

Intergovernmental Agreement for Data Sharing between the City of Yuma and the Arizona Board of Regents for and on behalf of Arizona State University

This Intergovernmental Agreement ("Agreement") is entered into on the last date of signature herein (the "Effective Date"), pursuant to A.R.S. §§11-951 et seq., between the City of Yuma ("City"), acting through its Police Department ("Department"), and the Arizona Board of Regents for and on behalf of Arizona State University ("ASU"), which shall be collectively referred to as the Parties and each individually as a Party.

1. TERM OF THE AGREEMENT:

The term of this Agreement shall become effective upon signature of both parties and shall remain in effect for a period of five (5) years unless otherwise terminated, canceled or extended as provided herein.

2. EXTENSION, TERMINATION OR AMENDMENT:

- a) Each party shall have the right to terminate this Agreement by mailing to the other party written notice of termination by certified mail, return receipt requested, at the address listed herein at least thirty (30) days prior to the termination date.
- b) This Agreement may be modified at any time by mutual written Amendment in order to accommodate unforeseen circumstances by the authorized representative of the respective parties.

3. CONFIDENTIALITY:

Any information that may be exchanged through this Agreement shall not be used for purposes other than those covered in Paragraph 7 - Scope of Work - without prior approval of the Parties, except as otherwise required by law.

4. CONFLICT OF INTEREST:

Pursuant to A.R.S. 38-511, the State, its political subdivisions or any department or agency of either may, within three (3) years after its execution, cancel any Agreement, without penalty or further obligation, made by the State, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State, its political subdivisions or any of the departments or agencies of either is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement. A cancellation made pursuant to this provision shall be effective when a Party receives written notice of the cancellation unless the notice specifies a later time.

5. FUNDING:

This Agreement is not an obligation or a commitment of funds, or a basis for a transfer of funds, but rather a statement of understanding between the Parties concerning the sharing and use of confidential

information related to the purposes of this Agreement. Expenditures by each party are subject to that party's budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies of the respective parties.

6. PURPOSE:

This Agreement establishes the basis for the City to share with ASU's Center for Violence Prevention & Community Safety ("the Center") police report information on incidents leading to violent deaths occurring within the City of Yuma. This data will be used for the purpose of contributing to the Center's Arizona Violent Death Reporting System ("AZ-VDRS") by providing accurate, comprehensive, and objective information regarding violent deaths.

The sharing of police report data will be in accordance with the terms and conditions stated in this Agreement and predicated on the mutual assurance that all unique identifiers in these data will be protected and kept strictly confidential.

7. SCOPE OF WORK:

- a) The City agrees to provide or continue to provide the Center with police report data related to incident narrative, person type (victim/suspect), suspect name(s) but not victim name(s), ages but not dates of birth, gender, race, ethnicity, when and where (injury/death), additional person descriptors, wounds, associated circumstances, victim suspect relationship, history of victim abuse, suspect was victim caretaker, firearm descriptors, poison details, weapon used by/on person, and any other available person, case, or incident related information, excluding any identifiers that the City in its sole discretion decides not to release for individuals residing within or events occurring within Arizona.
- b) The City agrees to provide or continue to provide supplemental homicide report data related to person type (victim/suspect), suspect name(s) but not victim name(s), ages but not dates of birth, gender, race, ethnicity, additional person descriptors, associated circumstances, weapon used by/on person, and any other available person descriptors, excluding social security numbers or any other identifier that the City in its sole discretion decides not to release for individuals residing within or events occurring within Arizona.
- c) The data referenced in 7(a) and (b) will be made available to the Center on a monthly basis for the duration of the Agreement.
- d) No information shall be provided to ASU until the police investigation is concluded. The City also reserves the right to withhold any report if it determines the best interest of the City outweighs the public's right to obtain the information ("Carlson balancing test").
- e) The City and ASU will each designate a contract administrator. Each party shall notify the other in writing of the name and contact information for its contract administrator as well as any change in contract administrator.
- f) A Yuma Police Department employee will serve on the AZ-VDRS statewide advisory board.

- g) The Center agrees to provide or continue to provide the City, through its Police Department with the following:
 - i. A description of the security measures that are in place to maintain the confidentiality of the data being received. These measures at a minimum should follow the recommendations for the "Security Considerations for Applicants" prepared by the Human Subjects Review Board of the Arizona Department of Health Services ("ADHS").
 - ii. Analytical support for matters related to data collected as part of the AZ-VDRS. The scope, nature, and frequency of the support will be mutually agreed upon by both parties in writing after funding has been secured.

