

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
MASSACHUSETTS DEPARTMENT OF CORRECTION
AND THE COMMONWEALTH FUSION CENTER**

This memorandum of understanding ("MOU") is made between the Department of Correction of the Commonwealth of Massachusetts ("DOC") and the Commonwealth Fusion Center ("CFC") of the Massachusetts State Police ("State Police").

PURPOSE

Whereas the CFC is responsible for obtaining information on terrorist activities under the Homeland Security Strategy and analyzing crime data, as facilitated by the State Police;

Whereas the DOC is willing to provide support to the CFC concerning terrorist activities and crime data, especially with regard to security threat groups within Massachusetts state prisons;

Now, therefor, in consideration of the MOU contained herein, the parties agree as follows:

AUTHORITIES

This MOU is entered into under the authority of the laws of the Commonwealth of Massachusetts.

TERMS OF AGREEMENT

CFC's DUTIES

The State Police will establish workspace within the CFC and will provide those computer, internet and telephonic connections necessary to perform such assigned duties in furtherance of the CFC goals/mission, at State Police expense. Direct access to computer applications and the Internet will be provided to each outside agency member assigned at the CFC, at State Police expense. Access to any other online searchable databases will be provided on a contingent basis through CFC staff members, at State Police expense. Intelligence products produced by the CFC may be made available to each outside agency representative upon request, in accordance with CFC policy.

MASSACHUSETTS DEPARTMENT OF CORRECTION'S DUTIES

DOC agrees to assign one half time employee to the CFC. As staffing levels permit, a full time assignment will be considered. The DOC employee so assigned and the DOC agree to be directed by the decisions of the Commanding Officer of the CFC for all matters occurring during the normal course of business of the CFC. In all matters concerning the DOC employee's salary, benefits, leave time, (e.g., sick time, FMLA, vacation or personal leave), administration of personnel records and other administrative needs, the DOC employee is subject to the supervision of Joel Berner, Acting Chief Office of Investigative Services.

While assigned to the CFC, the assigned DOC employee will:

- Assist CFC personnel with requests for information and all other matters relating to criminal investigations by providing access to certain DOC databases approved by the Commissioner of Corrections in writing and resources, as set forth in Appendix A.
- Assist CFC staff with the collection, collation, and vetting of incoming information for processing and dissemination of intelligence products.
- Share all relevant DOC intelligence with the CFC in a timely manner.
- Ensure that appropriate information is entered into the CFC Intelligence System.
- Record daily activities through the CFC blotter to ensure that accurate data is included in the State Police Performance Measures Report.

DURATION AND TERMINATION

This MOU shall remain in effect until such time as either signatory agency withdraws from this Agreement. The DOC or the CFC may terminate this Agreement upon a 30-day notice in writing to the other party.

AUTHORIZED REPRESENTATIVES AND NOTICE PROVISION

The CFC's authorized representative for the purposes of administration of this Agreement is Major Robert G. Smith or his successor. The DOC's authorized representative for the purposes of administration of this Agreement is Joel Berner, Acting Chief) Office of Investigative Services, or his successor. Any written notice to the CFC required under this Agreement shall be addressed to Major Robert G. Smith, CFC Commander, 470 Worcester Road, Framingham, MA 01702. Any written notice to the DOC required under this Agreement shall be addressed to Joel Berner, Acting Chief Office of Investigative Services, Department of Correction, 50 Maple Street, Suite 3, Milford, MA 01757.

FINANCIAL RESPONSIBILITIES

While assigned to the CFC, the participating employee will continue to be an employee of DOC with salary and benefits paid by DOC. The participating employee shall be responsible for transportation to and from the CFC.

ASSIGNMENT

Neither the CFC nor the DOC shall assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party.

AMENDMENTS

Amendments to this MOU shall be proposed by either party, and must be approved in writing by both parties to this MOU.

LIABILITY

The CFC and DOC agree that each party will be responsible for its own acts, or the acts of its Representative(s) and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. The CFC and DOC's liability shall be governed by the provisions of Massachusetts law and other applicable law. Liability of the Commonwealth, the Department, or state employees for injury or death of any person(s) and/or damage to or loss of any property, as a result of any act or omission undertaken under the provisions of this MOU shall be strictly subject to the terms, exclusions and limits of M.G.L.c. 258.

SECURITY

The CFC Commanding Officer or his designee shall be responsible for establishing appropriate security measures to ensure the integrity of the operations of the CFC. Any breach of security by the DOC employee assigned to the CFC, shall be immediately reported to the Chief, DOC Office of Investigative Services.

The CFC Commanding Officer shall report on security measures to the Colonel/Superintendent of the State Police on a periodic basis. Any breach of security shall immediately be reported to the Colonel/Superintendent of the State Police.

