



Memorandum of Understanding

Houston

High Intensity Drug Trafficking Area

F. 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 _____ 2022 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 Member Agencies desire to share data owned, aggregated, or collected by the Member Agencies under the conditions set forth in this MOU;

The agencies are collectively known as the “Member Agencies”:

SEE ATTACHMENT “A”

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 HHIDTA is managed under an Executive Board. The HHIDTA Executive Board is comprised of twenty area law enforcement leaders, with half representing federal agencies, and the other half representing state/local agencies. Their direction and policies are administered on a daily basis by the HHIDTA Director.

The HHIDTA LPR Database was formed in support of this mission, under the leadership of the HHIDTA, its 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 agree to 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 Member Agencies and the HHIDTA LPR Database.

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 HHIDTA LPR Database, and provides for the addition of other eligible entities in the data-sharing program created by this MOU.

Therefore, the Member Agencies hereby agree to the following:

1) Definitions

- 1.1 The HHIDTA 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 **Authorized Users:** personnel from the Member Agencies that have the appropriate clearance and authority to use and access shared data as a function of their employment and who are criminal justice practitioners.
- 1.3 **Data:** electronic facts, records, analysis, images, or other information provided and shared by a Member Agency.
- 1.4 **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.

- 1.5 **Data Record:** a unique individual record or document associated with an incident or person, which may include a variety of associated information.
- 1.6 **Host:** the entity providing the facilities, labor, and expertise used to maintain, operate, and manage a core component of the HHIDTA 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 and the agency actively participates in information sharing with other Member Agencies.
- 1.8 **Member Agency LPR Administrator:** The Member Agency's designee who is responsible for the management and oversight of the Member Agency's Authorized Users and Member Agency Data submitted to the HHIDTA LPR server.

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 HHIDTA LPR Database shall not have any authority, to impair or control any of the Member Agency's 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, nor shall they be required to modify their non-HHIDTA 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 perform any act that the Member Agency determines, in its sole discretion, is contrary to law or public/agency 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 HHIDTA LPR Database.

Participation in the HHIDTA LPR Database and any associated data interfaces or other customizations shall not prevent the Member Agency from operating systems independent of the HHIDTA 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 in which the Member Agency is located, 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 promote comprehensive, timely, and accurate data sharing with other Member Agencies via the HHIDTA system. HHIDTA data shall only be shared with Member Agencies, and only to Authorized Users of those agencies who possess a "need to know" and "right to know" the shared data in fulfillment of assigned law enforcement or public safety duties.

Member Agencies are not required to contribute data to the HHIDTA system.

Any data shared by a Member Agency to the HHIDTA system that the Member Agency later declares should not be shared, shall be withdrawn by all Hosts from all HHIDTA data within 48 hours, including deletion of any replications of the data.

Each Member Agency shall determine, within its sole discretion, which Data Records are to be shared with the HHIDTA system and shall maintain the databases or other sources that contain the applicable information.

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 at all times. 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 MOU 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 HHIDTA LPR Database. All requests for information will be referred to the Member Agency that is the owner of the requested data, and that Member Agency 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 HHIDTA 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 access 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 within 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 and in a timely manner.

Each user agrees that the HHIDTA 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.

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

The various Member Agencies agree to use information shared in the HHIDTA 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 HHIDTA 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) Member Agency LPR Administrator:

All agencies submitting data to the HHLPR server and/or querying the HHLPR server must have a LPR Administrator. The LPR Administrator will be the agency's "gatekeeper" to assure all LPR data and inquiries submitted to the HHLPR server complies with federal, state, and local law.

Member Agencies agree to provide the HHIDTA LPR Program Administrator with up-to-date contact information for the LPR Administrator, and will designate an interim LPR Administrator during any personnel transition periods. *Failure to have an active Member Agency LPR Administrator can result in the loss of access to the HHIDTA LPR server.*

Duties of the Member Agency LPR Administrator include:

- Adding new user accounts to the agency domain
 - Assuring User accounts are linked to official Member Agency email accounts
- Assisting Authorized Users with password resets
- Conducting monthly audits of the Authorized Users to assure user accounts and access levels are accurate and actively being used
- Approving and auditing all agency Hotlists
- Notifying the LPR Program Administrator whenever LPR cameras are added or removed from the HHIDTA LPR server
- Assuring Authorized Users comply with HHIDTA LPR training requirements

In the event of any perceived non-compliance with this MOU and/or the HHIDTA Policies, Procedures and Privacy, the Member Agency LPR Administrator will serve as the POC to discuss any remedies required. *In order to protect the integrity of the HHIDTA LPR server system for all law enforcement agencies participating in the program, HHIDTA reserves the right to disconnect individual user accounts and/or agency access for violations of this MOU or the HHIDTA Policies.*

10) Connecting with other data sources and analysis platforms

HHIDTA will continually work to expand the connectivity of the HHIDTA 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 HHIDTA 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 HHIDTA LPR Database, if approved by the legal counsel representing HHIDTA. Such agreements will not require further review or approval by Member Agencies. Such agreements shall 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 HHIDTA LPR Database, data and membership, maturation of the HHIDTA LPR Database, analytic capabilities, and follows the desires and expectations of the HHIDTA LPR Database Member Agencies.

11) Admission and Withdrawal of Member Agencies

Additional public agencies, or similar regional or statewide sharing systems, may become Member Agencies of the HHIDTA 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 HHIDTA LPR Database MOU provided by written notice to HHIDTA, or may be involuntarily removed upon any breach of this agreement.

12) 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 HHIDTA 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 HHIDTA LPR Database.

13) 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.

14) 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 HHIDTA 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.

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 HHIDTA 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

15.1 The LPR data collected by the various Member Agencies participating in the HHIDTA LPR program will be transmitted to the HHIDTA 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 HHIDTA Operations Center.

15.2 All LPR system data provided to HHIDTA will be stored on the Operations Center server for a period mandated by the Member Agency's state law. If the Member Agency's state law does not specify a retainment period, all LPR system data provided to HHIDTA 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.

15.3 Agencies requiring data to be retained by HHIDTA beyond the established retention period may make a formal request to the HHIDTA 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. HHIDTA reserves the right to grant or deny agency requests based on the information provided.

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

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

15.6 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.

15.7 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.

15.8 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 HHIDTA staff.

15.9 Reports and other investigative information received and disseminated by HHIDTA shall be retained within internal electronic HHIDTA 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 HHIDTA Privacy Protection Policy.

17) Miscellaneous

16.1 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 HHIDTA.

16.2 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.

16.3 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 HHIDTA 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.

16.4 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 HHIDTA 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.

16.5 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.

16.6 Successors

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

16.7 Execution

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

16.8 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.

The parties hereto execute this MOU as of the Effective Date:

(Agency Name, State)

*** (JURISDICTION) ***

(Name)

Date

(Title)

(Department/Agency) New Braunfels Police Department, TX

F. Mike McDaniel

Date

Director

Houston HIDTA