

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED	
MEETING DATE: FC 08-06-19 BC 08-20-19	Executive Contract <u>XX</u>	CONSENT AGENDA <u>XX</u>
SUBJECT: Sign Memorandum of Understanding with Washington State Patrol	Pass Resolution <u>XX</u>	PUBLIC HEARING
Prepared By: Rosa Garcia	Pass Ordinance	1ST DISCUSSION
Reviewed By: Darryl Banks	Pass Motion	2ND DISCUSSION
	Other	OTHER

BACKGROUND INFORMATION

The Washington State Patrol has had a Memorandum of Understanding with the Benton-Franklin Counties Juvenile Justice Center since 2013. This Memorandum of Understanding sets forth the policy to ensure the protection of criminal history record information between the Washington State Patrol, a non-criminal justice agency (Benton-Franklin Counties Juvenile Justice Center) and the Federal Bureau of Investigation. This Memorandum of Understanding provides guidance for the creation, viewing, modification, transmission, dissemination, storage and destruction of criminal history record information.

SUMMARY

The attached Memorandum of Understanding commences upon execution by the Counties and shall continue in effect for three (3) years.

RECOMMENDATION

We recommend that the Boards of County Commissioners authorize their Chairs to sign the Memorandum of Understanding between the Washington State Patrol and the Benton-Franklin Counties Juvenile Justice Center.

COORDINATION

Coordination of the contract occurred as follows: Rosa Garcia, Senior Administrative Secretary who compiled the contract; Stephen Hallstrom, Benton County Deputy Prosecuting Attorney who reviewed the Contract as to form; John R. Batiste, Washington State Patrol Chief and Darryl Banks, Administrator for the Benton-Franklin Counties Juvenile Justice Center.

FISCAL IMPACT

The Memorandum of Understanding does not have a fiscal impact.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign the Memorandum of Understanding between Washington State Patrol and the Benton-Franklin Counties Juvenile Justice Center.

HANDLING/ROUTING

Following signature from Franklin County, route to Benton County for signature. Following signature from Benton County four originals are to be returned to Rosa Garcia to submit to Washington State Patrol for their signature. Following the signature from Washington State Patrol, three originals will be returned to Rosa Garcia to disperse.

I certify the above information is accurate and complete.

Rosa Garcia

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

**BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES,
WASHINGTON;**

**IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE
BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE AGREEMENT
BETWEEN THE JUVENILE JUSTICE CENTER AND WASHINGTON STATE PATROL**

WHEREAS, Darryl Banks, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Memorandum of Understanding between the Washington State Patrol and the Benton-Franklin Counties Juvenile Justice Center be approved as presented.

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington and by the Board of Franklin County Commissioners, Franklin County Washington, the Boards concur with the Juvenile Administrator's recommendation and hereby approves the Memorandum of Understanding with the Washington State Patrol; and

BE IT FURTHER RESOLVED, that the Chairman is authorized to sign the attached Memorandum of Understanding; and

BE IT FURTHER RESOLVED, The Memorandum of Understanding shall be effective upon execution by the counties and continues for three years.

DATED this ____ day of _____ 2019
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this ____ day of _____ 2019
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

Member

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest: _____

Attest: _____

Clerk of the Board

Clerk of the Board

MEMORANDUM OF UNDERSTANDING**Between the****WASHINGTON STATE PATROL****and the****BENTON FRANKLIN COUNTIES JUVENILE JUSTICE CENTER****I. PURPOSE**

The parties to this Memorandum of Understanding (MOU) are the Washington State Patrol, Identification and Criminal History Section (WSP) and the Benton Franklin Juvenile Justice Center hereinafter referred to as NCJA, a criminal justice agency that performs a non-criminal justice function for licensing and employment purposes. This MOU sets forth the policy to ensure the protection of criminal history record information (CHRI) between the WSP, the NCJA, and the Federal Bureau of Investigation (FBI). This MOU provides guidance for the creation, viewing, modification, transmission, dissemination, storage, and destruction of CHRI data. This policy applies to the NCJA and its contractors with access to, or who operate in support of, non-criminal justice services and information. This MOU supersedes MOU C130717GSC.

II. ADMINISTRATIVE RESPONSIBILITIES

As participants in this MOU, the parties will develop mutually and separately appropriate procedures for transmission, dissemination, storage, and destruction of CHRI data.

A. The Washington State Patrol shall ensure the NCJA complies with the Criminal Justice Information Services (CJIS) Security Policy (Section X) which includes authorized use of CHRI, dissemination of CHRI, statute authorization for civil applicant background checks conducted by noncriminal justice agencies, applicant notification and record challenge, security of CHRI, storage of CHRI, outsourcing of noncriminal justice administrative functions, and user fees. WSP will conduct regional audits of all agencies working under this MOU to ensure compliance to all state and federal standards.

