

July 19, 2017

Please note: This MOU with the Nebraska Department of Corrections is currently under review for termination as the Department of Corrections has never completed the programing required to complete the MOU. Noelie Ackermann Sherdon, DMV Legal Counsel

MEMORANDUM OF UNDERSTANDING
between the
NEBRASKA DEPARTMENT OF CORRECTIONS
and the
NEBRASKA DEPARTMENT OF MOTOR VEHICLES

I. Parties

This Memorandum of Understanding (MOU) is an agreement between the Nebraska Department of Corrections (DCS), and the Nebraska Department of Motor Vehicles (DMV), hereinafter the Parties.

II. Purpose

This MOU is intended to enhance law enforcement and the working relationship between the DCS and the DMV Driver and Vehicle Records Division to assist those individuals who are victims of identity theft and for investigation of criminal activity using images and signatures stored in facial recognition system, hereinafter FRS. The purpose of this MOU is to specify the terms and conditions for DCS access of the FRS to carry out functions of DCS. The MOU will also document the agreed responsibilities and functions of the Parties with respect to enhancing the use of the DMV FRS photo repository by adding photographs from the DCS mugshot repository. Integrating DCS mugshots into FRS will enhance the DMV's ability to ensure that the individuals presenting themselves to the DMV have not been previously identified as another person. Authorized employees of the DCS and the DMV will carry out the requirements of the MOU.

III. Legal Authority

The statutes provided for in this MOU include, but are not limited to, the following:

Nebraska Revised Statute § 60-484.02;
Nebraska Revised Statutes §60-2901 through 60-2912;
Title 18, U.S.C. Section 2721 (b)(1);
Uniform Motor Vehicle Disclosure Act, under Title 250 Nebraska Administrative Code Chapter 2-Rules and Regulations Governing Requests for and Release of Personal Information Contained in Motor Vehicle Records Pursuant to the Uniform Motor Vehicle Records Disclosure Act (UMVRDA)

This MOU shall be interpreted to incorporate any amendments to the above statutes by the Nebraska Legislature as may be applicable during the term of the MOU.

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LEGAL DIVISION

IV. Implementation

A. DCS:

1. Agrees to restrict the access to the DMV FRS images to one employee of the DCS and to provide the DMV with the name, address, and contact information for this employee. Access to and use of images and signatures of individuals stored in DMV databases shall be used solely to carry out the purposes of this MOU as assigned by the DMV to DCS pursuant to the terms and conditions of this MOU. Any access, disclosure, or use of any image or signature for any other purpose beyond the terms and conditions of this MOU is prohibited and shall be considered a breach of the MOU.
2. Agrees to make no facial recognition comparison request except for a case being investigated and /or prosecuted in a criminal matter.
3. Understands that the FRS results provided by the DMV are to assist in furthering an ongoing investigation or criminal matter and cannot be used as the sole reason for arrest or action.
4. Agrees to adhere to the requirements of Neb.Rev.Stat. §60-484.02 and §60-2901 through 60-2912, in its handling of images and signatures from the DMV database and agrees that no employee, contractor, or agent of DCS shall allow disclosure of images and signatures from the FRS except to federal, state or local law enforcement agencies or a certified law enforcement officer employed in an investigative position by a federal, state, or local agency for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions or as otherwise may be authorized by action of the Nebraska Legislature.
5. Extract an initial historical file from their database of available photos. It will also implement a nightly extract and transmission process to provide new photos and relevant demographics to DMV for incorporation into the facial recognition database.
6. Agrees to enforce all applicable laws and security protocols for handling and processing of images and signatures accessed pursuant to this MOU to prevent any access, use, or disclosure other than as provided in this MOU.

B. DMV agrees to:

1. Provide one FRS user ID and password to be used to access images and signatures in the FRS for the sole use of the identified employee of DCS.
2. Provide DCS with access to FRS and the available DMV images and signatures subject to the conditions of this MOU.
3. Provide DCS with the names, addresses, and telephone numbers of contact persons within the DMV regarding any questions or problems which may arise in connection with the FRS.

4. Ensure that only authorized personnel will handle data provided by DCS.
5. Provide DCS training and assistance necessary to use FRS.

V. Privacy and Security

- A. The information involved in the MOU may identify U.S. persons, whose information is protected by the Privacy Act of 1974. DCS will ensure that all such information will be handled lawfully. Conversely, DCS is assured that DMV will comply with all privacy and disclosure laws.
- B. For purposes of this MOU, personally identifiable information (PII) is defined as information which can be used to distinguish or trace an individual's identity, including any personal information which is linked to a specific individual. The parties will review and make appropriate changes, if any, to their privacy compliance documents, in advance of the implementation of this MOU to ensure that privacy risks are appropriately mitigated and the scope and routine uses of applicable system of records notices permit the collection, maintenance, and sharing of PII as set forth in this MOU. Each party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.
- C. Each party shall be responsible for the safeguarding of any equipment used by it to access records and shall limit access to authorized users. Each party will immediately report to the other party each instance in which information received from the other party is used, disclosed, or accessed in an unauthorized manner.
- D. DMV will ensure user account and authorities granted to the FRS are maintained in a current and secure status.

VI. Effective Date and Term of the MOU

This MOU is effective upon the date the authorized representatives of both parties have signed and will continue in effect until terminated.

VII. Modification.

This MOU may be modified in writing signed by the authorized representatives of both parties.

VIII. Costs

DMV and DCS will each be responsible for costs incurred by the respective agency in furtherance of this MOU.

IX. Termination

This MOU may be terminated by either party upon 30 days prior written notice to the other party. DMV may terminate this MOU without prior notice if deemed necessary because of a requirement of law or policy, upon a determination by DMV that there has been a breach of this MOU, upon a determination by DMV that there has been a breach of system integrity or security by DCS, upon a failure by DCS to comply with established procedures or legal requirements, or for reasons of government necessity.

Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the State of Nebraska, its agencies, officers, or employees or against DMV or DCS or employees or officers of DMV or DCS.

The foregoing constitutes the full agreement on this subject between the DCS and the DMV.

The undersigned represent that they are authorized to enter into this MOU on behalf of the DCS and the DMV, respectively.

Rhonda K. Lah
Rhonda K. Lahm, Director
Nebraska Department of Motor Vehicles

11 August 2014
Date

Michael L. Kenney
Michael L. Kenney, Director
Nebraska Department of Corrections

8-18-14
Date

LEGAL REVIEW COMPLETED

Date 8-8-14

Signature [Signature]