

**JOINT POWERS AGREEMENT  
ATTORNEY GENERAL'S OFFICE AND  
SOUTH DAKOTA PUBLIC SAFETY  
STATE FUSION CENTER**

**THIS JOINT POWERS AGREEMENT** is entered by and between the South Dakota Office of Attorney General, 1302 East Highway 14, Suite 1, Pierre, SD 57501-8501 ("AGO" hereinafter) and the South Dakota Department of Public Safety, Division of Highway Patrol, 118 West Capitol Avenue, Pierre, SD 57501 ("SDHP" hereinafter), pursuant to the authority provided in SDCL chapters 1-24, 32-2 and 23-3).

**WHEREAS**, cooperation with local, state, and federal law enforcement regarding the gathering and transfer of criminal intelligence and criminal justice information is critical to the safety of citizens in the State of South Dakota;

**WHEREAS**, the Department of Public Safety at the encouragement of, and through funding from, the United States Department of Homeland Security created the State Fusion Center which is administered by the SDHP. SDHP receives assistance in administering the State Fusion Center through an advisory board made up of individuals from Homeland Security, SDHP, AGO Division of Criminal Investigation ("DCI" hereinafter), and other state agencies and local law enforcement entities;

**WHEREAS**, proper and efficient operation of the State Fusion Center is in the law enforcement interest of the AGO and the SDHP;

**WHEREAS**, the SDHP is seeking assistance with the sharing of criminal intelligence and criminal justice information; and

**WHEREAS**, the AGO is willing to provide assistance to the SDHP through the Fusion Center as set forth in this Agreement; and

**WHEREAS**, the AGO and the SDHP believe it is a more efficient use of limited state and local resources to enter into this joint undertaking in an effort to promote the successful operation and mission of the State Fusion Center.

**NOW THEREFORE**, IT IS MUTUALLY AGREED AS FOLLOWS:

1. PURPOSE

The purpose of this Agreement is for the AGO to provide a DCI Analyst or Analysts ("Analyst/s" hereinafter) as agency representatives for the State Fusion Center. The Analyst/s will assist in the lawful collection and dissemination of criminal intelligence to and from state and local law enforcement agencies, promote the mission of the State Fusion Center, and assist with the sharing of criminal intelligence and justice information with federal law enforcement agencies including the Department of Homeland Security. The DCI Analyst/s assigned to the State Fusion Center as the agency representative will be delegated authority to make decisions on matters affecting the agency's information sharing within the State Fusion Center.

2. SERVICE NOT EXCLUSIVE

It is understood by and between the Parties that the Analyst/s assigned to the State Fusion Center will not be solely dedicated to performing services to the State Fusion Center. The AGO expressly reserves the right adjust the Analyst's/s' time dedicated to the State Fusion Center as well as the Analyst's/s' physical presence at the Fusion Center as they see fit in their sole discretion.

3. TERM

The term of this Agreement shall commence on the date of final execution by all parties and shall continue in effect until the funds provided to employ the Analyst/s are fully expended or the Agreement is terminated as provided herein.

4. PROVISIONS

A. In consideration of AGO's observance and performance of the covenants, terms and conditions set forth herein, SDHP agrees:

- (a) To provide space in the State Fusion Center for the Analyst/s.
- (b) To train the Analyst/s and provide access to Fusion Center data bases.

B. In consideration of the SDHP's observance and performance of the covenants, terms and conditions set forth herein, AGO agrees:

- a. To provide an Intelligence Analyst or Analysts of the Division of Criminal Investigation to act as agency representatives in the State Fusion Center.
- b. Those persons assigned will remain Analysts and employees of AGO and AGO will be responsible to the Analyst/s for all wages or salary, unemployment benefits, worker's compensation coverage, health insurance, and other employment benefits. Nothing in this Agreement is intended to preclude AGO from modifying the Analyst/s employment, duties, or compensation.
- c. The AGO is responsible for all employment related functions following the Analyst/s duty assignment to the State Fusion Center including but not limited to formal employee discipline and responsibility for the Analyst's/s' actions.
- d. AGO will supervise the Analyst/s and the Analyst/s will receive daily tasking, case assignments, direction, and priority of work by a DCI supervisor assigned to the Analyst/s.
- e. Analyst/s will share information with the State Fusion Center on a consistent basis and will assist the State Fusion Center on State Fusion Center related tasks as a secondary priority to their normally assigned duties.