The CFC Commanding Officer shall be responsible for ensuring that appropriate background checks have been made on the DOC employee assigned to the CFC and any DOC employee who is authorized to receive information from the CFC. The CFC Commanding Officer shall authorize which DOC employees shall receive information from the CFC based on a need-to-know and right-to-know basis. The CFC Commanding Officer shall have the discretionary authority to deny the assignment of an individual to the CFC and/or deny access to any information or the facility itself for security reasons.

The CFC shall utilize the "Third Agency Rule," meaning that dissemination of another agency's materials beyond the CFC requires advance permission from the originating agency. In addition, no agency shall disseminate materials produced by the CFC without first obtaining the permission of the CFC Commanding Officer, or his/her designee, and consistent with applicable public records law. These rules shall apply to all individuals assigned to the CFC, regardless of their agency.

THE INFORMATION SECURITY COMPLIANCE AGREEMENT

The CFC has established the Information Security Compliance Agreement to ensure that the rights of innocent citizens are not abridged by the operations of the CFC, and DOC agrees to abide by it. The Information Security Compliance Agreement is attached to this MOU as Appendix B. Contingent upon receipt of federal funding to support CFC operations, CFC personnel and all DOC employees assigned to the CFC shall abide by the rules of intelligence sharing as defined by Section 28 of the Code of Federal Regulations, Part 23 (see attached Appendix C).

DISPUTE RESOLUTION

Any disputes that may arise between the participating agencies concerning the operations of the CFC shall be referred to the CFC Commanding Officer for resolution. If the CFC Commanding Officer cannot resolve the dispute, it will be referred to the Agency Heads of the parties involved for resolution.

OTHER PROVISIONS

The parties agree to abide by the terms of the attached CFC-DOC Job Description, hereby attached and incorporated by reference as Appendix D.

IN FURTHERANCE of their respective goals, objectives, and missions, the parties jointly agree to abide by the provisions of this MOU.

EFFECTIVE DATE

This MOU shall become effective upon the signature of all parties.

ENTIRE MOU

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

SIGNATORIES

The undersigned hereby represent that they are officers duly authorized to sign for the parties to this MOU.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be duly executed.

APPROVED:

1. MASSACHUSETTS DEPARTMENT OF CORRECTION

By: Kathleen M. Dennehy
Kathleen M. Dennehy

Title: Commissioner

Date: 1-17-06

**2. MASSACHUSETTS STATE POLICE
COMMONWEALTH FUSION CENTER**

By: Colonel Thomas G. Robbins
Colonel Thomas G. Robbins

Title: Superintendent, Massachusetts State Police

Date:

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Distribution:

Executive Office of Public Safety & Homeland Security

Colonel/Superintendent's Office, State Police

Massachusetts Department of Correction

APPENDIX B

MASSACHUSETTS STATE POLICE (State Police)
INFORMATION SECURITY COMPLIANCE AGREEMENT

SECURITY, NONDISCLOSURE AND CONFIDENTIALITY

The MASSACHUSETTS DEPARTMENT OF CORRECTION (DOC) and its half-time employee (Representative) assigned to the Commonwealth Fusion Center (CFC) shall maintain the security, nondisclosure and confidentiality of all information in accordance with the following clauses in the performance of their duties under this Agreement:

SECURITY PROCEDURES:

The DOC agrees that its Representative designated to work under this Agreement will comply fully with all security procedures of the state in relation to the performance of their duties and further agrees that its Representative designated to work under this Agreement have, as a condition of their employment, or if not, shall be required to undergo, the same security clearances as are required of the State Police. Specifically, each prospective and current Representative designated to work under this Agreement at the CFC, shall submit identifying information and may be fingerprinted for purposes of a background check. CFC personnel shall arrange for the scheduling of such fingerprinting activities on State Police premises. The Representative assigned to the CFC will be required to attain a SECRET Level security clearance from the Federal Bureau of Investigation (FBI) or Department of Homeland Security (DHS) upon assignment to the CFC.

NONDISCLOSURE AND CONFIDENTIALITY:

Except as may be required by applicable law or a court of competent jurisdiction, the DOC and its Representative shall maintain strict confidence with respect to any Confidential Information to which the DOC and its Representative have access. This representation shall survive termination of this Agreement. For purposes of this Agreement, the DOC and its Representative agree to treat all information (oral, visual, or written) accessed in the course of their assignment to the CFC as Confidential Information, unless provided a written release from the designation for specified information by the Colonel/Superintendent of the State Police, or his/her designee.

ADMINISTRATIVE OBLIGATION:

The DOC and its Representative designated to work under this Agreement, agree not to use CFC provided equipment to engage in non-duty related activities.

The DOC and its Representative designated to work under this Agreement, agree to immediately notify the Commanding Officer of the CFC, or his/her designee, in the event of the arrest of, or disciplinary action, or an ongoing investigation, involving the Representative assigned to the CFC.