecuting agency shall confer to reach agreement on possible limitations on disclosure (including the seeking of judicial protective orders) in an attempt to protect the originating agency's specific concerns while allowing the prosecuting agency to meet its statutory and constitutional criminal discovery obligations.

7) User Access

Each Member Agency is responsible for management of user accounts at that agency. Each agency agrees that all authorized users shall be current employees in good standing and be authorized to review criminal data for legitimate purposes. If for any reason a user is no longer eligible for such access, or ends his/her employment with the agency, the agency will make necessary contacts to ensure access is removed accordingly.

Each user agrees that the Houston HIDTA LPR Database systems and the information contained therein are to be used solely for purposes consistent with the law. Authorized users shall not use or share the information for any unethical, illegal, or criminal purpose.

Users may not access any of the Houston HIDTA LPR Database by using a name or password that was assigned to another user. Passwords may not be shared with other persons, including other users, for access to the system.

The various Member Agencies agree to use information shared in the Houston HIDTA LPR Database information systems as a pointer system and not as the source of probable cause for law enforcement actions.

8) Security Requirements

Member Agencies agree to maintain and enforce security requirements for the system. Each Member Agency is responsible for the internal security of their records and any technical support necessary to ensure proper security. All Member Agencies and the HOUSTON HIDTA LPR DATABASE agree to enforce and maintain security, retention, and purge requirements for the information shared as specified in the Information Practices Act, the Public Records Act, 28 Code of Federal Regulations (CFR) Part 23, and any other laws or regulations governing applicable data types.

9) Connecting with other data sources and analysis platforms

HHIDTA will continually work to expand the connectivity of the Houston HIDTA LPR Database and will actively pursue opportunities to sign MOU agreements with new public agencies and other information sharing systems under the guidelines outlined in this agreement. HHIDTA will also seek to acquire new analysis systems, and enhance the capabilities of existing platforms, as to provide optimal value for data shared by Houston HIDTA LPR Database members.

Member agencies agree to grant authority to the HHIDTA for the sole purpose of executing information sharing agreements to join new member agencies or information sharing systems into the Houston HIDTA LPR Database, if approved by the legal counsel representing HHIDTA. Such agreements will not require further review or approval by member agencies. Such agreements will have no material changes or provisions that would adversely affect or contradict the policies of this MOU.

A steering committee comprised of HHIDTA leadership and regional stakeholders shall be formed to ensure future expansion of the Houston HIDTA LPR Database, data and membership, maturation of the Houston HIDTA LPR Database, analytic capabilities, and follows the desires and expectations of the Houston HIDTA LPR Database Member Agencies.

10) Admission and Withdrawal of Member Agencies

Additional public agencies, or similar regional or statewide sharing systems, may become Member Agencies of the Houston HIDTA LPR Database upon such terms and conditions as are determined by HHIDTA, and by execution of a written amendment to this agreement by the proper authority of the new Member Agency.

Existing and future Member Agencies have the right to withdraw from the Houston HIDTA LPR Database MOU provided by written notice to HHIDTA, or may be involuntarily removed upon any breach of this agreement.

11) Liability and Indemnification

Each Member Agency takes legal and financial responsibility for the actions of their employees, officers, agents, representatives and volunteers. Each agency shall bear the proportionate cost of any damage attributable to the fault of that particular agency, its governing body, officers, agents, employees and volunteers. It is the intention of the Member Agencies that, where fault is determined to have been contributory, principles of comparative fault will be followed.

Any contract with a non-member public agency receiving services pursuant to this agreement shall include a mutual indemnification provision

The contract shall also provide:

- 1) That the indemnity obligation shall exist with respect to any claim, loss, liability, damage, lawsuit, cost, or expense that arises out of, or is in any way related to, the performance of services pursuant to the contract; and
- 2) The obligation of the non-Member Agency and the Houston HIDTA LPR DATABASE pursuant to the indemnification provision will extend, without limitation, to an injury, death, loss, or damage which occurs in the performance of the contract and that is sustained by any third party, any agent, or contractor of the non-Member Agency or the Houston HIDTA LPR Database.

12) Signatories Not Agents

Parties to this Agreement shall have no authority, either express or implied, to act on behalf of any signatory in any capacity whatsoever, as an agent. The Member Agency parties shall have no authority, express or implied, pursuant to this Agreement, to bind each other to any obligation whatsoever.

13) Assignment Prohibited

Parties to this Agreement may not assign any rights or obligations pursuant to this Agreement. Any attempted or purported assignment of any rights or obligations pursuant to this Agreement shall be void and of no legal effect whatsoever.

When a person with access is no longer employed or otherwise no longer eligible for access, the Member Agency is responsible for removing all related passwords and security authorizations from the system.

No person shall release any information contained in the Houston HIDTA LPR Database either by Court Order or in response to a Public Records Act request, unless they are the originating agency or official custodian of such data.

14) Insurance

Each Member Agency, at its sole cost and expense, shall carry insurance or self-insure its activities in connection with this MOU, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, and business automobile liability adequate to cover its potential liabilities hereunder. Each Member Agency shall carry a minimum of one million dollars in general liability insurance.

15) Costs

Unless separate agreements are made, each party shall be responsible for their own costs associated with establishing, maintaining, or terminating their access to, or participation with, the Houston HIDTA LPR Database. Nothing in this agreement

shall be construed to mean that Member Agency parties are subject to incurring new costs. Any applicable user licenses, renewal fees, maintenance costs, or similar outlays must be determined in a separate contract or agreement to be added as an addendum to this Agreement.

