

# REPORT / RECOMMENDATION



**To:** Mayor and City Council

**Agenda Item #:** IV.E.

**From:** Dave Nelson, Chief of Police

**Action**

**Discussion**

**Information**

**Date:** October 21, 2014

**Subject:** **Resolution No. 2014-136 Approving Mutual Aid Pact With The Hennepin County Chiefs of Police Association**

**Action Requested:**

Motion adopting Resolution No. 2014-136 authorizing the Edina Police Department to continue its participation with the Hennepin County Chiefs of Police Association Mutual Aid Pact.

**Information / Background:**

The Edina Police Department has a current agreement with the Hennepin County Chiefs of Police Association to provide joint and cooperative agreement for the use of law enforcement personnel and equipment. This new agreement shall go into effect January 1, 2015.

**Attachments:**

Resolution Copy

**HENNEPIN COUNTY  
CHIEFS OF POLICE ASSOCIATION  
MUTUAL AID PACT**

Effective January 1, 2015

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## ***HENNEPIN COUNTY CHIEFS OF POLICE ASSOCIATION MUTUAL AID PACT***

### ***FOREWORD***

The Mutual Aid Committee of the Hennepin County Chiefs of Police Association was tasked with revising and updating the mutual aid pact among all the police agencies of Hennepin County. The original pact was created in 1968 with the various agencies joining the pact throughout the years. Many provisions of the original pact were continued into the new pact. The Joint and Cooperative Agreement for Use of Law Enforcement Personnel and Equipment ("Joint Powers Agreement") was updated to reflect accurately the procedures, address current issues and enhance the ability of departments to share resources with each other.

The general purpose of the pact is to permit agencies to share law enforcement resources with other agencies in Hennepin County. The Joint Powers Agreement specifically allows a requesting party to select the resources that best meets the needs of a given situation. A requesting party may call upon any other participating party for mutual aid. There is no requirement to make requests through a particular party. In addition, the Joint Powers Agreement should not be interpreted as restrictive in providing resources to deal with only major catastrophic situations. Participating parties can utilize the resources for many reasons including routine circumstances such as training efforts and back-up patrol service. This pact provides the flexibility for all agencies to use the resources located among all participating parties in Hennepin County.

The decision as to when to invoke mutual aid and whether to respond is left to the discretion of the requesting or sending party. Each agency should acquaint supervisory personnel with any internal procedures used for mutual aid. While the Joint Powers Agreement does not require particular words or actions to initiate mutual aid, agencies should be clear about whether mutual aid was requested and what type of assistance is being provided. Parties should not self-deploy.

Furthermore, each officer within a department should have a basic familiarity with mutual aid, the responsibilities when reporting to another agency and the protections afforded under the agency's worker's compensation.

For liability reasons, management of a mutual aid situation is under the control of the requesting party. However, the sending party has discretion whether to provide personnel or equipment and can recall such assistance at any time.

Time commitments for mutual aid requests: While there is no hard and fast time limit, the commitment of resources can be taxing on agencies. In addition, in some situations, an advantage can be gained by ending a mutual aid request and entering into some contractual assistance, especially when the law enforcement costs need to be tracked or can be recovered from other sources.

The Hennepin County Sheriff's Office ("Sheriff") has again volunteered to serve as the administrative coordinator of the pact. As communities adopt the Joint Powers Agreement, the appropriate documentation and signature page need to be forwarded to the Sheriff.

Each agency is responsible for entering and updating available agency resources. Previously the parties used the Regional Automated Property Information (RAPID) database. Resources will now be listed online in a mutually agreed upon resource management database. The parties to this agreement are solely responsible to update their available resources in the agreed upon database.

The effective date for the new Joint Powers agreement is January 1, 2015. This date was established to allow enough time for agencies to receive the appropriate authority and to provide some finality between the old pact and the new pact. The former pact will expire at midnight on December 31, 2014. Failure to execute the new agreement by December 31, 2014 will terminate a party's participation in the pact. Participation can be resumed upon execution of the new agreement. Agencies that elect not to participate in the new agreement may be bound by other existing mutual aid agreement or state statutes.

## **JOINT AND COOPERATIVE AGREEMENT FOR USE OF LAW ENFORCEMENT PERSONNEL AND EQUIPMENT**

### **I. GENERAL PURPOSE**

The general purpose of this Joint and Cooperative Agreement for Use of Law Enforcement Personnel and Equipment ("Agreement") is to provide a means by which a Party to this Agreement may request and obtain Law Enforcement Assistance from other Parties when a Party deems such Law Enforcement Assistance necessary. This Agreement is made pursuant to Minnesota Statutes, Section 471.59, which authorizes the joint and cooperative exercise of powers common to the Parties.

