

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

753



FROM: Stanley L. Sniff Jr., Sheriff-Coroner-PA

SUBMITTAL DATE:
11/15/10

SUBJECT: Approval of the Inland Child Exploitation/Prostitution Task Force
Memorandum of Understanding with the Federal Bureau of Investigation

RECOMMENDED MOTION: Move that the Board of Supervisors approve a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation (FBI) for the Sheriff's Department's participation as a member of the Inland Child Exploitation/Prostitution Task Force, and authorize the Sheriff to sign all copies of the MOU.

BACKGROUND: The Sheriff's Department is seeking Board authorization for the Sheriff's participation with San Bernardino County, the city of Pomona and the FBI in the Inland Child Exploitation/Prostitution Task Force (ICEP).

(Continued on Page 2)
BR 11-050

[Signature]
Stanley L. Sniff Jr., Sheriff-Coroner-PA
Will Taylor, Director of Administration

FINANCIAL DATA	Current F.Y. Total Cost:	\$17,202	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$0	Budget Adjustment:	No
	Annual Net County Cost:	\$0	For Fiscal Year:	FY 2010-11

SOURCE OF FUNDS: Federal	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
[Signature]
BY: Robert Tremaine
Robert Tremaine

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: November 30, 2010
xc: Sheriff

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

3.53

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS DATE: 11/15/10 ATTACHMENTS FILED WITH THE CLERK OF THE BOARD
Departmental Concurrence

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Per the MOU, the mission of the ICEP Task Force is to achieve maximum coordination and cooperation among participating agencies in an effort to a) identify and rescue juveniles who are sexually exploited through prostitution activities, and b) identify, investigate, apprehend, and prosecute pimps and other criminals associated with child exploitation and prostitution offenses. In addition, participating ICEP Task Force agencies will share with each other appropriate resources, intelligence, and training opportunities in an effort to enhance each individual agency's effectiveness in combatting child exploitation and prostitution activities in Riverside and San Bernardino Counties, as well as the City of Pomona in Los Angeles County. County Counsel has approved the MOU as to form.

The Sheriff's Department has assigned the two grant-funded Deputies from its recently created Anti Human Trafficking Task Force to participate in ICEP-directed investigations (8/10/01 3.56). Subject to funding availability, the FBI will reimburse the County for Deputy overtime hours worked on ICEP cases. The overtime reimbursement for each Deputy shall not exceed \$1,433.52 per month. The current fiscal year cost included on the face of the Form 11 is an estimate of six months overtime reimbursement for two Deputies.

**FEDERAL BUREAU OF INVESTIGATION
LOS ANGELES FIELD OFFICE
RIVERSIDE RESIDENT AGENCY
INNOCENCE LOST NATIONAL INITIATIVE
MEMORANDUM OF UNDERSTANDING (MOU)**

INLAND CHILD EXPLOITATION/PROSTITUTION TASK FORCE (ICEP)

1) PARTIES

This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI); and the Riverside County Sheriff's Department (RCSD).

2) AUTHORITIES

Authority for the FBI to enter into this agreement can be found at 28 U.S.C. ' 533; 42 U.S.C. ' 3771; and 28 C.F.R. ' 0.85 and applicable United States Attorney General Guidelines.

3) PURPOSE

The purpose of this MOU is to delineate the responsibilities of ICEP Task Force participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

4) MISSION

The mission of the ICEP Task Force is to achieve maximum coordination and cooperation among participating agencies in an effort to a) identify and rescue juveniles who are sexually exploited through prostitution activities, and b) identify, investigate, apprehend, and prosecute pimps and other criminals associated with child exploitation and prostitution offenses. In addition, participating ICEP Task Force agencies will share with each other appropriate

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resources, intelligence, and training opportunities in an effort to enhance each individual agency's effectiveness in combatting child exploitation and prostitution activities in Riverside and San Bernardino Counties, as well as the City of Pomona in Los Angeles County.

5) SUPERVISION AND CONTROL

A. Supervision

Overall supervision of the personnel on the ICEP Task Force shall be the shared responsibility of the participants.

The Assistant Director in Charge (ADIC) of the FBI's Los Angeles Field Office shall designate one Supervisory Special Agent (SSA) to have direct and daily responsibility for all personnel and investigative matters pertaining to the ICEP Task Force.

Responsibility for conduct, not under the direction of the ADIC or SSA, of each ICEP Task Force member, both personally and professionally, shall remain with the respective agency head and each agency shall be responsible for the actions of their respective employees.