B. NCJA shall be responsible for ensuring:

1. NCJA responds to requests for information by the FBI CJIS Division or the WSP in the form of questionnaires, surveys, or similar methods, to the maximum extent possible, consistent with any fiscal, time, or personnel constraints of the NCJA.
2. NCJA has formalized written procedures for the following, if applicable: criminal history use and dissemination, misuse, background checks, password management, storage, and destruction of CHRI.
3. CHRI received as a result of licensing or employment purposes, pursuant to Public Law 92-544 is solely used for the purpose for which the record was requested. Subject fingerprints shall be submitted with all requests for CHRI for noncriminal justice purposes. Access to the FBI CJIS using name-based inquiry and record request messages is not permitted for noncriminal justice purpose, unless otherwise approved by the FBI.
4. Access to CHRI by authorized officials is subject to cancellation if dissemination is made outside the receiving departments, related agencies, or other authorized entities.
5. All fingerprint based applicant submissions must include in the reason fingerprinted field an accurate representation of the purpose and/or authority for which the CHRI is to be used.
6. NCJA must notify the applicants fingerprinted that the fingerprints will be used to check the criminal history records of the FBI. The officials making the determination of suitability for licensing or employment shall provide the applicants the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. These officials also must advise the applicants that procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in Title 28, C.F.R. 16.34. Official making such determinations should not deny the license or employment based on information in the record

until the applicant has been afforded a reasonable time to correct or complete the record, or has declined to do so.

7. Appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity.
8. NCJA shall seek WSP permission prior to outsourcing noncriminal justice functions.
9. Outsourcing of noncriminal justice administrative functions requiring access to CHRI to either another governmental agency or a private contractor acting as an agent for the authorized receiving agency complies with the Security and Management Control Outsourcing Standard for Non-Channelers (Section X).
10. NCJA is responsible for compliance to technical standards set forth by WSP and the CJIS Security Policy (Section X).
11. NCJA will conduct periodic self-audits to ensure compliance with CJIS Security Policy.
12. NCJA will participate in WSP and FBI audits, provide plans for any compliance issues, and follow through to resolution within identified timeframes.
13. NCJA will ensure all appropriate staff members are trained according to the state and federal requirements.

III. CRIMINAL HISTORY RECORD INFORMATION RESPONSIBILITIES

NCJA shall conform to system policies, as established by the FBI CJIS Division and WSP, before access to CHRI is permitted. This will allow for control over the data and give assurance of system security.

- A. The rules and procedures governing access to CHRI shall apply equally to all participants in the system.
- B. NCJA must designate a specific unit, position, or personnel to access CHRI; noncriminal justice agencies must advise WSP of such personnel and changes to such designation.
- C. NCJA shall permit an FBI CJIS Division or WSP audit team to conduct appropriate audits. NCJA must cooperate with these audits and respond promptly.

IV. SECURITY RESPONSIBILITIES

Technical Roles and Responsibilities

NCJA must comply with and enforce system security. NCJA must have someone designated as the security point of contact (POC). Security POC's shall be responsible for the following:

- A. Identifying the user of the hardware/software and ensuring that no unauthorized users have access to the same.
- B. Identifying and documenting how the equipment is connected to the state system.
- C. Ensuring that personnel security screening procedures are being followed as stated in the CJIS Security Policy.
- D. Ensuring that appropriate hardware security measures are in place.
- E. Supporting policy compliance and keeping the WSP informed of security incidents.
- F. If the technical POC changes at your agency, notify WSP immediately.

Security Enforcement

NCJA is responsible for enforcing system security standards for their agency, in addition to all of the other agencies to which the NCJA provides CHRI information. Authorized users shall access and disseminate the CHRI data only for the purpose for which they are authorized. NCJA shall have a written policy for the discipline of policy violators.

Technical Security Training

All Information Technology (IT) employees who have access to and those who have direct responsibility to configure and maintain FBI CJIS systems must review security awareness training within six months of their appointment or assignment. Documentation pertaining to the materials

used and those employees which receive security awareness training shall be maintained in a current status.

Physical Security

A physically secured location in NCJA’s facility, an area, a room, a group of rooms, that is/are subject to criminal justice agency management control security addendum and which contain hardware, software, and/or firmware (e.g., information system servers, controlled interface equipment, associated peripherals or communications equipment, wire closets, patch panels, etc.) that provide access to the CJIS sensitive facilities and restricted/controlled areas shall be prominently posted and separated from non-sensitive facilities and non-restricted/controlled areas by physical barriers that restrict unauthorized access.

