

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
TEXAS DEPARTMENT OF INSURANCE
AND THE
TARRANT COUNTY CRIMINAL DISTRICT ATTORNEY'S OFFICE**

1. PARTIES AND PURPOSE

The purpose of this Memorandum of Understanding or "Agreement" is to formally establish, with regards to this Agreement, certain roles and responsibilities of the Texas Department of Insurance ("TDI"), a state agency located at Barbara Jordan Building, 1601 N. Congress Avenue, Austin, Texas 78701, and the Tarrant County Criminal District Attorney's Office ("CDA Office"), a district attorney's office authorized pursuant to Chapter 44 of the Texas Government Code, located at Tim Curry Criminal Justice Center, 401 West Belknap, Fort Worth, Texas 76196.

This Agreement replaces the Agreement between the parties executed on February 13, 2019.

TDI and CDA Office agree that the cooperative and coordinated effort between the parties will result in a more efficient and cost-effective enforcement of criminal laws regarding the state's insurance provisions and have instituted this Agreement.

TDI desires and the CDA Office agrees to the deputation of a TDI attorney to prosecute cases referred by the TDI Fraud Unit.

This Agreement is made by and between the CDA Office and TDI upon and for the mutual consideration stated herein.

2. THE PROGRAM

TDI will identify a TDI attorney to prosecute cases referred by the TDI Fraud Unit. The TDI attorney will be qualified by experience and/or training to perform the duties of a prosecutor. The attorney identified by TDI will be mutually agreed on by TDI and the CDA Office. The identified attorney may hold other duties within TDI but will endeavor to be available to prosecute cases referred by the TDI Fraud Unit.

The CDA Office will deputize the TDI attorney as an assistant district attorney and the TDI attorney will execute an oath of office. While not assigned to the CDA Office on a full-time basis, the TDI attorney will report to the CDA Office's White Collar Crimes unit supervisor when assisting in the prosecution of cases referred by the TDI Fraud Unit. The CDA will maintain ultimate supervising authority over all criminal actions assigned to the TDI attorney. All prosecutorial discretion rests with the CDA.

The CDA Office will immediately notify TDI and the TDI attorney of work performance deemed unacceptable. Further, at the request of the CDA, TDI will remove the TDI attorney immediately from further prosecutions on behalf of the CDA Office if the CDA in the CDA's sole discretion deems that action necessary, subject to TDI's policies prohibiting discrimination and retaliation.

The TDI attorney will comply with rules, regulations, policies, and procedures, retaining all authority, rights, privileges, immunities, emoluments, and other benefits associated with employment by TDI.

3. MUTUAL ASSURANCES BY THE PARTIES

- (A) TDI will be responsible for the salary of the TDI attorney for the period of employment by TDI. TDI also will be responsible for costs associated with the TDI attorney including but not limited to insurance, benefits, retirement, and taxes. Any overtime or compensatory time must be approved in advance by TDI and, if approved, will be compensated by TDI pursuant to TDI Policy.
- (B) TDI will be the final authority in all personnel matters pertaining to the TDI attorney.
- (C) The TDI attorney is subject to the State of Texas workers' compensation laws as provided by Tex. Lab. Code Ch. 501.
- (D) The CDA Office will provide the TDI attorney with office resources similar to other assistant district attorneys such as an office with necessary equipment, including but not limited to telephone, laptop computer, access to internet, copy equipment

and other office accommodations, and access to any DA and county systems necessary to perform the duties and responsibilities of a prosecutor. The CDA Office agrees to be responsible for any costs associated with the provision of adequate workspace, including furniture, computer and internet, telephone, facsimile, office supplies, and access to any DA and county systems. The CDA Office will not be responsible for parking.

- (E) The CDA Office will permit the TDI attorney to attend training sponsored by the CDA Office, which is provided at no cost to TDI, and which is related to the TDI attorney's duties as a prosecutor. The TDI attorney will attend training sponsored by TDI, which is required by TDI employees. TDI maintains responsibility for all costs associated with TDI required training.
- (F) The TDI attorney will assist in the prosecution of cases referred by the TDI Fraud Unit.
- (G) The TDI attorney will report case assignment activity to the Chief or Deputy Chief of the White Collar Crimes unit as needed.
- (H) The TDI attorney will be supervised by the TDI Fraud Unit. The TDI attorney must submit written status and/or activity reports to the TDI supervisor according to a schedule and format determined by the TDI supervisor.
- (I) The TDI attorney will act as a liaison between the CDA Office and the TDI Fraud Unit.

4. COMPLIANCE WITH APPLICABLE LAW AND STANDARDS

TDI agrees that its attorney will perform the described services in accordance with generally accepted standards and will comply with all applicable state, federal, local laws, ordinances, rules, and regulations relating to the services performed under this Agreement.

The TDI attorney will observe and comply with all TDI policies. TDI agrees that the TDI attorney also will comply with the CDA Policy Manual. The CDA Policy Manual will control for issues related to the TDI attorney's duties as a prosecutor, as applicable. TDI policies will control for issues related to the TDI attorney's employment with TDI.

5. TERM OF AGREEMENT

The term of this Agreement will begin when signed by all parties and will terminate on December 31, 2026, or until terminated by either party.

