



STATE OF MINNESOTA

JOINT POWERS AGREEMENT MINNESOTA INTERNET CRIMES AGAINST CHILDREN TASK FORCE

This Joint Powers Agreement ("Agreement") is between the State of Minnesota, acting through its Commissioner of Public Safety on behalf of the Bureau of Criminal Apprehension ("BCA" or "Lead Agency"), and the City of Grand Rapids on behalf of its Police Department at 420 N Pokegama Ave, Grand Rapids, MN 55744 ("Governmental Unit" or "Affiliate Agency"). The BCA and Governmental Unit may be referred to jointly as "Parties."

Recitals

Under Minnesota Statutes § 471.59, BCA and Governmental Unit are empowered to engage in agreements that are necessary to exercise their powers. Governmental Unit wishes to participate in the Minnesota Internet Crimes Against Children ("ICAC") Task Force. The Parties wish to work together to investigate and prosecute crimes committed against children, including the criminal exploitation of children committed and/or facilitated by or through the use of computers. The Parties further wish to disrupt and dismantle organizations engaging in these activities. This Agreement identifies what the Parties, either individually or jointly, will provide under this Agreement and identifies the consideration to be paid by BCA to Governmental Unit, if any, for equipment, training, and expenses (including travel and overtime) incurred by Governmental Unit as a result of investigations conducted pursuant to this Agreement.

Agreement

1. Term of Agreement

- 1.1 **Effective Date.** This Agreement is effective on the date BCA obtains all required signatures pursuant to Minnesota Statutes § 16C.05, subdivision 2.
- 1.2 **Expiration Date.** This Agreement expires five (5) years from the date it is effective unless terminated earlier pursuant to Clause 13.

2. Purpose

Governmental Unit and BCA enter into this Agreement for the purpose of facilitating the Governmental Unit's participation in the ICAC Task Force, which implements a three-pronged approach of prevention, education, and enforcement to combat internet crimes against children. This Agreement also provides the mechanism to reimburse Governmental Unit for equipment, training, and expenses (including travel and overtime), if any, that it incurs as a result of its participation in the ICAC Task Force.

3. Definitions

- 3.1 **"Affiliate" or "Affiliate Agency"** is an agency that is working with a *Lead Agency* as part of a regional or state ICAC Task Force. An *Affiliate* has agreed in writing to adhere to these *Standards*. Governmental Unit is the *Affiliate Agency* for purposes of this Agreement.
- 3.2 **"Authorized Personnel"** are those who lack powers of arrest but have been authorized to participate in *Investigations* directed by law enforcement personnel (e.g., agency personnel, digital evidence experts, etc.).
- 3.3 **"Commander"** means the BCA Special Agent in Charge ("SAIC") who serves as the leader of the ICAC Task Force.
- 3.4 **"Contraband Image"** is a visual depiction of any kind (including computer generated) in any form (including live streaming) that depicts or conveys the impression that: (1) a minor or purported minor is engaged in

Sexually Explicit Activity; or (2) an adult is engaging in *Sexually Explicit Activity* in the presence of a minor or purported minor.

- 3.5 “**CGI**” is a wholly computer-generated visual depiction in any form (including printed/digital or video).
- 3.6 “**Crime**” is any offense (or group thereof) *Investigated* by law enforcement that involves (or involve) the exploitation/victimization of children facilitated by technology.
- 3.7 “**Deconfliction**” is a process whereby law enforcement can submit *Investigative* information to each other and/or to ICAC-related databases in order to determine whether other *Members* or other law enforcement agencies have information concerning the same targets or *Crimes*.
- 3.8 “**Employee**” is a sworn or compensated individual of a law enforcement agency who is working under the direction and control of a law enforcement agency.
- 3.9 “**Investigation**” is an investigation into a *Crime*. Likewise, “*Investigate*,” “*Investigated*,” “*Investigating*,” and “*Investigative*” are used within the same context.
- 3.10 “**Investigative Persona**” any identity established or created by an *Employee* to aid an *Investigation*.
- 3.11 “**Investigator**” is a *Member* who is a part of the *Sworn Personnel* of a *Task Force*.
- 3.12 “**Lead Agency**” is the law enforcement agency that receives the ICAC grant and is designated by the Office of Juvenile Justice Delinquency Prevention (“OJJDP”) within the Department of Justice to act as the *Lead Agency* for the corresponding *Task Force*. BCA is the *Lead Agency* for purposes of this Agreement.
- 3.13 “**Member**” is a *Lead* or *Affiliate Agency’s Employee* who is either *Sworn Personnel* or *Authorized Personnel* and who has been designated to work on ICAC-related matters for his/her respective agency and *Task Force*.
- 3.14 “**Partner**” is a civilian or non-sworn organization that OJJDP has recognized as a legitimate source of assistance.
- 3.15 “**Sexually Explicit Activity**” is real or simulated: (1) sexual intercourse of any kind; (2) masturbation; (3) sadistic/masochistic conduct; and/or (4) lascivious exhibition of the anus, breast, genitals, or pubic area of any person.
- 3.16 “**Supervisor**” is a *Member* who has been designated by his/her respective agency to supervise *Investigations* and other ICAC-related matters.
- 3.17 “**Standards**” are all of the provisions of this Agreement and the ICAC Task Force Program Operational and Investigative Standards established by OJJDP.
- 3.18 “**Sworn Personnel**” are *Members* with powers of arrest.
- 3.19 “**Task Force**” is the *Lead Agency* and their *Affiliate(s)* (combined) as designated by OJJDP for a particular state or region.
- 3.20 “**Vigilante**” is a non-*Partner* activist or activist organization engaged in investigative tactics or other law enforcement-like activities.

