

. COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

October 1, 2010

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on September 16, 2010, makes reference to County Communication No. 10-134, from the Chief of Police, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL MEMORANDUM OF AGREEMENT FOR THE MAUI COUNTY DEPARTMENT OF POLICE TO PARTICIPATE IN THE NATIONAL CRIME INFORMATION CENTER PROTECTION ORDER FILE”.

The purpose of the proposed bill is to authorize the Mayor to enter into an intergovernmental agreement with the Hawaii Criminal Justice Data Center to allow the Department of Police to participate in the National Crime Information Center Protection Order File (POF). Participation in the POF will enhance the Department’s law enforcement capabilities through greater access to information relating to orders issued by a court intended to protect an individual from abuse or harassment by another person.

The Chief of Police explained that the memorandum of agreement will enable the Department of Police to exchange information with other agencies throughout the country related to domestic violence cases, temporary restraining orders, and protective orders.

Your Committee noted the importance of this type of information-sharing, especially when allegations of domestic violence are involved.

Your Committee voted 5-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Molina, and members Kaho’ohalahala, Medeiros, Nishiki, and Pontanilla voted “aye”. Committee Vice-Chair Mateo and members Baisa, Johnson, and Victorino were excused.

Your Committee of the Whole **RECOMMENDS** the following:

1. That Bill No. _____ (2010), attached hereto, entitled “A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE

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Committee
Report No. _____

AN INTERGOVERNMENTAL MEMORANDUM OF AGREEMENT
FOR THE MAUI COUNTY DEPARTMENT OF POLICE TO
PARTICIPATE IN THE NATIONAL CRIME INFORMATION CENTER
PROTECTION ORDER FILE”, be PASSED ON FIRST READING and
be ORDERED TO PRINT; and

2. That County Communication No. 10-134 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

cow:cr:10038aa:kmh

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL MEMORANDUM OF AGREEMENT FOR THE MAUI COUNTY DEPARTMENT OF POLICE TO PARTICIPATE IN THE NATIONAL CRIME INFORMATION CENTER PROTECTION ORDER FILE

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The purposes of the Memorandum of Agreement for Participation in the National Crime Information Center Protection Order File, by and between the Hawaii Criminal Justice Data Center and the County of Maui ("Memorandum of Agreement"), attached hereto and made a part hereof as Exhibit "1", are to:

1. Enable civil and criminal courts to receive timely and accurate information on active protection orders and historical records for use in domestic violence and stalking cases;
2. Enable law enforcement agencies to access information regarding the existence and terms of a protection order, including orders issued in another state; and
3. Identify person prohibited by federal or state laws from purchasing a firearm.

This Memorandum of Agreement will formalize a relationship between the Hawaii Criminal Justice Data Center and the Maui County Department of Police ("MPD"). Under the Memorandum of Agreement, MPD shall be responsible for performing hit confirmations on Protection Order File records in accordance with standards and


requirements established by the National Crime Information Center ("NCIC") of the Federal Bureau of Investigation. Under the Memorandum of Agreement, MPD also agrees to abide by all rules, policies, and procedures of the NCIC.

Section 2.20.020, Maui County Code, provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the County or any department or agency thereof.

SECTION 2. Authorization. Pursuant to Section 2.20.020, Maui County Code, the Council hereby authorizes the Mayor to execute the Memorandum of Agreement.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY GEOKA
Deputy Corporation Counsel
County of Maui
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**MEMORANDUM OF AGREEMENT
FOR PARTICIPATION IN THE
NATIONAL CRIME INFORMATION CENTER PROTECTION ORDER FILE**

A. INTRODUCTION

This Memorandum of Agreement (MOA) outlines a cooperative effort to support the participation in the National Crime Information Center (NCIC) Protection Order File (POF) which will help:

1. Enable civil and criminal courts to receive timely and accurate information on active protection orders and historical records for use in domestic violence and stalking cases,
2. Enable law enforcement agencies to access information regarding the existence and terms of a protection order, including orders issued in another state, and
3. Identify persons prohibited by federal or state laws from purchasing a firearm.

B. PURPOSE

The NCIC POF contains court orders that are issued to prevent acts of domestic violence against a person or to prevent a person from stalking, intimidating, or harassing another person. Orders are issued by both civil and criminal state courts. The types of protection orders issued and the information contained in them vary from state to state.

The NCIC requires that every agency that enters records into the NCIC POF assure that "hit" confirmation is available for all records, 24 hours a day either at that agency or through a written agreement with another agency, at its location.

The purpose of this MOA is to formalize a relationship between the Hawaii Criminal Justice Data Center (HCJDC) and Maui County Police Department (MPD) in order to adhere to the hit confirmation requirement associated with participation in this national file, based on the fact that HCJDC is not a 24-hour agency.

C. RESPONSIBILITIES

Participating agencies agree to abide by all rules, policies, and procedures of the NCIC of the Federal Bureau of Investigation (FBI), NCIC 2000 Operating Manual, CJIS Security Policy, CJIS-Hawaii Security Procedures and Polices under the authority of Chapter 846, Hawaii Revised Statute (HRS) and the International Justice & Public Safety Network (Nlets), subject to the responsibilities listed below:

**MEMORANDUM OF AGREEMENT
FOR PARTICIPATION IN THE
NATIONAL CRIME INFORMATION CENTER PROTECTION ORDER FILE**

1. The Maui County Police Department (MPD) shall be responsible for performing hit confirmations on POF records in accordance with standards and requirements established by the FBI/NCIC on behalf of HCJDC. The parties shall, determine specific procedures/guidelines to delineate the requirements and responsibilities of each party to this Agreement.
2. HCJDC shall be responsible for all other responsibilities associated with the participation in the POF which includes:
 - a. Responsibility for data entry.
 - b. Responsibility for documentation.
 - c. Responsibility for cancellation and modification of entries.
 - d. Responsibility for timeliness of entries, cancellations and modification.
 - e. Responsibility for validation of entries.

D. DURATION AND MODIFICATIONS

This MOA shall become effective upon execution and shall remain in effect until amended or terminated. This MOA may be modified at any time by written consent of all parties involved.

**MEMORANDUM OF AGREEMENT
FOR PARTICIPATION IN THE
NATIONAL CRIME INFORMATION CENTER PROTECTION ORDER FILE**

SIGNATORIES

The undersigned have read and signed this agreement on behalf of their agencies.

Executed this _____ day of _____, 2010:

APPROVAL RECOMMENDED:

HAWAII CRIMINAL JUSTICE DATA CENTER

CJIS SYSTEMS OFFICER

By: _____
(Signature)

Print Name: _____

Its: _____

APPROVAL RECOMMENDED:

COUNTY OF MAUI

CHIEF GARY YABUTA
Maui County Police Department

By: _____
CHARMAINE TAVARES
Its Mayor

APPROVED AS TO FORM
AND LEGALITY:

KIMBERLY A.B. SLOPER
Deputy Corporation Counsel
County of Maui