



# KANSAS

## Internet Crimes Against Children Task Force

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130 S. Market, Suite B050, Wichita, Kansas 67202  
316-337-6552 • 316-337-7028

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### **LETTER OF AGREEMENT**

#### **SUBGRANT AWARDING *RECOVERY ACT* FUNDING**

##### **Parties**

This Letter of Agreement is entered into on this 16th day of March, 2010 by and between the following parties: Overland Park Police Department (herein after “Subgrantee” or “Affiliate Agency”) and County;

##### **Purpose**

The Board of County Commissioners of Sedgwick County, Kansas (“County or “Subgrantor”) is the recipient of a grant from the Office of Justice ICAC Grant and the *Recovery Act of 2009* for operation of the Kansas ICAC Task Force and does intend by this agreement to carry out the provisions of said grant. County does herein wish to award a portion of said grant to Subgrantee under the conditions set forth herein. Nothing in this Letter of Agreement should be construed as limiting or impeding the basic spirit of cooperation that exists between Kansas ICAC’s participating agencies.

##### **Mission of Kansas ICAC**

The Kansas Internet Crimes Against Children Task Force (KS ICAC), administered by the Sedgwick County Sheriff, is a partially grant-funded, multi-agency endeavor. Grant funding comes from the Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention and funding from the Recovery Act of 2009. The KS ICAC operates with the Forensic Computer Crimes Unit as part of the Wichita – Sedgwick County Exploited and Missing Child Unit (WSECMCU).

The mission of the Kansas ICAC Task Force is to: (1) properly investigate and prosecute those who sexually exploit children through the use of technology; (2) provide training and equipment to those involved in investigating and prosecuting internet crimes against children incidents; and (3) provide community education regarding the prevention of internet crimes against children.

##### **Direction**

Subgrantee acknowledges that the KS ICAC is a joint operation in which all Affiliate Agencies act as partners. The KS ICAC Director will periodically contact supervisors and investigators from Affiliate Agencies to keep them informed of training opportunities, unusual circumstances, problems and successes of the Task Force.

Activities of the KS ICAC Task Force are further governed by the ICAC Operational and Investigative Standards of the United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the reporting requirements of the *Recovery Act of 2009*.

### **Standards and Reports**

Subgrantee agrees to adhere to the ICAC Operational and Investigative Standards and is encouraged to add the ICAC Operational and Investigative Standards to its Agency's Policy Manual. Subgrantee shall submit monthly reports to the KS ICAC Director by the 10<sup>th</sup> day of the following month, as required by OJJDP. In addition, *Recovery Act* quarterly reporting will be submitted seven days prior to the deadline set forth in the *Act* to facilitate compilation and review by the KS ICAC director prior to submission to OJJDP. Reporting requirements are set forth in an Addendum to this Agreement and are incorporated herein.

Subgrantee does agree to abide by the terms and conditions of the Office of Justice ICAC Grant and the *Recovery Act of 2009*. Nothing in this Agreement shall be construed to violate the terms and conditions of said grant.

Subgrantee shall provide to County documentation of expenditures of the funds awarded herein (i.e. copies of receipts and/or a copy of its audit) as required by County.

Control and supervision of each officer shall be the sole responsibility of the officer's employer. Nothing in this agreement shall be construed as creating any joint employment relationship. Each employer will be solely responsible for the actions of its own employees.

### **Award of Subgrant Funds**

In exchange for Subgrantee's coordination with KS ICAC efforts and cooperation in furtherance of the grant awarded to County, County does hereby award \$2,823.00 to Subgrantee for Subgrantee's use in facilitating investigations of Internet crimes against children. The funds shall be used for purchase of equipment for Subgrantee's law enforcement officers to be used for investigation of internet crimes against children and/or for funding training programs for improving investigation of internet crimes against children. Said funds are to be paid to Subgrantee in accordance with the provisions set forth in the grant.

### **Investigations and Prosecution**

All KS ICAC investigations will be conducted in a spirit of cooperation. Investigations will follow guidelines established by each agency's respective policy manual or guidelines. This Agreement is not intended to infringe on the ongoing investigations of any other agency. The criteria for determining whether to prosecute a particular violation in county, state or federal court will focus on achieving the greatest overall benefit to the public.

In conducting investigations, Subgrantee shall:

1. Conduct reactive investigations where subjects are associated with [Affiliate Agency's] jurisdiction, including investigations of child pornography, CYBERTIP referrals from NCMEC, Internet Service Provider and law enforcement referrals, and other ICAC-related investigations. Additional case initiations may develop from subject interviews, documented public sources, direct observations of suspicious behavior, public complaints, etc.