6. TERMINATION

Either party may terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to the other party.

7. CONFIDENTIALITY

Chapter 701 of the Texas Insurance Code provides that information relevant to an investigation by the TDI Fraud Unit is confidential and is not a public record. Any information exchanged pursuant to this Agreement does not constitute a waiver of the confidentiality requirements of the Texas Insurance Code and other applicable laws or privileges. The parties agree to use their best efforts to preserve the safety, security, and integrity of information, and to ensure the privacy and confidentiality of all information exchanged as a result of this Agreement. The CDA Office and TDI agree that, as governmental bodies, they are subject to the provisions of the Texas Public Information Act (TEX. GOV'T CODE Ch. 552) and Attorney General Opinions issued under that statute. This Agreement does not alter the roles of the parties to this Agreement when responding to public information requests received by each party.

8. NO EMPLOYMENT CONTRACT

This Agreement does not constitute an employment agreement between the CDA Office and the TDI attorney or TDI and the TDI attorney. This Agreement is between the CDA

Office and TDI. This Agreement does not affect the TDI attorney's status as an at-will employee of TDI. The TDI attorney is not guaranteed any rights or privileges in addition to those granted to other TDI employees. The TDI attorney's continued employment with TDI is subject to the same TDI policies and practices, including discipline up to and including termination from employment, that govern all TDI employees.

9. RECORDS

On termination of this Agreement, each party is entitled to retain copies of any documents generated in connection with this Agreement. The TDI attorney then participating in the Program will deliver all CDA property, including records, information, and reports, to the Chief or Deputy Chief of the White Collar Crime unit. TDI may retain copies of any records, information, and reports originated and prepared by the TDI attorney and delivered to TDI under this Agreement.

10. NOTICE

Any notice to be given under this Agreement will be deemed to have been given if it is in writing and delivered in person or mailed by overnight or certified mail, return receipt requested, to the party who is to receive such notice at the address set forth below. Such notice will be deemed to have been given three (3) days subsequent to the date it was so delivered or mailed to the following addresses:

CDA Office:

Phil Sorrells or his successor
Tarrant County Criminal District Attorney
Tim Curry Criminal Justice Center
401 West Belknap
Fort Worth, Texas 76169

TDI:

Cassie Brown or her successor
Commissioner of Insurance
Barbara Jordan Building
1601 N. Congress Avenue
Austin, Texas 78701

11. SEVERABILITY

If any provision of this Agreement will be held invalid, void, or unenforceable, the remaining provisions hereof will not be affected or impaired, and such remaining provisions will remain in full force and effect.

12. AMENDMENT

This Agreement may be modified or amended only by mutual written agreement of the parties.

13. AGENCY

TDI and CDA Office agree and acknowledge that each entity is not an agent of the other entity, and that each entity is responsible for its own acts, forbearance, negligence, and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this Agreement. Further, TDI acknowledges that any TDI employee who participates in this Program will not serve as an agent or employee of the CDA Office by virtue of this Agreement.

14. LIABILITY

The CDA Office agrees to be responsible for any liability or damages the CDA Office may suffer as a result of claims, demands, costs, or judgments, including all reasonable attorney's fees, against the CDA Office, including workers' compensation claims, arising out of the performance of services under this Agreement, or arising from any accident, injury, or damage, whatsoever, to any person or persons, or to the property of any persons or corporations occurring during the performance of this Agreement and caused by the sole negligence of the CDA Office, its agents and/or employees.

TDI agrees to be responsible for any liability or damages that TDI may suffer as a result of claims, demands, costs, or judgments, including all reasonable attorney's fees, against TDI, including workers' compensation claims, arising out of the performance of services under

this Agreement, or arising from any accident, injury, or damage, whatsoever, to any person or persons, or to the property of any persons or corporations occurring during the performance of this Agreement and caused by the sole negligence of TDI, its agents and/or employees.

TDI and CDA Office agree that any liability as stated above occurring during the performance of this Agreement caused by the joint or comparative negligence of their agents and/or employees will be determined in accordance with the comparative responsibility laws of the State of Texas.

15.NO WAIVER

This Agreement will not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to TDI as an agency of the State of Texas or otherwise available to TDI.

16.APPLICABLE LAW

This Agreement and all matters pertinent thereto will be construed and enforced in accordance with the laws of the State of Texas.

17.FUNDING

TDI's performance of its obligations under this Agreement is contingent on and subject to the availability of and actual receipt by TDI of sufficient and adequate funds from the sources contemplated by this Agreement. This Agreement is subject to immediate cancellation or termination, without penalty to TDI or the State of Texas, subject to the availability and receipt of these funds.

18. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties. Any oral representations or modifications concerning this Agreement will be of no force or effect unless contained in a subsequent writing signed by both parties.

By their signatures below, the parties accept the terms of this Agreement in full.

EXECUTED THIS _____ DAY OF _____, 2023.

TARRANT COUNTY, TEXAS

TEXAS DEPARTMENT OF INSURANCE

PHIL SORRELLS Date
CRIMINAL DISTRICT ATTORNEY
TARRANT COUNTY

Dan Paschal Date
CHIEF DEPUTY COMMISSIONER

Tim O'Hare Date
COUNTY JUDGE
TARRANT COUNTY