16) Data Collection, Retention, and Dissemination

1. The LPR data collected by the various agencies participating in the LPR program will be transmitted to the Houston HIDTA Operations Center via a fiber optic line or through an encrypted Virtual Private Network (VPN). The data will be maintained on the Operation Center server independent of any other law enforcement databases housed at the Houston HIDTA Operations Center.

2. All LPR system data provided to Houston HIDTA will be stored on the Operations Center server for a period not to exceed three years. After the three year period, the data will be purged unless it has become, or it is reasonable to believe that it will become, evidence, including evidence that tends to inculcate or exculpate a suspect, in a specific criminal or other law enforcement investigation or action. Should data be determined to have evidentiary value, the following paragraph applies: In those circumstances when data is identified as having evidentiary value, the LPR Program Administrator, or designee, will review the facts of the specific case and determine if the data should be saved. If the LPR Program Administrator determines it is reasonable to believe the data has evidentiary value, the Program Administrator will authorize the transfer of the applicable data from the LPR Program server to a form of digital storage media (CD, DVD, etc.) or other portable storage devices.

3. Agencies requiring data to be retained by Houston HIDTA beyond the established retention period may make a formal request to the Houston HIDTA to extend retention. Each request must specify the need for extended retention, the circumstances surrounding the request, the requesting agency's case number, and a specific point of contact within the requesting agency. Houston HIDTA reserves the right to grant or deny agency requests based on the information provided.

4. The following methods shall be used when disseminating LPR information: The "need to know" and "right to know", as defined in the Houston HIDTA Privacy Protection Policy of a potential recipient must be verified and documented prior to dissemination of LPR information.

5. Requests for Service (RFS) for License Plate Reader data will be processed in accordance with the Houston HIDTA Standard Operating Procedures for Processing Requests for Information and Requests for Service Guidelines.

6. A Law Enforcement Agency's request to query the LPR data shall be processed provided the agency has a legitimate law enforcement purpose. Mandatory requirements are in place in order to satisfactorily justify the request. These requirements include the purpose of the request, the agency's incident or report number (physical record number), the requestor's name, the requestor's agency and requestor's contact information.

7. The primary method of dissemination shall be via email, in an electronic format that employs a reasonable level of security to guard against alteration, or fax.
8. If access to secure email accounts is not practical, the information may be provided to the requestor via digital storage media or paper copy, as determined by Houston HIDTA staff.
9. Reports and other investigative information received and disseminated by Houston HIDTA shall be retained within internal electronic Houston HIDTA files. After disseminating LPR information deemed to have evidentiary value, the completed report containing the data will be entered into a searchable database for future exploitation and auditing purposes in accordance with the Houston HIDTA Privacy Protection Policy.

17) Miscellaneous

17.1 Amendments

This Agreement may be amended with the unanimous approval of all Member Agencies; provided, however, that no amendment may be made that would adversely affect the interests of the owners of bonds, letters of credit, or other financial obligations of the Houston HIDTA LPR Database.

17.2 Notices

Any notice or instrument required to be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to the Member Agencies, shall be deemed to have been received by the Member Agency to whom the same is addressed at the expiration of five (5) days after deposit of the same in the United States Post Office for transmission by registered or certified mail as aforesaid

17.3 Conflicts of Interest

No official, officer, or employee of the HHIDTA or any Member Agency shall have any financial interest, direct or indirect, in the Houston HIDTA LPR Database. Nor shall any such officer or employee participate in any decision that affects his or her financial interests or those of a corporation, partnership, or association in which he or she is directly or indirectly interested, in violation of any State law or regulation.

17.4 Mediation

Any controversy or claim between any Member Agencies, or between any such Member Agency or Member Agencies and the HHIDTA, with respect to the Houston HIDTA LPR Database's operations, or to any claims, disputes, demands,

differences, controversies, or misunderstandings arising under, out of, or in relation to this Agreement, shall be submitted to and determined by mediation.

The Member Agency desiring to initiate mediation shall give notice of its intention to every other Member Agency and HHIDTA. Such notice shall designate such other Member Agencies as the initiating Member Agency intends to have bound by any award made therein.

Each Member Agency involved in the mediation shall bear its own legal costs, including attorney fees.

17.5 Partial Invalidity

If any one or more of the terms, provisions, sections, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, or void for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, sections, promises, covenants and conditions of this agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

17.6 Successors

This Agreement shall be binding upon and shall inure to the benefit of the successors of the Member Agencies hereto.

17.7 Execution

The Governing Authorities of the Member Agencies enumerated herein have each authorized execution of this agreement, as evidenced by the authorized signatures below.

17.8 Entire Agreement

This agreement supersedes any and all other agreements, whether oral or written, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement or modification of this agreement shall be effective only if executed in writing and signed by all current Member Agencies.

IN WITNESS WHEREOF, the parties hereunto set their hands on the day and year first above written.

JACKSON COUNTY, MISSOURI

APPROVED AS TO FORM:

By: _____
Frank White, Jr.
County Executive

By: _____
W. Stephen Nixon
Jackson County Counselor

ATTEST:

By _____
Mike Sharp
Jackson County Sheriff

Mary Jo Spino
Clerk of the Legislature