

LAW ENFORCEMENT MANAGEMENT INSTITUTE

INTERAGENCY AGREEMENTS FOR LAW ENFORCEMENT IN TEXAS:

A Guide for Drafting and Implementation

A LEARNING CONTRACT
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MODULE I

BY

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TABLE OF CONTENTS

PREFACE	ii
INTERAGENCY AGREEMENTS FOR LAW ENFORCEMENT IN TEXAS	1
SAMPLE AGREEMENTS	9
SELECTED BIBLIOGRAPHY	15

PREFACE

The state legislature has for years provided for local entities to improve services, eliminate duplication, and reduce costs through the use of interlocal agreements and contracts. In my article, I have tried to highlight the authority for such agreements and their areas of use. I have outlined the essential elements of the contracts and the steps necessary in the implementation of these agreements. Examples of agreements and contracts are included as guidelines.

INTERAGENCY AGREEMENTS FOR LAW ENFORCEMENT IN TEXAS:

A Guide for Drafting and Implementation

For over twenty years, Texas law has given local government the power to use interlocal contracts and agreements to be used in cooperation with another government entity to do anything it can do lawfully on its own authority.

Local governments negotiate a number of interjurisdictional agreements in the field of public safety. Many of these are formal agreements to assist each other's police department operations. A far greater number of cooperative interagency agreements, however, are informal undertakings among local governments by which the police of neighboring jurisdictions agree to assist their counterparts during an emergency. Cooperative relationships in the area of public safety often developed quite voluntarily because of a recognized need for mutual assistance and cooperation to protect the person and property of citizens.

In order to provide a vehicle for local entities to work out cooperative agreements Article 4413 (32c) was passed by the 62nd Legislature, effective May 31, 1971, and was called the Interlocal Cooperation Act. The purpose of this Act was to improve the efficiency and effectiveness of local governments by authorizing the

fullest possible range of intergovernmental contracting authority at the local level including contracts between counties and cities, between and among counties, between and among cities, between and among school districts and between and among counties, cities, school districts, and other political subdivisions of the state and agencies of the state.¹

Another legislative act providing for joint law enforcement assistance was Article 999b, V.A.C.S. Local Government Code passed by the 61st Legislature in 1969 and called the Law Enforcement Assistance Act. This act states that:

(a) A county, municipality, or joint airport may, by resolution or order of its governing body, provide for, or authorize its chief administrative officer, chief of police, or marshal to provide for, its regularly employed law enforcement officers to assist another county, municipality, or joint airport. This assistance may be provided only when the mayor, or other officer authorized to declare a state of civil emergency in the other county, municipality, or joint airport considers additional emergency law enforcement officers necessary to protect health, life, and property in the county, municipality, or joint airport because of disaster, riot, threat of concealed explosives, or unlawful assembly characterized by force and violence or the threat of force and violence by three or more persons acting together or without lawful authority.

(b) A county, ~~municipality~~, or joint airport, may by resolution or order of its governing body, enter an agreement with a neighboring municipality, joint airport, or contiguous county to form a mutual aid law enforcement task force to cooperate in criminal

¹ Vernon's Annotated Revised Civil Statutes of the State of Texas. (St. Paul, Minn. West Publishing Co. 1989)

investigations and law enforcement. Peace officers employed by counties, municipalities, or joint airports covered by the agreement have only the additional investigative authority throughout the region as set forth in the agreement. The agreement must provide for the compensation of peace officers involved in the activities of the task force.²

This article 999b was recodified as 362.002 effective September 1, 1987.

David Tees in his HANDBOOK FOR INTERLOCAL CONTRACTING, using the authority given by the legislature in the previously cited articles, shows local governments how they can use interlocal agreements to increase their effectiveness while saving taxpayer's money. As an example he lists several areas of interlocal agreements in the field of law enforcement:³

Police Service--providing for one city to provide a full range of police services to another adjacent city.

Emergency Loan of Law Enforcement Officers---authorizing assistance by local police officers to neighboring jurisdictions when a state of emergency exists.

Merger of City Police Department and County Sheriff's Office---in locations where a small city or town may find it desirable to merge its police department with a county. Authorizing cities under 5000 population to abolish their police departments and request the county to provide police service.

² Vernon's Texas Codes Annotated, Local Government Code. (St. Paul, Minn. West Publishing Co. 1989) 837-838

³ David W. Tees, Handbook for Interlocal Contracting in Texas. (Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1972) 25-32

Special Metro Squads---allowing the creation of special units to deal with certain types of crimes. Dallas County, for example, formed a unit to pursue gambling and illegal drug operations.