Each agency member who is an ICEP Task Force member will be subject to the personnel rules, regulations, laws, and policies applicable to those of their respective agencies. FBI participants will continue to adhere to the Bureau's ethical standards and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the Department of Justice.

Each ICEP Task Force member will continue to report to his or her respective agency head for non-investigative administrative matters not detailed in this MOU.

Subject to other provisions in this document, continued membership on the ICEP Task Force will be based on performance and will be at the discretion of each member's respective supervisor.

B. Case Assignments

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The FBI SSA with designated oversight for investigative and administrative matters will be responsible for opening, monitoring, directing, and closing ICEP Task Force investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.

Assignments of cases to personnel will be based on, but not limited to, FBI Agent/Task Force Officer experience, training and performance, in addition to the discretion of the FBI SSA with designated oversight for investigative and administrative matters.

For FBI administrative purposes, ICEP Task Force cases will be entered into the relevant FBI computer system.

ICEP Task Force members will have equal responsibility for each case assigned. ICEP Task Force personnel will be totally responsible for the complete investigation from predication to resolution.

C. Resource Control

Specific control of ICEP Task Force resources, including personnel, and the continual dedication of ICEP Task Force resources shall be retained by the participating agency heads, who will be kept fully apprised of all investigative developments by their respective subordinates.

6) OPERATIONS

A. Investigative Exclusivity

It is agreed that matters designated to be handled by the ICEP Task Force will not knowingly be subject to non-ICEP Task Force law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the ICEP Task Force's existence and areas of concern.

It is agreed that there is to be no unilateral action taken on the part of the FBI or participating agencies relating to ICEP Task Force investigations or areas of concern. All law enforcement actions will be coordinated and cooperatively carried out.

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B. Informants

The disclosure of FBI informants to non-ICEP Task Force members will be limited to those situations where it is essential to the effective performance of the ICEP Task Force. These disclosures will be consistent with applicable FBI guidelines.

Non-FBI ICEP Task Force members may not make any further disclosure of the identity of an FBI informant, including to other members of the task force. No documents which identify, tend to identify, or may indirectly identify an FBI informant may be released without prior FBI approval.

In those instances where a participating agency provides an informant, the FBI may, at the discretion of the ADIC and with participating agency concurrence, become solely responsible for the informant's continued development, operation, and for compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

The United States Attorney General's guidelines and FBI policy and procedure for operating FBI informants and cooperating witnesses (CWs) shall apply to all FBI informants and CWs opened and operated in furtherance of ICEP Task Force investigations. Documentation of, and any payments made to, FBI informants and CWs shall be in accordance with FBI policy and procedure.

Operation, documentation, and payment of solely state, county, or local informants and CWs opened and operated by Non-FBI ICEP Task Force members in furtherance of ICEP Task Force investigations must be in accordance with the United States Attorney General's Guidelines. Documentation of state, county, or local informants and CWs opened and operated in furtherance of ICEP Task Force investigations shall be maintained at an agreed to location.

C. Reports and Records

All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by each member of the ICEP Task Force will be made available for inclusion in the respective investigative agency's files as appropriate.

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ICEP Task Force reports prepared in cases assigned to state, county and local participants will be maintained at an FBI approved location; original documents will be maintained by the FBI.

Records and reports generated in ICEP Task Force cases which are opened and assigned by the FBI SSA with designated oversight for investigative and administrative matters will be maintained in the FBI investigative file for the ICEP Task Force.

ICEP Task Force administrative and investigative records maintained at the Riverside office of the FBI will be available to all ICEP Task Force members, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.

All evidence and original tape recordings (audio and video) acquired during the course of the ICEP Task Force investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval and chain of custody will be adhered to by ICEP Task Force personnel.

ALL ICEP Task Force administrative and investigative records will be maintained at an approved FBI location.

Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies.

Classified information and/or documents containing information that identifies or tends to identify an FBI informant shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

7) **INFORMATION SHARING**

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No information possessed by the FBI, to include information derived from informal communications by the Assignee with personnel of the FBI, may be disseminated by the Assignee to non-ICEP Task Force personnel without the permission of the Assignee's designated FBI ICEP Task Force Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the Participating Agencies that would permit the Participating Agencies to receive that information directly. Likewise, the Assignee will not provide any Participating Agency information to the FBI that is not otherwise available to it unless authorized by appropriate Participating Agency officials.

8) **PROSECUTIONS**

ICEP Task Force investigative procedure is to conform to the requirements for federal prosecution under circumstances where ICEP Task Force members agree that federal prosecution is the most appropriate course of action.