2. Record and document all undercover online activity. Any deviations from this policy due to unusual circumstances shall be documented in the relevant case file and reviewed by the ICAC Task Force Program Manager.

3. Provide agents assigned to the Task Force access to all ICAC investigative files including, without limitation, computer records, in order to ensure compliance with all national ICAC standards.

4. Locate its ICAC investigators in secured space provided by Subgrantee with controlled access to all equipment, software, and investigative files. At a minimum, information should be maintained in locked cabinets and under control of only Subgrantee's ICAC Task Force personnel, with restricted access to authorized personnel only.

5. Conduct education and prevention programs to foster awareness and provide practical, relevant guidance to children, parents, educators, librarians, the business and law enforcement communities, and other individuals concerned about Internet child safety issues. Presenters shall not discuss ongoing investigative techniques and undercover operations utilized by the ICAC Task Force.

### **Investigations - Contacts**

Matters concerning investigation protocols and procedures shall be coordinated through the following persons:

Affiliate Agency:

Sergeant Barbara Walk / SVU Supervisor  
Overland Park Police Department  
12400 Foster, Overland Park, KS 66213  
913-344-8740  
Barbara.walk@opkansas.org

Kansas ICAC: Sgt. Chester Pinkston  
130 S. Market, Suite B050  
Wichita, Ks 67202  
316-337-7028  
[cpinksto@sedgwick.gov](mailto:cpinksto@sedgwick.gov)

Or: KS. ICAC Commander (EMCU Lieutenant)  
130 S. Market, Suite B050  
Wichita, Ks 67202  
316-337-6562

The parties will notify each other immediately regarding any change in contact information. Notifications required for administration of this Agreement shall be as stated in "Miscellaneous" below.

### **Media Relations and Releases**

Releases of information to the media regarding joint Task Force operations will be coordinated and made jointly by all participant agencies. When multi-jurisdictions are involved, no unilateral press releases will be made by any participating agency without the prior approval of the other participants. It is recommended that a reference to the KS ICAC Task Force be included in any multi-jurisdictional press releases. Media releases shall not include information regarding specific investigative techniques or undercover identities.

## **Duration**

This Agreement will remain in effect until March 31, 2013.

## **Termination**

If Subgrantee fails to fulfill in a timely and proper manner its obligations under this Agreement, County shall thereupon have the right to terminate this Agreement by promptly giving written notice to Subgrantee of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but is not limited to, failure to comply with any or all terms and conditions in this Agreement.

In the event of termination, such information prepared by Subgrantee to carry out this Agreement, including data, surveys, records, maps and reports shall, at the option of County, become the property of County and be immediately turned over to County. Subgrantee shall not be relieved of liability to County by virtue of any breach of this Agreement by Subgrantee and County may withhold any payments to Subgrantee for the purpose of set off until such time as the exact amount of damages due County from Subgrantee are determined.

Notwithstanding the above, this Agreement may be terminated in whole or in part by either party upon giving thirty (30) days written notice to the other party stating the effective date of the termination. A partial termination shall also be specified in writing by the termination party and shall not be effective unless and until the other party has given its written assent thereto. When this Agreement is terminated, Subgrantee shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible.

## **Miscellaneous**

**INDEMNIFICATION AND LIABILITY.** The parties expressly agree and covenant that they will hold and save harmless and indemnify the other party, its officers, agents, servants and employees from liability of any nature or kind connected with the work to be performed hereunder arising out of any act or omission of such party or of any employee or agent of that party to the degree such indemnification is allowed by law.

**ASSIGNMENT.** This MOU is not assignable by either party.

**INDEPENDENT CONTRACTOR RELATIONSHIP.** It is agreed that the legal relationship between the parties is of a contractual nature. Both parties assert that Affiliate Agency is acting as an independent contractor (not as an officer, agent, or employee of Sheriff or of County) in providing the services and performing the duties required hereunder. As an independent contractor, Affiliate Agency, employees, servants and agents of Affiliate Agency will not be within the protection or coverage of County's worker's compensation insurance, nor shall Affiliate Agency, and employees of Affiliate Agency, be entitled to any current or future benefits provided to employees of County or Sheriff. Further, County or Sheriff shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments (if any) made by Sheriff or County to Affiliate Agency.

**CASH BASIS AND BUDGET LAWS.** Affiliate Agency acknowledges that the right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

NOTIFICATIONS. Notifications required pursuant to this Agreement shall be made in writing and mailed to the following addresses. Such notification shall be deemed complete upon mailing.