Communications---the most common example of cooperation in local police work. Permitting the avoidance of the duplication of facilities, personnel and equipment and generally improves coordination of law enforcement efforts.

Training---providing for the operation of police training facilities, another type of cooperative program which is being used more and more by Texas cities and counties.

Corrections---encouraging cities and counties to enter into cooperative agreements for the joint use of jail facilities which many have done.

The first entities in Texas to take advantage of this new authority occurred early in 1971 when the city of Quanah transferred to the Hardeman County Sheriff's Department the responsibility for law enforcement in that city. By combining the police functions and eliminating costly duplications it was anticipated that there would be more effective and efficient law enforcement services, and through this merger only one agency would be supported by the taxpayers. The agreement was for a two-year period. Following the example of Quanah, the cities of Post, Henrietta, and Archer City entered into an interlocal agreement with the county sheriff's department to take over the law enforcement services of their cities.⁴

⁴ Ken A. Myers. Interlocal Cooperation: Six Cases Histories. (Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1978) 22-39

While interlocal contracts and agreements are rarely uniform and there is no one "best way" to enter into one of them they must contain certain essential elements.

These essential elements are:

- A. Nature of arrangements--identification of the parties and functions.
- B. Works to be performed--the level of service provided or the nature of the functions to be jointly performed.
- C. Limitations--identification of any limitations on either party.
- D. Financing--cost outlines among the contracting parties or provision of procedures for financing a function or service.
- E. Administration--identification of the party responsible for supervising the contract or agreement.
- F. Fiscal procedure--provision for maintenance of records, method for making payments, and for periodic review and adjustments.
- G. Personnel matters--possibility of one agency serving as employer and providing employee benefits; staffing contributed by each of the participating agencies; methods to address the issue of employees displaced by the agreement.
- H. Property arrangements--specification of any property arrangements to be made.
- I. Duration, termination and amendments--clear statements of the duration, methods and reason for termination, and provision for amendments to keep up with changing costs or levels of service.⁵

The previous paragraphs outline the authority, possible areas for police related cooperation and certain elements that might be included in an interlocal agreement. It is ^{now} important to consider a general description of development steps that can take possible

⁵ David W. Tees. Handbook for Interlocal Contracting in Texas. (Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1972) 92-98

cooperating jurisdictions from initial program planning through the final operational phase of contractual arrangements. The first in this process is normally a feasibility study to examine the appropriateness and cost effectiveness of a proposed joint arrangement. Following this effort, and with mutual agreement that a joint endeavor will provide more satisfactory service delivery arrangements, a resolution should be adopted by all parties involved stating the ability and willingness to undertake the joint function. After the resolution has been adopted, the negotiations then open between the parties to identify terms and conditions of the agreement and the responsible party for preparing the contract agreement. The preliminary contract includes all matters agreed upon verbally and legal safeguards for all parties involved. When the preliminary contract is finished, a legal and substantive review should be made for possible corrections or additions. If needed after this review, a final negotiation session should be held to correct any differences and to reach an accord on the final document. A resolution should then be passed by all parties to the contract approving execution and authorizing the appropriate official to sign on behalf of the government agency. After the contract, is signed, attested, and properly recorded, executed copies should be forwarded to all parties to the agreement and to other agencies as

required. At this time the contract is ready to be implemented. Before the expiration of the contract a performance evaluation should be undertaken to review and renegotiate any changes in the existing contract.⁶

At any time in the negotiations problems can arise. However, if the negotiators start in the early stages to anticipate and work to eliminate possible problems, the entire process can result in a successful document. A typical problem which can occur is the definition of who has control of the project. This may involve the choice of location, the control of the personnel involved, or the distribution of the costs. There may need to be trade-offs to solve these problem. For example, whatever agency is chosen for the location would have more control; however, the other group may be able to furnish additional supervisory personnel to run the project. The cost to each agency could be divided equally or may be based on the activity generated by each department. Another problem which may arise in the very beginning is the acceptance of the concept of the project by city or county governments. Those people who have a vested interest in the success of the project, can lay the groundwork by networking with local powerbrokers,

⁶ Ibid., 112-115.

influential citizens, and other local politicians. They can interact with others in community organizations such as civic clubs, church groups, or informal networks to win their support. This process should take place before and during formal talks.