- f. Analyst/s will communicate with the State Fusion Center Director and staff consistently on what priority work assignments and engagements the Analyst/s will be assigned.
- g. The Fusion Center director may also assign daily tasks, case assignments and direction to the analyst/s, but those assignments will be done in cooperation with the DCI supervisor assigned to the analyst/s in a manner consistent with the DCI analyst workflow document. If the Fusion Center director and the DCI supervisor disagree on work assignments for the analyst/s as assigned by the fusion center director, the DCI supervisor's decision will be considered final.

5. CONTINUITY OF POSITION

If the AGO determines for any reason that the Analyst/s assigned to the State Fusion Center should no longer occupy that position, or if for any reason that person should wish to resign from the position or terminate employment with AGO, AGO will select a suitable replacement to serve as the Analyst/s assigned to the State Fusion Center.

6. LIMITED SCOPE OF AGREEMENT

This Agreement is not meant and shall not be construed to limit any existing or additional cooperative efforts between the parties.

7. TERMINATION

This Agreement can be terminated by SDHP or AGO for any reason by providing 30 days prior written notice to the other party or upon agreement of the parties.

8. FUNDING OUT

Notwithstanding any other provision, this Agreement depends upon continued availability of grant funds and expenditure authority from the Legislature. This Agreement will be terminated if the Legislature fails to provide expenditure or FTE authority or for any reason such authority or funding under a grant becomes unavailable and results in SDHP or AGO being unable to perform its obligations under this Agreement. The affected party will provide written notice of termination to the other party once the determination of funding insufficiency is made. Termination under this provision does not constitute a default or give rise to any claim against the notifying party.

9. ASSIGNMENT AND AMENDMENT

This Agreement, or any part thereof, or benefits to be received hereunder, shall not be assigned, transferred or otherwise disposed of to any person, firm, corporation or other entity. This Agreement may not be modified or amended except in writing, which writing shall be expressly identified as part of this Agreement, and which writing shall be signed by the Secretary of the Department of Public Safety on behalf of SDHP and the Attorney General.

10. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

11. ADMINISTRATION OF AGREEMENT

The Parties declare that no specific entity as contemplated in SDCL 1-24-4(2) is being created to implement this Agreement, and that the cooperative undertaking herein described shall be administered by SDHP, through its Superintendent, and AGO, through the Director of the DCI or authorized designees as contemplated in SDCL 1-24-5. No real or personal property will be acquired or disposed of as part of this cooperative agreement. The Parties acknowledge that the SDHP will file a true copy of this Agreement with the Office of Attorney General and the Legislative Research Council within 14 days of the execution hereof, as required by SDCL 1-24-6.1.

12. SUCCESSORS IN INTEREST

This Agreement and the covenants herein contained shall inure to the benefit of and be obligatory upon the legal representatives, agents, employees, successors in interests and assigns to the respective parties hereto.

13. NOTICES

Notices or communications to or between the Parties shall be deemed to have been delivered when mailed by first class mail, provided that the notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party to the AGO, the SDHP or their authorized designees or by mail to the Parties at the following addresses:

Office of the Attorney General  
1302 East Hwy 14, Ste. 1  
Pierre, SD 57501

South Dakota Department of Public Safety  
Division of Highway Patrol  
118 West Capitol Avenue  
Pierre, SD 57501

14. SEVERABILITY

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

15. SUPERCESSION

All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.


16. THIRD PARTY BENEFICIARIES

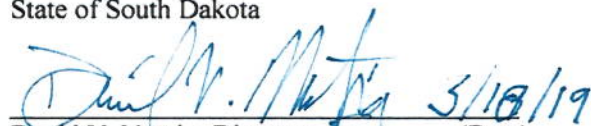
This Agreement is intended to only govern the rights and interest of the parties named herein. It is not intended to, does not and may not be relied upon to create any rights, substantial or procedural, enforceable at law by any third party in any matters, civil or criminal.

17. NECESSARY APPROVALS

By the signature of their representative below, SDHP and AGO certify that approval of this has been obtained by that governmental body's officer pursuant to SDCL 1-24-3 and 1-24-6 and that each representative is authorized to sign on the party's behalf.

IN WITNESS WHEREOF, the parties signify their agreement by signatures affixed below:

  
\_\_\_\_\_  
Jason R. Ravensborg (Date)  
Attorney General  
State of South Dakota

  
\_\_\_\_\_  
David V. Natvig, Director (Date)  
South Dakota Division of Criminal  
Investigation

  
\_\_\_\_\_  
Craig Price, Secretary (Date)  
South Dakota Department of Public Safety