4. Responsibilities of Governmental Unit and BCA

4.1 Governmental Unit will:

- 4.1.1 Assign one or more *Employees* as *Members* of the ICAC Task Force. All *Employees* of Governmental Unit assigned as *Members*, and while performing ICAC *Investigations* and assignments, shall continue to be employed and directly supervised by the same Governmental Unit currently employing that *Member*. All services, duties, acts, or omissions performed by the ICAC Task Force *Member* will be within the course and duty of the *Member’s* employment and therefore covered by the workers’ compensation and other compensation programs of Governmental Unit including fringe benefits.
- 4.1.2 Conduct *Investigations* in accordance with all applicable *Standards* and conclude *Investigations* in a timely manner.
- 4.1.3 Submit Performance Measure data to the ICAC Data System (IDS) by the end of each month for the duration of this Agreement. The BCA must fulfil its reporting requirements as a recipient of the OJJDP grant award for MN ICAC Task Force in partnering with law enforcement agencies. Failure to timely provide OJJDP with Performance Measure data may jeopardize the BCA’s future grant qualifications as well as result in the delinquent law enforcement agency’s denial to participate in the Minnesota ICAC Task Force.
- 4.1.4 Assign a Governmental Unit point of contact to act as the liaison between it and the BCA ICAC Project *Commander* to assist in reimbursement deadlines.
- 4.1.5 Submit an ICAC reimbursement request for pre-approval of funds. This request shall include a description of the item requested for reimbursement, an operational plan, and an explanation of how it qualifies under the required criteria in Clauses 5.1 and 5.2 below.

- 4.1.6 Allow BCA to inform *Affiliate Agencies* and *Partners* of potential case connections based on data submitted to BCA through the ICAC Program.
- 4.1.7 Not comingle ICAC funds with any other existing federal or state grant funded overtime or additional local Governmental Unit funding.

4.2 BCA will:

- 4.2.1 Provide a Special Agent in Charge ("SAIC") who will serve as the *Commander* of the *Task Force*.
- 4.2.2 Provide daily direction and assign duties and other assignments to *Members*.
- 4.2.3 Review and approve or decline reimbursement requests under Clause 4.1.5 within seven (7) business days of the reimbursement request.

- 4.3 Nothing in this Agreement shall otherwise limit the jurisdiction, powers, and responsibilities normally possessed by the Governmental Unit acting through its *Members* or *Employees*.

5. Standards

Governmental Unit and its *Members* will adhere to all applicable *Standards*, including, but not limited to, the following:

- 5.1 *Investigate* activities related to internet *Crimes* and the exploitation of children through the use of computers.
- 5.2 *Investigate* organizations to disrupt and dismantle *Crimes* committed against children.
- 5.3 Comply with the ICAC Task Force Program Operational and Investigative Standards, as established by OJJDP.
- 5.4 *Investigators* assigned by the Governmental Unit to the ICAC Task Force must be licensed peace officers.
- 5.5 Follow appropriate state and/or federal laws in obtaining arrest warrants, search warrants, and civil and criminal forfeitures.
- 5.6 Follow proper legal procedures in securing evidence, including electronic devices.
- 5.7 Understand and use appropriate legal procedures in the use of informants including documentation of identity, monitoring of activities, and use and recordation of payments.
- 5.8 Use, as appropriate, the most current investigative technologies and techniques.
- 5.9 Obtain approval from the BCA ICAC Project *Commander* before conducting a pro-active undercover chat operation with anticipated multiple targets.
- 5.10 Make reasonable efforts to *Deconflict* active *Investigations*.
- 5.11 Document *Investigations*.
- 5.12 Not collaborate with *Vigilantes* or approve, condone, encourage, or promote the activities of *Vigilantes*.
- 5.13 *Investigations* shall be conducted in an approved work environment, using approved equipment, as designated by the *Commander* or a *Supervisor*. Personally owned equipment, accounts, and networks shall not be used in *Investigations*.
- 5.14 As part of an active *Investigation*, *Members* shall not upload, transmit, or forward any *Contraband Images* to those outside their respective agency (e.g., suspects, witnesses, ESPs, etc.), except where otherwise permitted by law (e.g., to sworn law enforcement, to NCMEC employees, etc.).
- 5.15 During active *Investigations*, *Members* may use visual depictions as a representation of any *Investigative Persona/person/purported person* or as proof-of-life evidence under two circumstances only:

First, when the following factors are met:

- 1. The visual depiction (whether or not modified to suit *Investigative* needs by, e.g., age regression) is of an actual person;
- 2. That person is an *Employee*;
- 3. The *Employee* has given his or her written consent for the visual depiction to be used;
- 4. Regardless of whether or not the *Employee* was a minor when the visual depiction was taken, the *Employee* nevertheless was at least 18 years old when the *Employee* gave consent for such use; and,
- 5. The visual depiction does not depict or convey the impression of *Sexually Explicit Activity*.