Playing a pivotal role in these negotiations are the city/county attorneys who represent their respected agencies. By being involved from the beginning in the process they can insure that the agencies are protected and pitfalls avoided. Sometimes, though, in the zeal to cover every legal possibility they complicate a process which was begun to simplify operations and procedures for the agencies. This is where the skill and negotiating ability of those with the vested interest in the success of the project becomes of primary importance. By working together, keeping the goal of the desired interlocal agreement in the forefront, the attorneys and the project leaders can serve to as checks and balances for each other.

In summary, it is important to recognize that any law enforcement service dimension can be explored as a joint venture possibility. With the desire, of departmental personnel, support from city/county officials and the effort of respective city/county attorneys to refine legal instruments, improved service levels can be attained at reduced cost to taxpayers.

SAMPLE AGREEMENTS

Included as appendices to this paper are two sample agreements which have been used by cooperating jurisdictions to share police resources in the "mutual aid" and radio communications areas.

LAW ENFORCEMENT MUTUAL AID

(ORDINANCE/ORDER)*NO. _____

AN (ORDINANCE/ORDER)* ADOPTING THE PROVISIONS OF

THE ACTS OF 1987, 70th LEGISLATURE, PAGE 837, CHAPTER 362; (V.A.T.S. ARTICLE 362.002) AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

BE IT (ORDAINED/ORDERED)* BY THE (CITY COUNCIL, COMMISSIONERS COURT)* OF THE (CITY/COUNTY)* OF TEXAS:

SECTION 1: The (City/County)* hereby adopts the Acts of 1987, 70th Legislature, Page 837, Chapter 362 (codified as Article 362.0023, Vernon's Annotated Texas Statutes) and makes the provisions of such law applicable to said (City/County)*.

SECTION 2: The (City/County)* hereby authorizes the Mayor/County Judge)* or his successor or successors in office to make provisions of the regularly employed law enforcement officers of the (City/County)* to assist any other county or municipality in the State of Texas when in the opinion of the (Mayor/County Judge)* there exists in such other county or municipality a state of civil emergency and a need for the services of additional law enforcement officers to protect the health, life, and property of such other county or municipality, its inhabitants and the visitors thereto by reason of riot, unlawful assembly, characterized by the use of force and violence or threat thereof by three or more persons acting together or without lawful authority, or during time of natural disaster or man-made calamity.

SECTION 3: While any law enforcement officer regularly employed as such by the (City/County)* is in the service of a county or other municipality pursuant to this (ordinance/order)* he shall be a peace officer of such

county or other municipality and shall be vested with all the powers of a regular law enforcement officer of said county or municipality. Any such officer shall be under the command of the law enforcement officer who is in charge of the law enforcement agency of that county or municipality being served as fully as though such officer were within the county or municipality of his regular employment, and his qualification for office in the (City/County)* shall constitute his qualification for office in such county or other municipality and no other oath, bond, or compensation need be made.

SECTION 4: Any law enforcement officer of the (City/County)* who is ordered to perform the duties of a peace officer outside the territorial limits of the (City/County)*, within the contemplation of this (ordinance/order)* shall be entitled to the same wage, salary, pension, and all other compensation, and all other rights for such service, including injury or death benefits, as if such service had been rendered within the limits of the (City/County)* in the regular course of employment and such officer shall also be paid for any reasonable expense of travel, food, or lodging that he may incur while on duty outside the limits of the (City/County)*.

SECTION 5: All wages and disability payments, pension payments, damage to equipment and clothing, medical expense, and expense of travel, shall be paid by the (City/County)*. Thereafter, the (City/County)* shall, upon its request, be reimbursed by the county or municipality whose authorized officials requested the services out of which such payments and expense arose.

SECTION 6: The (City/County)* finance officer is hereby expressly authorized to make payments for the above described services of law enforcement officers of a county or city upon verification that such service was in fact rendered.

SECTION 7: This (ordinance/order)* shall become effective immediately upon its passage.

PRESENTED, AND PASSED by a vote of _____ ayes and _____ noes at a regular meeting of the (City/County)* of _____ on this _____ day of _____, 19____.