8. CONFIDENTIAL INFORMATION:

- a) The Parties agree to provide information following a mutually agreeable format. The City will redact confidential or legally protected information by blacking the information out of the report or other items, as per Yuma Police Department Policy. The City shall and transmit the information to the receiving Party within thirty (30) days of the initial disclosure, unless otherwise stated in this Agreement.
- b) The Center will not use, or disclose to any third party, information of the City in any manner whatsoever except for the purpose stated in this Agreement, and will require that its employees and agents who have access to such information maintain the same in strict confidence subject to the same for three (3) years after the termination of this Agreement; provided that the Center's obligations hereunder shall not apply to information that:
 - i. Was already known to receiving party prior to the time of first disclosure, as demonstrated by contemporaneous, written documentation; or
 - ii. At the time of disclosure is in the public domain, or after the date of the disclosure, lawfully becomes a part of the public domain other than through breach of this Agreement by receiving party; or
 - iii. Is received without any obligation of confidentiality from a third party having a legal right to disclose the same; or
 - iv. Is independently developed by the receiving party by individuals without access to such information, as demonstrated by contemporaneous, written documentation; or
 - v. Is required to be disclosed by the receiving party pursuant to a legally enforceable order, subpoena, or other regulation, provided, however, that the receiving party promptly notifies the disclosing party in advance of such disclosure and discloses only that information necessary to comply with said order.
- c) The parties agree to the following:
 - i. Carefully restrict use and access of information to those designated by the Center. Data provided by the City are for the use of the AZ- VDRS only and no copies may be made of such records to provide to other individuals or entities for other purposes.

- ii. Prohibit "personal identifying information" as defined in Arizona Revised Statutes § 13-2001(10) about a person that was supplied under the terms of this agreement from being released to anyone not working on AZ-VDRS data collection, or the development of the AZ-VDRS.
 - iii. Require all officers, agents and employees to keep all such shared information strictly confidential, to communicate the requirements for this section to all officers, agents and employees, to discipline all persons who may violate the requirements of this section, and to notify the originating party in writing within forty-eight (48) hours of any violation and corrective actions to be taken.
- d) Nothing contained herein shall be construed to conflict with each Party's obligations under the Arizona Public Records Laws, Title 39, Arizona Revised Statutes, Arizona State law, Federal statutes and interpreting case law.

9. INDEMNIFICATION:

To the extent permitted by law, each Party does hereby covenant and agree to indemnify, defend, and hold harmless the other Party, their elected officials, appointees, officers, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the Party, its officers, employees, agents, and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement. Failure of a Party to comply with the terms of this Agreement shall not provide the basis of any third party action against any of the Parties.

10. COMPLIANCE WITH E-VERIFY:

- a) To the extent provisions of A.R.S. §41-4401 are applicable, all Parties warrant to each Party that they will comply with all Federal Immigration laws and regulations that relate to their employees and that each now complies with the E-Verify Program under A.R.S. §23-214(A).
- b) A breach of this warranty will be considered a material breach of this Agreement and may subject the breaching Party to penalties up to and including termination of this Agreement.
- c) All of the Parties retain the legal right to inspect the papers of any employee who works pursuant to this Agreement or any related subcontract to ensure compliance with the warranty given above.
- d) Any Party may conduct a random verification of the employment records of any other Party to ensure compliance with this warranty.
- e) A Party will not be considered in material breach of this Agreement if it establishes that it has complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).
- f) The provisions of this Article must be included in any contract either Party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.

11. NONDISCRIMINATION:

The Parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act. If applicable, the Parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.S(a) and 60-741.S(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

12. NOTICES, CORRESPONDENCE, AND REPORTS:

Notices, correspondence, and reports shall be sent to ASU at the following:

Office for Research & Sponsored Projects Admin. Arizona State University AZ Board of Regents on behalf of Arizona State University
P.O. Box 876011 Tempe, AZ 85287-6011
Attn: Heather Clark
E-mail: asu.awards@asu.edu

cc: Charles M. Katz, Center for Violence Prevention & Community Safety
500 North 3rd Street, Suite 200
Phoenix AZ 85004-2135
Email: charles.katz@asu.edu

Notices, correspondence, and reports shall be sent to City of Yuma at the following:

John Lekan, Chief of Police
Attention: YPD Records
1500 S. 1st Avenue
Yuma, AZ 85364
E-mail: YPDRecordsStaff@yumaaz.gov

13. ARBITRATION IN SUPERIOR COURT:

As required by A.R.S. § 12-1518, the Parties agree to make use of arbitration in disputes that are subject to mandatory arbitration pursuant to AR.S. § 12-133.

14. SIGNATURES OF APPROVAL:

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first written above.

City of Yuma, an Arizona Municipal corporation:

Arizona Board of Regents for and on behalf of
Arizona State University

Greg Wilkinson
City of Yuma Administrator

Heather Clark
Executive Director, Research Operations

Date

ATTEST:

Lynda L. Bushong
City of Yuma Clerk

DATE

APPROVE AS TO FORM:

Richard W. Files
City of Yuma Attorney

ASU General Counsel

Date