

Memorandum of Understanding
Between the Milwaukee Police Department and the Milwaukee County Department of Health and
Human Services on Global Positioning Systems (GPS) Data Sharing

I. Introduction

This memorandum of Understanding (MOU) is entered into by and between **Milwaukee County** ("County"), acting through its **Department of Health and Human Services**, ("DHHS"), and the **City of Milwaukee**, ("City"), a municipal corporation organized under the laws of the **State of Wisconsin**, acting through its **Police Department**, ("MPD"), collectively, ("the Parties"), pursuant to Wisconsin Statute SS 66.0301. This MOU is made and executed this 31st day of March, 2017.

II. Authority

This agreement is authorized by, and subject to, the provisions of the juvenile justice code, including but not limited to the following subsection of Wisconsin Statute SS 938.78:

- a. **938.78(2)(b)(1m) - Confidentiality of Records Exceptions**, which allows a county department to enter into an interagency agreement with a law enforcement agency.

III. Statement of Purpose

The purpose of this Agreement is to improve public safety, collaboration, and cooperation between the DCSD and the Milwaukee Police Department (MPD). In addition, this collaborative effort aims to reduce juvenile recidivism and improve outcomes for youth offenders by increased monitoring of high-risk offenders currently known as **NOC offenders** (see **Appendix A**) by encouraging personal accountability and compliance with rehabilitative efforts.

DCSD's GPS service currently maintains GPS data on a variety of DCSD juveniles who wear electronic monitoring devices for the purpose of tracking the juveniles' GPS locations and events. The purpose of using GPS technology on juveniles for both pre-adjudicated (non-secure custody orders) and post-adjudicated supervision is to encourage compliance with the terms of a juvenile's supervision through intensive monitoring. In so doing, DCSD strives to improve community safety and personal accountability while reducing recidivism. This MOU outlines the conditions wherein the Milwaukee Police Department is lawfully provided with access to Milwaukee County Delinquency and Court Services Division GPS system to work towards these common goals while also:

- a. Increasing information sharing by providing law enforcement officers in Milwaukee County with timely information regarding juveniles under court ordered supervision
- b. Providing DCSD with timely information regarding the type/nature of law enforcement contact / interaction with juveniles on court ordered supervision

IV. General Information / Data Description

If one or more of the circumstances below occurs, members of the Milwaukee Police Department's Intelligence Fusion Center and/or Technical Communications Division (dispatch center) will be granted access to DCSD GPS Service (currently VeriTracks by Satellite Tracking of People LLC) via an Internet-based tracking application. The purpose of this connection will be to grant MPD with read-only access to the GPS service, the GPS service data, and GPS service vendor reports generated from the data and datasets. The circumstances are as follows:

- a. A NOC offender on the DCSD GPS service has an unauthorized violation.
- b. MPD identifies that a NOC youth offender subject to GPS is wanted for a probable cause arrest for a crime, DCSD will grant MPD real time access to their GPS service to assist MPD with the apprehension of the youth.

Data obtained under this Agreement shall also be subject to the following terms and conditions:

- i. MPD will be granted read-only access and will not be permitted to make changes to juvenile data.
- ii. Data will be utilized for purposes outlined in paragraph III of this document.
- iii. Data or requests for data related to the physical, psychological, mental, or developmental examination and records of a juvenile on supervision are prohibited, unless for a legitimate law enforcement purpose. Requests for a legitimate law enforcement purpose shall be accompanied by a lawful subpoena and/or court order.
- iv. MPD users shall complete a DCSD user agreement as required and in keeping with the language of this MOU.
- v. MPD users shall complete DCSD training by DCSD staff or GPS vendor on the proper usage of GPS service data and/or web service portal.
 - i. MPD shall only utilize access to DCSD GPS service data for legitimate law enforcement purposes and only retain such data relative to its necessity for criminal investigation, prosecution, and/or length of appeal. MPD shall securely destroy (shred) any copies of data that is no longer needed for an investigative or prosecutorial purpose, pursuant to MPD's approved retention schedules.
 - ii. MPD acknowledges that DCSD is the owner of any data retrieved or accessed through DCSD's GPS service. MPD further agrees to obtain a lawful subpoena or court order for all data that will be utilized for criminal prosecution. MPD acknowledges that data obtained via DCSD's GPS vendor by virtue of a court order is more precise and can be certified for both authenticity and accuracy.
 - iii. MPD will submit and DCSD will accept as valid legal service any subpoenas, search warrants, or court orders, concerning GPS data or related information, that are submitted to DCSD electronically, via fax, U.S. mail, or in person. Such service will be considered valid methods of service.
- vi. MPD will be granted read-only access and will not be permitted to make changes to juvenile data;
- vii. DCSD shall provide access and information to MPD for the purpose enumerated in

section III of this MOU;