All personnel with access to computer centers, CHRI, or areas where CHRI is housed shall either be escorted by authorized personnel at all times or receive a fingerprint-based background check. All personnel must review security awareness training within six months of their appointment or assignment.

Personnel Security

To verify identification, state of residency and national fingerprint-based record checks shall be conducted within 30 days of initial employment or assignment for all personnel who have authorized access to FBI CJIS information and those who have direct responsibility to configure and maintain computer systems and networks with access to FBI CJIS information. All requests from system access shall be made as specified by the CJIS Systems Officer (i.e. WSP Identification and Criminal History Section).

NCJA shall use the data supplied by WSP and the FBI under this MOU only for the authorized purpose intended. NCJA shall not use this data for any other purpose and shall not disseminate this data with any other parties unless required by law. NCJA shall share any public disclosure requests regarding this data with the WSP.

Storage

Please see Security and Management Control Outsourcing Standard for Non-Channelers (Exhibit A).

V. LIAISON REPRESENTATIVES

**For the
Washington State Patrol**

**For the
Benton Franklin Juvenile Justice Center**

Deborah Collinsworth, Section Manager
Identification and Background Check Section
PO Box 42619
Olympia, WA 98504-2619
Phone: (360) 534-2102
Email: deborah.collinsworth@wsp.wa.gov

Shela Berry
Benton Franklin Counties Financial Manager
5606 W. Canal Dr Suite 106
Kennewick, WA 99336
Phone: (509) 736-2721
Email: shela.berry@co.benton.wa.us

VI. INDEMNIFICATION

To the extent permitted by law, each party shall defend, protect and hold harmless the other party from and against all claims, suits and/or actions arising from any negligent or intentional act or omission of that party’s employees, agents, and/or authorized subcontractor(s) while performing this MOU.

VII. PERIOD OF MOU

This MOU becomes effective on the date of the last signature and continues for three years and may be renewed. It may be modified by mutual written consent of the two agencies.

VIII. TERMINATION

Except as otherwise provided in this MOU, either party may terminate this MOU upon ninety (90) days' written notification to the other party. If this MOU is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this MOU for performance prior to the effective date of termination.

IX. DISPUTES

In the event that a dispute arises under this MOU, it shall be resolved by a Dispute board as follows: The Chief of WSP, or designee, shall appoint one member to the Dispute Board; the NCJA shall appoint one member to the Dispute Board; and the Chief of WSP, or designee, and the NCJA shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the dispute and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. If applicable and as an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

X. SECURITY AND INCORPORATED EXHIBITS

The documents listed below are incorporated into and made a part of this MOU:

1. *FBI CJIS Security Policy* <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>
2. NCJA shall store records in accordance with Exhibit A, the Security and Management Control Outsourcing Standard for Non-Channelers. Exhibit A, attached hereto, is the most recently revised Standard. The Standard can be found at the following link: <https://www.fbi.gov/file-repository/compact-council-security-and-management-control-outsourcing-standard-for-non-channelers.pdf/view> The NCJA shall review the Standard at least yearly, and adhere to any the provisions of the most recently implemented by the National Crime Prevention and Privacy Compact Council.

XI. ORDER OF PRECEDENCE

In the event of any inconsistency in the terms of this MOU, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable federal and state statutes and regulations;
- b. The Terms and Conditions contained in this MOU;
- c. Security and Management Control Outsourcing Standard for Non-Channelers;
- d. Any other provisions of the MOU, whether incorporated by reference or otherwise.

XII. ALL WRITINGS CONTAINED HEREIN

This MOU contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind any of the parties hereto.

WASHINGTON STATE PATROL

**BENTON FRANKLIN
JUVENILE JUSTICE CENTER**

John R. Batiste, Chief

See attached signature sheet

Signature

Date

Date

Print Name and Title

NAMES AND TITLES OF AUTHORIZED OFFICER (PERSON WITH LEGAL AUTHORITY: COUNTY COMMISSIONERS' CHAIRMAN OF THE BOARD, MAYOR, CITY/TOWN MANAGER, AGENCY DIRECTOR)

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



2-24-19

Darryl Banks, Juvenile Court Administrator

Date

BENTON COUNTY APPROVAL

FRANKLIN COUNTY APPROVAL

Approved as to Form:

Approved as to Form:



Stephen Hallstrom, Deputy Prosecuting Attorney Date

Civil Deputy Prosecuting Attorney Date

By: _____
Name: _____
Title: Chairman, Board of Commissioners
Date: _____
Attest: _____

By: _____
Name: _____
Title: Chairman, Board of Commissioners
Date: _____
Attest: _____

Clerk of the Board: _____

Clerk of the Board: _____