County: Marty Hughes, Revenue Manager  
Sedgwick County, Kansas  
525 N. Main, Suite 823  
Wichita, KS 67203

Affiliate Agency: Sergeant Barbara Walk / SVU Supervisor  
Overland Park Police Department  
12400 Foster  
Overland Park, KS 66213

#### PERSONNEL.

A. Qualified Personnel. Affiliate Agency represents that it has, or shall secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of County or Sheriff. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas, the provisions of the Recovery Act grant and the provisions of this Agreement. Should County reasonably object to an individual employed or engaged by Affiliate Agency to perform the services hereunder, Affiliate Agency agrees to promptly replace that person with an individual approved by County.

B. Minimum Wages. Affiliate Agency will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act when applicable.

C. Employee Conflict of Interest. Affiliate Agency shall establish safeguards to prohibit employees, servants or agents from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION. In carrying out this Agreement, Affiliate Agency shall deny none of the benefits or services of the program to any eligible participant pursuant to K.S.A. 44-100 1 et seq.

A. Affiliate Agency shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under this agreement because of race, religion, color, sex, disability, national origin, or ancestry.

B. In all solicitations or advertisements for employees, Affiliate Agency shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.

C. If Affiliate Agency fails to comply with the provisions of K.S.A. 44-103 1, requiring reports to be submitted to the Kansas Human Rights Commission when requested by that Commission, Affiliate Agency shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by County.

D. If Affiliate Agency is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Kansas Human Rights Commission which has become final, Affiliate Agency shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part by County.

E. Affiliate Agency shall include the provisions of paragraphs A through D inclusively of this section in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

F. The provisions of this section shall not apply to a contract entered into by a contractor who: 1) employs fewer than four employees during the term of this contract; or 2) whose contracts with the County cumulatively total \$5,000.00 or less during the fiscal year of the County pursuant to K.S.A. 44-1031(c).

MODIFICATION. This Agreement may not be modified except in writing signed by the parties hereto. To provide necessary flexibility for the most effective execution of this Agreement, whenever both Affiliate Agency and County mutually agree, changes to this Agreement may be effected by placing them in written form and incorporating them into this Agreement.

ENTIRE AGREEMENT. This Agreement and the Affiliate Agreement represent the entire agreement between the parties hereto as to the subject matter set forth herein and any provision not contained in those documents shall not be binding upon either party, nor have any force or effect.

SUBCONTRACTING. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

COMPLIANCE WITH APPLICABLE LAWS.

A. Service Standards and Procedures. Affiliate Agency shall perform the services set forth in this contract in compliance with applicable standards and procedures specified herein which cover the specific purpose, goals and objectives of this agreement.

B. Governing Law. This Agreement shall be interpreted under and governed by the laws of the State of Kansas, without reference to its conflicts of law principles.

C. Compliance With Laws. Affiliate Agency shall comply with all applicable local, state and federal laws and regulations, in carrying out this Agreement, regardless of whether those legal requirements are specifically referenced in this agreement. Affiliate Agency will comply with all applicable federal civil rights laws, including the requirements pertaining to developing and submitting an Equal Employment Opportunity Plan, reporting Findings of Discrimination, and providing language services to Limited English Proficiency persons.

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Karl Peterjohn, Chairman  
Board of County Commissioners of  
Sedgwick County, Kansas

\_\_\_\_\_  
John M. Douglass  
Chief of Police  
Overland Park Police Department

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Addendum

### REPORTING REQUIREMENTS AS SET FORTH BY THE *RECOVERY ACT OF 2009*

1. All DUNS numbers are to be on file with KS ICAC.
2. All Subgrants will register with Central Contractor Registration [www.ccr.gov](http://www.ccr.gov).

#### 3. Recovery Act Quarterly Due Dates:

January – March	Due at KS ICAC:	April 3
April – June	Due at KS ICAC:	July 3
July – September	Due at KS ICAC:	October 3
October – December	Due at KS ICAC:	January 3

#### 4. Programmatic Reporting Requirements:

- a) Programmatic reporting must be specific to jobs created

Example: If an Investigator/Detective position is saved or created with *Recovery Act* funding, the Affiliate is required to report on number of complaints reviewed, investigations, search warrants, subpoenas, arrests completed by this individual. For a forensic examiner, the Affiliate is required to report forensic exams completed, number of bytes of data, etc.

- b) Number of investigations initiated related to ICAC cases (different from complaints)
- c) Number of technology facilitated child sexual exploitation and ICAC related arrests
- d) Number of investigations initiated related to above
- e) Number of computer forensic examinations completed by ICAC Task Force

5. Case Tracker Report: Due no more than thirty (30) days after end of each quarter, retroactively from January 1, 2010.