(CITY/COUNTY)* OF _____
, TEXAS

By: _____
(Mayor/County Judge)*

ATTEST:

* Enter the appropriate term ⁷

⁷ Stanley E. Wilkes, Jr. Practitioner's Guide to Interlocal Cooperation. (Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1975) 60-64

STATE OF TEXAS)
)
COUNTY OF _____) RADIO COMMUNICATIONS AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____ 19____, by and between (1) (the CITY OF _____ (A) _____, a Home Rule/General Law* municipal corporation of the State of Texas), or (the COUNTY OF _____ (A) _____, a political subdivision of the State of Texas)* and (2) (the CITY OF _____ (B) _____, a Home Rule/General Law* municipal corporation of the State of Texas)*, or (the COUNTY OF _____ (B) _____, a political subdivision of the State of Texas)*, each acting herein by and through its duly authorized officials;

WITNESSETH:

WHEREAS, _____ (A) _____ owns and operates certain law enforcement and emergency service radio communications facilities and equipment having a capability of serving adjacent and surrounding areas; and

WHEREAS, _____ (B) _____, desires to obtain the capability, in personnel, equipment and facilities, of providing law enforcement and emergency service radio dispatching for the geographical area within its jurisdiction; and

WHEREAS, said (City/County)* believe it is to their mutual benefit to enter into an agreement for the provision of radio dispatching services; and

WHEREAS, said (City/County)* is authorized to enter into such an agreement under the authority of Article 4413(32c), V.A.C.S., known as the Interlocal Cooperation Act:

NOW THEREFORE, in consideration of the premises and of the terms, provisions and mutual promises herein contained, it is mutually agreed as follows:

ARTICLE 1 Services Described: _____ (A) _____ hereby agrees that it will provide law enforcement and emergency radio communications dispatching service for _____ (B) _____, 24 hours daily during the term of this agreement and pursuant thereto will provide such personnel, equipment and facilities at a dispatching base station as may be necessary thereto.

ARTICLE 2 Licenses: _____ (A) _____ shall obtain and keep in force such licenses and permits as may be required by law for the operation of a radio communications dispatching system.

ARTICLE 3 Equipment: _____ (A) will acquire, provide and maintain at its own expense such radio communications equipment as may be necessary to the operation of a dispatching base station. _____ (B) shall obtain and maintain at its own expense such mobile radio equipment as may be required for the dispatching of its law enforcement and/or emergency services units, and said mobile equipment shall be compatible with the base station equipment.

ARTICLE 4 Costs: (a) _____ (B) shall pay to _____ (A), within thirty (30) days after the effective date of this agreement, the sum of \$ _____ as a one-time cost of conversion and adaptation of _____ (A)'s equipment necessary to the performance of this agreement.

(b) _____ (B) shall pay to _____ (A) monthly the sum of \$ _____ as a service charge for the dispatching services herein provided to be performed.

OR

The payment of estimated service charges by _____ (B) shall be made in equal (monthly or quarterly)* installments. Within days after the expiration of the first and each succeeding year of this agreement, _____ (A) shall determine the actual cost of the operation of the dispatching system for the preceding year and shall bill _____ (B) for any cost not compensated by the estimated service charge payments or shall reimburse _____ (B) for any over-payments made by it. For each year of this agreement after the first year, the estimated service charge shall be an amount equal to the actual service charges for the preceding year.

ARTICLE 5 Log: _____ (A) shall maintain a log of all dispatching activities and shall make the same available to _____ (B) for examination at any reasonable time.

ARTICLE 6 Term: This agreement shall be in full force and effect as of the _____ day of _____, 19____, and shall continue thereafter for an indefinite term, but either party hereto shall have the right to terminate the same on any anniversary date hereof or at the end of any quarter of the contract period, upon giving notice in writing to the other party not less than one hundred eighty (180) days prior to the date of termination, or the same may be terminated at any time by mutual consent.

EXECUTED in duplicate originals by the parties hereto on the year and day above first written.

CITY/COUNTY* OF _____

BY: _____

ATTEST:

CITY/COUNTY* OF

BY: _____

ATTEST:

A----Name of the party providing the service

B----Name of the party receiving the service

*---Enter the appropriate term ⁸

⁸ Ibid. 64-68

Selected Bibliography

- Blair, George S. American Local Government. New York. Harper & Row Publishers. 1964.
- Myers, Kent A. Interlocal Cooperation: Six Case Histories. Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1978.
- Swanson, Charles R. and Leonard Territo. Police Administration. New York. Macmillan Publishing Co., Inc. 1983.
- Tees, David W. Handbook for Interlocal Contracting in Texas. Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1972.
- Vernon's Texas Codes Annotated, Local Government Code. St. Paul, Minn. West Publishing Co. 1988.
- Vernon 's 1989. Annotated Revised Civil Statutes of the State of Texas. St. Paul, Minn. West Publishing Co. 1989.
- Wilkes, Jr., Stanley E. Practitioner's Guide to Interlocal Cooperation. Arlington, Texas. Institute of Urban Studies, University of Texas at Arlington. 1975.