### **II. DEFINITION OF TERMS**

For the purposes of this Agreement, the terms defined in this section shall have the following meanings:

Subd. 1. *"Eligible Party"* means a "governmental unit" as defined by Minnesota Statutes, Section 471.59, subd. 1 or a "municipality" as defined by Minnesota Statutes, Section 466.01, subd. 1, that is authorized to exercise police powers in Hennepin County, Minnesota.

Subd. 2. *"Law Enforcement Assistance"* means equipment and personnel, including but not limited to, licensed peace officers and non-licensed personnel.

Subd. 3. *"Party"* means an "Eligible Party" that elects to participate in this Agreement by the authorization of its governing body. "Parties" means more than one Party to this Agreement.

Subd. 4. *"Requesting Official"* means a person who is designated by the Requesting Party to request Law Enforcement Assistance from other Parties.

Subd. 5. *"Requesting Party"* means a Party that requests Law Enforcement Assistance from other Parties.

Subd. 6. "*Sending Official*" means a person who is designated by a Party to determine whether and to what extent that Party should provide Law Enforcement Assistance to a Requesting Party.

Subd. 7. "*Sending Party*" means a Party that provides Law Enforcement Assistance to a Requesting Party.

Subd. 8. "*Sheriff*" means the Hennepin County Sheriff or designee.

### **III. PARTIES**

The Parties to this Agreement shall consist of as many Eligible Parties that have approved this Agreement by December 31, 2014. Additional Eligible Parties shall become a Party on the date this Agreement is approved by the Party's governing body.

Upon approval by a Party, the executed signature page of this Agreement shall be sent to the Sheriff along with a resolution approving this Agreement.

### **IV. PROCEDURE**

Subd. 1. Each Party shall designate, and keep on file with the Sheriff, the name of the person(s) of that Party who shall be its Requesting Official and Sending Official. A Party may designate the same person as both the Requesting Official and the Sending Official. Also, a Party may designate alternate persons to act in the absence of an official.

Subd. 2. Whenever, in the opinion of a Requesting Official of a Party, there is a need for Law Enforcement Assistance from other Parties, such Requesting Official may, at his or her discretion, call upon the Sending Official of any other Party to furnish Law Enforcement Assistance.

Subd. 3. Upon the receipt of a request for Law Enforcement Assistance from a Party, the Sending Official may authorize and direct personnel and equipment of the Sending Party be sent to the Requesting Party. Whether the Sending Party provides such Law Enforcement Assistance to the Requesting Party and, if so, to what extent such Law Enforcement Assistance is provided shall be determined solely by the Sending Official

(subject to such supervision and direction as may be applicable within the governmental structure of the Party by which they are employed). Failure to provide Law Enforcement Assistance will not result in liability to a Party and each Party hereby waives all claims against another Party for failure to provide Law Enforcement Assistance.

Subd. 4. When a Sending Party provides Law Enforcement Assistance under the terms of this Agreement, it may in turn request Law Enforcement Assistance from other Parties as "back-up" during the time that such Law Enforcement Assistance is provided.

Subd. 5. Whenever a Sending Party has provided Law Enforcement Assistance to a Requesting Party, the Sending Official may at any time recall such Law Enforcement Assistance or any part thereof, if the Sending Official in his or her best judgment deems such recall necessary to provide for the best interests of the Sending Party's community. Such action will not result in liability to any Party and each Party hereby waives all claims against another Party for recalling Law Enforcement Assistance.

Subd. 6. The Requesting Party shall be in command of all situations where Law Enforcement Assistance is provided. The personnel and equipment of the Sending Party shall be under the direction and control of the Requesting Party until the Sending Party withdraws Law Enforcement Assistance or the Law Enforcement Assistance is no longer needed.

Subd. 7. No charges will be levied by a Sending Party to this Agreement for Law Enforcement Assistance rendered to a Requesting Party under the terms of this Agreement unless that assistance continues for a period of more than eight (8) hours. If Law Enforcement Assistance provided under this Agreement continues for more than eight (8) hours, the Sending Party may submit to the Requesting Party an itemized bill for the actual cost of any Law Enforcement Assistance provided after the initial eight (8) hour period, including salaries, overtime, materials and supplies and other necessary expenses. The Requesting Party will reimburse the Sending Party providing the Law Enforcement Assistance for that amount. Such charges are not contingent upon the availability of federal or state government funds.

## V. LIABILITY

**Liability for Injury, Death or Damage to Sending Party's Personnel or Equipment** Each Party shall be responsible for its own personnel and equipment and for injuries or death to any such personnel or damage to any such equipment. Responding personnel shall be deemed to be performing their regular duties for each respective Sending Party for purposes of workers' compensation.

Worker's Compensation: Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing Law Enforcement Assistance pursuant to this Agreement. Each Party, and where applicable its insurer, waives the right to sue any other Party for any workers' compensation benefits paid to its own employee or volunteer or their dependants, even if the injuries or death were caused wholly or partially by the negligence of any other Party or its officers, employees or volunteers.