- viii. DCSD shall provide approved MPD users with appropriate training on the GPS service and access to juvenile information on juveniles on supervision with DCSD (pre-trial and/or post-adjudication). This includes both active clients as well as historical clients as long as the request is in keeping with this MOU;
- ix. DCSD will share the information outlined in this agreement (concerning GPS data and related records) with the Milwaukee Police Department to assist with a criminal investigation if probable cause or reasonable suspicion is presented as well as to assist in identifying GPS devices recovered by members of law enforcement.

Data made available to authorized users within the MPD will include NOC offender biographical information. Specifically, MPD will have access to offender's names, home or related address(es), dates of birth, assigned Level II tracker or Milwaukee County Accountability Program advocates, and current and past whereabouts. Any court order assigning a DCSD Human Service Worker shall also be provided by DCSD to MPD.

Data accessed and searched by MPD is governed by applicable state law and internal policies concerning the safeguarding of information and is subject to the safeguard and dissemination regulations outlined in this MOU.

MPD and DCSD are also committed to conduct cross training between the identified staff for each respective agency in order to gain a basic understanding of the mission, vision and daily operations of MPD and DCSD. This will allow for a better understanding of the tasks and responsibilities for each agency and assist with improved communication between the partners.

Note: This Agreement does not preclude or curtail the Milwaukee Police Department from requesting the GPS data for youth who are not designated as Network of Criminals ("NOC") offenders on a case by case basis, followed by a subsequent review of the request by DCSD administration. This includes, but is not limited to, exigent circumstances, including investigations involving the threat of imminent danger to the life of another (e.g. carjacking with minor child inside, aggravated crimes such as a homicide, sexual assault, etc.) or other felonious crimes.

V. Confidentiality Acknowledgement

All personnel with access to the information covered by this agreement will be required to adhere to all State and Federal laws regarding confidentiality.

DCSD shall notify the recipient agency of any changes in confidentiality in a timely manner.

VI. Additional MPD Responsibilities

Without limiting any other rights or responsibilities in this Agreement:

- a. MPD shall notify DCSD, electronically, or by telephone, of any juvenile(s) under DCSD supervision that have been arrested or are being investigated by MPD.
- b. MPD shall notify DCSD of all GPS devices that are removed or recovered by members of the MPD and allow for such devices to be reasonably returned to DCSD.
- c. MPD Chief or designee shall designate which MPD users are granted access to DCSD's GPS service. All such users shall be current MPD members who have valid **TIME System certification**

(governing the usage of law enforcement database queries) and training in **28 CFR Part 23** of the federal code (governing civil rights and civil liberties).

- d. MPD shall notify DCSD weekly of youth currently designated as NOC Youth Offenders.

VII. Additional DCSD Responsibilities

Without limiting any other rights or responsibilities in this Agreement:

- a. DCSD shall designate appropriate technical and operational points of contact (POC's) to coordinate with MPD on issues related to implementation of this MOU and access to GPS service access.
- b. DCSD shall provide approved MPD users with read-only access to DCSD's current GPS service vendor website via an individual username and password.
- c. DCSD shall provide user agreements for users to sign and submit to DCSD to complete the registration process. Such agreements shall be consistent with the access rights granted in this agreement and are subject to approval by both agencies prior to implementation.
- d. DCSD will provide MPD with affirmative results when MPD requests that DCSD perform a search of GPS coordinates of a specific crime scene, date, and time to determine if any youth on the DCSD GPS services was present.

DCSD will notify the parent/legal guardian of the youth when they have been designated as a high risk offender and that MPD will have access to their GPS information per this agreement. Except as required by law, the youth's designation as a NOC offender as well as the NOC Youth offender publication will be kept as confidential law enforcement sensitive information that is shared between the MPD and DCSD as criminal justice partners and shall not be disseminated to others, including the news media or members of the public including parents and guardians.