A determination will be made on a case-by-case basis whether the prosecution of ICEP Task Force cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the ICEP Task Force.

In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute an ICEP Task Force case at the state or local level, the FBI agrees to provide all relevant information in its possession to state and local authorities.

Whether to continue and/or conduct additional investigation of the state or local crimes involved will be at the sole discretion of the respective state and local authorities.

A. Investigative Methods/Evidence

For cases assigned to an FBI Special Agent or in which FBI informants or cooperating witnesses are utilized, the parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance.

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In all cases assigned to state, county, or local law enforcement participants, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities to the greatest extent possible, particularly in cases which will, or likely will, result in federal prosecution. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policy and procedures of the FBI.

B. Undercover Operations

All ICEP Task Force undercover operations will be conducted and reviewed in accordance with FBI guidelines and the Attorney General's Guidelines on FBI Undercover Operations. All participating agencies may be requested to enter into an additional Memorandum of Understanding (MOU) if a member of the participating agency is assigned duties which require the officer to act in an undercover capacity.

9) DEADLY FORCE AND SHOOTING INCIDENT POLICIES

Members of the ICEP Task Force will follow their own agency's policy concerning firearms discharge and use of deadly force.

10) DEPUTATIONS

Local and state law enforcement personnel designated to the ICEP Task Force, subject to a limited background inquiry, may be sworn as federally deputized Special Deputy United States Marshals, with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the ICEP Task force or until the termination of the ICEP Task Force, whichever comes first.

Administrative and personnel policies imposed by the participating

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agencies will not be voided by deputation of their respective personnel.

11) VEHICLES

The FBI may authorize members of the ICEP Task Force to use vehicles owned or leased by the FBI when necessary in connection with task force surveillance, case management and investigations, and if available.

When authorized, participating agency personnel using FBI vehicles agree to operate the vehicles in accordance with all applicable FBI rules and regulations as outlined in the FBI Manual of Administrative Operations and Procedures (MAOP), Part I Section 3.1.

FBI vehicles, including Government-owned, rented, and leased vehicles, are to be used for official business only.

The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to ICEP Task Force business.

The responsibility for all other liability attributed to the participating agencies resulting from the use of ICEP Task Force vehicles by their employees, confidential informants, or by cooperating witnesses rests with the individual participating agency.

The participating agencies agree to be responsible for any damage incurred to ICEP Task Force vehicles caused by any act or omission on the part of their respective employees and participating agencies agree to assume financial responsibility for property damage to said vehicles.

A separate vehicle use agreement will be executed by the ICEP Task Force member.

12) SALARY/OVERTIME COMPENSATION

The overtime of ICEP Task Force members, subject to certain limitations, may be paid by the FBI in accordance with a separate Contract Reimbursement Agreement.

13) PROPERTY AND EQUIPMENT

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Property utilized by the ICEP Task Force in connection with authorized investigations and/or operations and that which is in the custody and control and used at the direction of the ICEP Task Force, will be maintained in accordance with the policies and procedures of the agency supplying the equipment.

14) FUNDING

This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

15) FORFEITURES

The FBI shall be responsible for the processing of assets seized for federal forfeiture in conjunction with ICEP Task Force operations.

Asset forfeitures will be conducted in accordance with federal law, and the rules and regulations set forth by the FBI and U.S. Department of Justice (DOJ). Forfeitures attributable to ICEP Task Force investigations may be distributed among the agencies participating in the ICEP Task Force.

16) DISPUTE RESOLUTION

In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the ICEP Task Force's objectives.

The parties agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

17) MEDIA RELEASES

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All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

18) SECURITY CLEARANCES

Should ICEP Task Force members regularly occupy FBI space and therefore need unrestricted FBI space access, those members will be required to qualify for and obtain appropriate official security clearances. The following paragraphs in this section of the MOU assume a security clearance for ICEP Task Force members would be necessary.

Thirty days prior to being assigned to the ICEP Task Force, each candidate will be required to furnish pages 1, 2, 3, 9 (certification only), and 10 of the AQuestionnaire for Sensitive Positions@ (SF-86). Sometime thereafter, a representative from the FBI will conduct an interview of each candidate.

If, for any reason, a candidate is not selected, the participating agency will be so advised and a request will be made for another candidate.

Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policy and procedures.

During the briefing, each candidate will execute a non-disclosure agreement (SF-312) and FD-868, as may be necessary or required by the FBI.