Damage to Equipment: Each Party shall be responsible for damages to or loss of its own equipment. Each Party, and where applicable its insurer, waives the right to sue any other Party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other Party or its officers, employees or volunteers.

**Liability for Injury or Death to Third Parties or Property Damage of Third Parties** For the purposes of the Minnesota Municipal Tort Liability Act (Minnesota Statutes, Chapter 466), the employees and officers of the Sending Party are deemed to be employees, as defined in Minnesota Statutes, Section 466.01, subd. 6, of the Requesting Party.

The Requesting Party agrees to defend and indemnify against any claims brought or actions filed against a Sending Party or any officers, employees, or volunteers of a Sending Party for injury or death to any third person or persons or damage to the property of third persons arising out of the performance and provision of Law Enforcement Assistance pursuant to the Agreement, using legal counsel reasonably acceptable to the Sending Party.

Under no circumstances shall a Requesting Party be required to pay, on behalf of itself and other Parties, any amount in excess of the limits of liability established in Minnesota Statutes, Chapter 466, applicable to any one Party. The limits of liability for the Parties may not be added together to determine the maximum amount of liability for a Party pursuant to Minnesota Statutes, Section 471.59, subd. 1a.

The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among the Parties and to permit liability claims against the Parties from a single occurrence to be defended by a single attorney. However, the Sending party, at its option and its own expense, shall have the right to select its own attorney or approve a joint attorney as appropriate, considering potential conflicts of interest. Nothing in this Agreement is intended to constitute a waiver of any immunities and privileges from liability available under federal law or the laws of Minnesota.

If a court determines That the liability of a Party or Parties is not subject to the tort caps and liability exceeds the tort cap maximum, a Party shall be subject to liability only for the acts of its officers, employees and volunteers.

No Party to this Agreement nor any official, employee or volunteer of any Party shall be liable to any other Party or to any other person for failure of any Party to furnish Law Enforcement Assistance or for recalling Law Enforcement Assistance.

**VI. EFFECTIVE DATE**

This Agreement shall become effective and operative beginning at 12:01 A.M., local time on January 1, 2015.

The Sheriff shall maintain a current list of the Parties to this Agreement and, whenever there is a change, shall notify the designated Sending Officials. Notice may be sent to the Sending Officials via email or through the United States Postal Service.

**VII. WITHDRAWAL AND TERMINATION**

A Party may withdraw from this Agreement by action of its governing body. Withdrawal is effective after thirty (30) days' written notice is provided to the Sheriff. The Sheriff shall thereupon give notice of such withdrawal, and the effective date thereof to all other Parties. Parties that have withdrawn may rejoin by following the procedure set forth in Section III of this Agreement. This Agreement will terminate when the number of Parties to the Agreement falls below eleven (11). The Sheriff shall notify the remaining parties that the Agreement has terminated.

IN WITNESS WHEREOF, the Parties, by action of their respective governing bodies, caused this Agreement to be approved on the dates below.

(Each Party must attach a dated and signed signature page consistent with that Party's method of executing contracts.)

**Resolution No. 2014-136**RESOLUTION APPROVING JOINT AND COOPERATIVE AGREEMENT  
FOR USE OF LAW ENFORCEMENT PERSONNEL AND EQUIPMENT

WHEREAS, Minnesota Statutes, Section 471.59 authorizes governmental units by agreement of their governing bodies to jointly or cooperatively exercise any power common to them;

WHEREAS, the Hennepin County Chiefs of Police Association previously developed a Mutual Aid Pact to foster the sharing of law enforcement resources among agencies in Hennepin County;

WHEREAS, the Hennepin County Chiefs of Police Association has revised its Mutual Aid Pact to clarify and update the language of the Joint and Cooperative Agreement for the Use of Law Enforcement Personnel and Equipment (the Agreement);

WHEREAS, the Agreement allows other governmental units and municipalities to become a party to the Agreement by the adoption of a resolution and sending notice to the Hennepin County Sheriff;

WHEREAS, the governing body of the City of Edina considers it to be in its best interests to become a Party to the Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the City of Edina:

1. Authorizes the Edina Police Department to be a Party to the Joint and Cooperative Agreement for the Use of Law Enforcement Personnel and Equipment developed by the Hennepin County Chiefs of Police Association.
2. Chief David Nelson is directed to send a copy of the signature page of the Agreement and this Resolution to the Hennepin County Sheriff; and
3. The Edina Police Department agrees to comply with all terms of the Agreement.

IN WITNESS WHEREOF, Deb Mangen — Edina City Clerk, by action of its governing body, caused this Resolution to be approved on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

By: \_\_\_\_\_ (James Hovland)

Its Mayor

And: \_\_\_\_\_ (Scott Neal)

Its City Manager