VIII. Protection of Confidentiality: Protection Against Unauthorized Access or Disclosure

Each party agrees to comply, and require their local agency partners to comply with the following measures to protect the confidentiality of any information provided under this Agreement and to protect such information against unauthorized access or disclosure:

- a. Information and/or data shall only be accessed for legitimate law enforcement purposes by sworn law enforcement officers in the course of their duty or by civilian staff providing information exclusively to law enforcement officers;
- b. No party subject to this Agreement shall use the information for any purpose not specifically authorized under this Agreement including incorporation of shared information into law enforcement records for the purpose of disclosure to the news media;
- c. Each party will instruct all staff with access to the information covered by this Agreement on the confidential nature of such information as required by State and Federal law;
- d. Each party agrees to abide by the requirements regarding confidentiality of information as set forth in applicable state statutes, administrative rules, employee handbooks, and policy manuals;

- e. Users shall be instructed that misuse of data obtained through this agreement may subject a user(s) to the penalty of law, to include but not limited to, Wisconsin State Statute 943.70, Computer Crimes, which prohibits the unauthorized access of data under 943.70(2)(a)3. Depending on circumstances, this crime is a minimum Class A misdemeanor, which carries a penalty of a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both;
- f. All printed information shall be maintained in a secured case file or shredded immediately after use to ensure security of confidential information, pursuant to MPD's approved retention schedules;
- g. The information subject to this agreement shall be used only to the extent necessary to assist in the valid administrative needs of the respective agency and shall not be disclosed to any other person(s) under any circumstances unless a bona fide exception applies under Wis. Stat. 938.396.

IX. Cost of Services

MPD and DCSD have a mutual interest in the administration of criminal justice. Therefore, to the greatest extent reasonably allowable under the terms of this allowing MPD access to DCSD GPS service data, there will be no cost to utilize this technology with an aim of improving public safety and serving the County at large.

X. Other Provisions

- a. This MOU shall become effective from the date of the last Party's signature on this MOU, and shall remain in full force and effect until terminated in writing by either party.
- b. The MOU shall be evaluated on an annual basis.
- c. At all times and under all circumstances under this agreement, MPD and DCSD personnel shall remain under the sole command of each Party's respective supervisors while employed by their respective agency.
- d. The Parties shall be solely liable for all acts undertaken by their respective employees, agents, and officers, and shall not in any case be liable for the intentional acts, negligence, or gross negligence of the other Party. Each Party shall save and indemnify and keep harmless the other Party against all liabilities, judgments, costs and expenses (including, but not limited to attorneys fees) which may be claimed against the first Party which may result from the carelessness or neglect of the second Party, or the agents, employees, or workmen of the second Party, in any respect whatever.
- e. Nothing in this agreement abridges or eliminates any law enforcement jurisdiction or authority granted to either Party in the absence of this Agreement.
- f. The Parties agree to undertake any communications with third parties that are necessary to accomplish the purposes of this agreement within the confines of applicable confidentiality laws and the juvenile justice code.
- g. Any amendments to this Agreement shall be in writing and signed by both Parties.
- h. This agreement shall be construed in accordance with the laws of the State of Wisconsin.
- i. The undersigned represent that they are empowered to undertake the covenants, promises, and agreements set forth herein, and that they are duly authorized to enter into this agreement on behalf of their respective entities.

- j. **Captions.** The captions in this Agreement are for convenience and reference, and in no way define or limit the scope or intent of the various provisions, terms, or conditions.
- k. **Non-Discrimination.** DHHS agrees not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based on affiliation with or perceived affiliation with any of these protected categories. This requirement shall apply, but not be limited to, the following: tenure, terms or conditions of employment, promotion, demotion or transfer, recruitment or recruitment advertising, employment rules and policies, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. No person in the United States shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. The City and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964. DHHS agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.*
- l. **Open Records.** This agreement and certain documents relating hereto are, or may be, subject to Wisconsin's Public Records Law (see Wis. Stat. Ch. 19, Subch. II, and, esp. Wis. Stat. §19.36(3)). Both Parties understand that each is bound by the Wisconsin Public Records Law, and as such, all of the terms of this agreement are subject to and conditioned on the provisions of Wis. Stat. sec. 19.31-.39. Each party acknowledges that it is obligated to assist the other as necessary in retaining and producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement. Except as otherwise authorized, those records shall be maintained for a period of seven years after termination of this Agreement. For purposes of responding to public records requests, the parties agree that DCSD is the legal custodian of all records, information and data contained in the DCSD GPS Service.
- m. **Conflict of Interest.** No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement. No member of the governing body of the City and no other public official the City who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement shall have any personal interest, direct or indirect, in this Agreement. DCSD covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. DCSD further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. An interest on the part of DCSD or its employee must be disclosed to the City.
- n. This Agreement sets forth all of the covenants, provisions, agreements, conditions, and understandings between the Parties, and there are no covenants, promises, agreements, conditions, or understandings, either oral or written, other than are herein set forth.