When FBI space becomes available, before receiving access, ICEP Task Force members will be required to undergo a full background investigation and receive and maintain a "Top Secret" security clearance. In addition, ICEP Task Force members will also be required to complete the "Questionnaire for Sensitive Positions" and the required fingerprint cards. In the interim, ICEP Task Force members will not be allowed unescorted access to FBI space.

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Upon departure from the ICEP Task Force, each candidate will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement previously agreed to by the ICEP Task Force member.

19) LIABILITY

Unless specifically addressed by the terms of this MOU, the parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees. Legal representation by the United States is determined by DOJ on a case by case basis. The FBI cannot guarantee the United States will provide legal representation to any federal, state or local law enforcement officer.

Congress has provided that the exclusive remedy for the negligent or wrongful act or omission of an employee of the United States government, acting within the scope of his employment, shall be an action against the United States under the Federal Tort Claims Act (FTCA), 28 U.S.C. ' 1346(b), ' ' 2671-2680.

For the limited purpose of defending claims arising out of ICEP Task Force activity, state or local law enforcement officers who have been specially deputized and who are acting within the course and scope of their official duties and assignments pursuant to this MOU, may be considered an employee of the United States government as defined in 28 U.S.C. ' 2671. See 5 U.S.C. ' 3374(c)(2).

Under the Federal Employees Liability Reform and Tort Compensation Act of 1988 (commonly known as the Westfall Act), 28 U.S.C. ' 2679(b)(1) the Attorney General or her designee may certify that an individual defendant acted within the scope of his employment at the time of the incident-giving rise to the suit. Id., 28 U.S.C. ' 2679(d)(2). The United States can then be substituted for the employee as the sole defendant with respect to any tort claims. 28 U.S.C. ' 2679(d)(2). If the United States is substituted as defendant, the individual employee is thereby protected from suits in his official capacity.

If the Attorney General declines to certify that an employee was acting within the scope of employment, the employee may at any time before trial

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petition the court to find and certify that the employee was acting within the scope of this office or employment. @ 28 U.S.C. ' 2679(d)(3).

Liability for negligent or willful acts of ICEP Task Force employees, undertaken outside the terms of this MOU will be the sole responsibility of the respective employee and agency involved.

Liability for violations of federal constitutional law rests with the individual federal agent or officer pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971) or pursuant to 42 U.S.C. ' 1983 for state and local officers or cross-deputized federal officers.

Both state and federal officers enjoy qualified immunity from suit for constitutional torts insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Harlow v. Fitzgerald, 457 U.S. 800 (1982).

ICEP Task Force officers may request representation by the U.S. Department of Justice for civil suits against them in their individual capacities for actions taken within the scope of employment. 28 C.F.R. ' ' 50.15, 50.16.

An employee may be provided representation when the actions for which representation requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or [her] designee determines that providing representation would otherwise be in the interest of the United States. @ 28 C.F.R. ' 50.15(a).

An ICEP Task Force Officer's written request for representation should be directed to the Attorney General and provided to the Chief Division Counsel (CDC) of the FBI field office coordinating the task force. The CDC will then forward the representation request to the FBI's Office of the General Counsel (OGC) together with a Letterhead memorandum concerning the factual basis for the lawsuit. FBI/OGC will then forward the request to the Civil Division of DOJ together with an agency recommendation concerning scope of employment and Department representation. 28 C.F.R. ' 50.15(a)(3).

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If an ICEP Task Force Officer is found to be liable for a constitutional tort, he/she may request indemnification from DOJ to satisfy an adverse judgment rendered against the employee in his/her individual capacity. 28 C.F.R. ' 50.15(c)(4). The criteria for payment are substantially similar to those used to determine whether a federal employee is entitled to DOJ representation under 28 C.F.R. ' 50.15(a).

20) DURATION

The term of this MOU is for the duration of the ICEP Task Force's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

Any participating agency may withdraw from the ICEP Task Force at any time by written notification to the FBI SSA responsible for ICEP Task Force oversight at least 30 days prior to withdrawal.

Upon termination of this MOU, all equipment provided to the ICEP Task Force will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any ICEP Task Force participation.

Any FBI Task Force Officer (TFO) credentials issued by the FBI remain the sole property of the FBI and must be returned to the FBI SSA upon demand or upon the termination of the individual TFO's (or his/her agency's) involvement in the ICEP Task Force.

21) MODIFICATIONS

This agreement may be modified at any time by written consent of all involved agencies.

Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

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Riverside County Sheriff's Department Date

FBI Los Angeles Date

FORM APPROVED COUNTY COUNSEL
BY NITAI R. KIPNIS 1/17/10
DATE

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