Second, when the visual depiction is *CGI* and does not depict or convey the impression of *Sexually Explicit Activity*.

6. Payment

- 6.1 To receive reimbursement for equipment, training, and expenses (including travel and overtime) incurred by Governmental Unit as a result of conducting *Investigations* pursuant to this Agreement, Governmental Unit must

make a request for reimbursement to the BCA Authorized Representative under the required criteria outlined in the ICAC Task Force Operational and Investigative Standards established by OJJDP.

- 6.2 The *Commander* or his/her successor will review the reimbursement request and approve or deny the request within seven (7) business days of receipt of the request by BCA's Authorized Representative.
- 6.3 Subsequent to receiving notice of approval of a reimbursement request, Governmental Unit must submit an expense form to the BCA Authorized Representative no later than fifteen (15) business days after the end of the month during which the expense is incurred.
- 6.4 BCA will reimburse Governmental Unit within thirty (30) calendar days of the submission of the expense form.
- 6.5 In the event Governmental Unit breaches this Agreement, it will not be eligible to receive any further reimbursement under this Agreement.

7. Authorized Representatives

BCA's Authorized Representative is the following person, or her successor:

Name: Bobbi Jo Pazdernik, Commander of MN ICAC
Address: Department of Public Safety; Bureau of Criminal Apprehension
1430 Maryland Street East, Saint Paul, MN 55106
Telephone: 651-793-7000
E-mail Address: bobbijo.pazdernik@state.mn.us

Governmental Unit's Authorized Representative is the following person, or his/her successor:

Name: Andy Morgan, Chief
Address: 420 N Pokegama Ave,
Grand Rapids, MN 55744
Telephone: 218-326-3464
E-mail Address:

If Governmental Unit's Authorized Representative changes at any time during this Agreement, Governmental Unit must immediately notify BCA's Authorized Representative identified above.

8. Assignment, Amendments, Waiver, and Agreement Complete

- 8.1 **Assignment.** Governmental Unit may neither assign nor transfer any rights or obligations under this Agreement.
- 8.2 **Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 8.3 **Waiver.** If BCA fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.
- 8.4 **Agreement Complete.** This Agreement contains all negotiations and agreements between BCA and Governmental Unit. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

9. Liability

BCA and Governmental Unit agree each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. BCA's liability shall be governed by provisions of the Minnesota Tort Claims Act, Minnesota Statutes § 3.736, and other applicable law. Governmental Unit's liability shall be governed by provisions of the Municipal Tort Claims Act, Minnesota Statutes §§ 466.01-466.15, and other applicable law.

10. Audits

Under Minnesota Statutes § 16C.05, subdivision 5, Governmental Unit's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by BCA and/or the State Auditor and/or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement.

11. Government Data Practices

Governmental Unit and BCA must comply with the Minnesota Government Data Practices Act, Minnesota Statutes

Chapter 13 and other applicable law, as it applies to all data provided by BCA under this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Governmental Unit under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this Clause by either Governmental Unit or BCA.

If Governmental Unit receives a request to release the data referred to in this Clause, Governmental Unit must immediately notify BCA. The BCA will give Governmental Unit instructions concerning the release of the data to the requesting party before the data is released.

12. Venue

The venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

13. Expiration and Termination

- 13.1** Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) calendar days' written notice to the other party. To the extent funds are available, the Governmental Unit shall receive reimbursement in accordance with the terms of this Agreement through the date of termination.
- 13.2** In the event that federal funding is no longer available, BCA will email Governmental Unit's Authorized Representative and terminate the Agreement. The termination will be effective two (2) business days after email notification to Governmental Unit; and Governmental Unit shall receive reimbursement in accordance with the terms of this Agreement through the date of termination.

14. Continuing Obligations

The following clauses survive the expiration or cancellation of this Agreement: 9, Liability; 10, Audits; 11, Government Data Practices; and 12, Venue.

[Remainder of page intentionally left blank; signature page follows]

The parties indicate their agreement and authority to execute this Agreement by signing below.

1. STATE ENCUMBRANCE VERIFICATION
Individual certifies that funds have been encumbered as required by Minnesota Statutes §§ 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT PO Number: 3000085301

2. GOVERNMENTAL UNIT
Governmental Unit certifies that the appropriate person(s) has(have) executed this Agreement on behalf of the Governmental Unit and its jurisdictional government entity as required by applicable articles, laws, by-laws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

3. DEPARTMENT OF PUBLIC SAFETY; BUREAU OF CRIMINAL APPREHENSION

By: _____

(with delegated authority)

Title: Deputy Superintendent, Investigations

Date: _____

4. COMMISSIONER OF ADMINISTRATION
As delegated to the Office of State Procurement

By: _____

Title: _____

Date: _____

ADMIN ID: _____