- o. The primary contact for MPD is **Captain of Police David Salazar** of the Intelligence Fusion Center, **(414) 935-7741**. The primary contact for DCSD is **Administrative Coordinator (414) 257-6498**.
- p. This Agreement will continue year to year and either Party may agree to terminate this agreement for any reason upon **30 days written notice**.
- q. Except as otherwise provided, any written notice required or permitted under this Agreement shall be sent by United States mail addressed as follows:

To the City:

To the County:

Milwaukee Police Department
 Attention: Chief Edward A. Flynn
 749 W State St
 Milwaukee, WI 53233

Milwaukee Co Dept of Health & Human Services
 Attention: Hector Colon, Director
 1220 W Vliet St
 Milwaukee, WI 53205

IN WITNESS WHEREOF, the Parties have executed this agreement as of the date herein before set forth.



Edward A. Flynn
 Chief of Police

Hector Colon
 Director

Milwaukee Police Department

Milwaukee Co Dept of Health & Human Services

Dated this _____ day of _____, 2017.

Dated this 31 day of March, 2017.

Countersigned as to form and execution by the office of the City Attorney:

Name

Date

Appendix A

Milwaukee Police Department's Networks of Criminals (NOC) Youth Offender Program

Intent

A proposed pilot to implement this MOU is to focus on juveniles identified as part of the **Milwaukee Police Department's Networks of Criminals (NOC) Youth Offender** program. The NOC program is an intelligence process which utilizes an algorithm-based methodology to offer an unbiased data-driven approach to identify youth (21 and under) offenders and their networks currently impacting Milwaukee's motor vehicle theft and robbery trends.

Program Description

NOC subjects are identified weekly using a comparison of up to 500 emerging or perpetual like-offenders based on the analysis of their 1) criminal history, 2) threat intelligence, and 3) connections amid criminal social networks. This sample population of like-offenders, or candidates, is identified daily from arrests, intelligence sources, officer referrals, active investigations, latent print identifications, or correctional facility releases and collected into a candidate database for evaluation.

Inclusion and Removal from Program

A minimum predicate to be considered for NOC candidate evaluation is at least one involvement in a motor vehicle theft-related offense, robbery, or weapons violation in the past 5 years (in compliance with 28 CFR Part 23). Involvement in an incident is defined as a latent print identification (LPI), suspect, or arrest involvement code.

Upon identification of candidates, all subjects undergo an evaluation process. The evaluations process consists of an algorithm in which a candidate's score is derived from. The algorithm, which carries weighted variables, measures social connectivity encompassing 30% of an offender's score, criminal history for 35%, and threat intelligence for the remaining 35%.

The threat intelligence score incorporates the recency of an offender's criminal activity. Offenders with 3 or more of the above listed offenses/involvements within the last 3 months receive an "imminent" score, thus maximizing their threat intelligence to the fullest extent. The total number of offenses within the past one year and five years are also considered and align with set baseline scores. An imminent score can also be achieved from intelligence implicating an offender is currently criminally active. The imminent designation is designed to recognize the offenders that are currently a threat to the community.

Criminal history scores are derived from the normalized 5 year offense totals of the above listed offenses/involvements. Due to the NOC program focusing on motor vehicle theft and robbery trends, incidents of motor vehicle theft carry the highest weight, followed by armed robbery, strong armed robbery, and lastly weapon violations. Additionally, a variable with a negative value is also incorporated in the NOC candidate's criminal history assessment to represent a subject's good behavior or non-criminal activity and create an opportunity to decrease their score and be removed from the list. (e.g. successful rehabilitative efforts, behavior improvements, etc.)

Social connectivity encompasses 30% of an offenders overall score. Social connectivity is attained by developing an overall network of associations and analyzing an offender's Eigenvector score from within. The network that has been formed is based off a candidate pool of like-offenders. The Eigenvector score reports which entities in the network may have strong influence over the other entities due to their direct links to other

highly active or well-connected entities. Lastly, every 90 days a refresh is conducted on each candidate's threat intelligence, criminal history, and social connectivity scores.

Review Cycle

The NOC designation is applied, for a minimum of 90 days, to those offenders who exceed a threshold of one standard deviation of the sample population of like-offenders and are out of custody. Not all NOCs will be under the purview of the **Milwaukee County Delinquency and Court Services Division (DCSD)** and thus are not subject to this MOU. Due to the fluidity of candidates, custody statuses, and updates to scores, the names and total number of NOCs varies on a weekly basis.