



U.S. Department of Justice

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Office of the Associate Attorney General

Washington, D.C. 20530

July 10, 2007

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MEMORANDUM FOR: Regina Schofield
Assistant Attorney General
Office of Justice Programs

FROM: William W. Mercer 
Acting Associate Attorney General

SUBJECT: New Mandatory Case Reporting Form For the Internet Crimes
Against Children Task Forces

I write to discuss the new case reporting form for the Internet Crimes Against Crimes (ICAC) Task Forces. I ask that you distribute this memorandum and the new tracking form to all ICAC Task Forces given that the reports for the second quarter of the calendar year are now due to this Office.

EXECUTIVE SUMMARY

All cases referred by ICAC task forces for prosecution must be listed on the attached form. On the fifth day of the month following the end of a quarter, each ICAC Task Force shall forward a quarterly report on the attached form by e-mail to icaccasetracker@usdoj.gov. Each ICAC task force should submit one comprehensive report with relevant case information for the grantee and major subgrantees as defined below. This report is designed to be cumulative. Future reports must include information regarding the case (e.g., term of incarceration) unknown at the time of the initial report.

BACKGROUND

In developing the Project Safe Childhood Initiative, we consulted with ICAC leaders, federal agents, federal prosecutors, and other state and local law enforcement representatives and learned a great deal about existing data sources. We found that data from the Executive Office of U.S. Attorneys documented with accuracy all child pornography and internet coercion and enticement cases charged by U.S. Attorneys' Offices, including information on convictions. Outcome data for referrals from ICACs to prosecutors was less precise. Specifically, of individuals referred for prosecution as the result of ICAC investigations, we could not confirm with consistency how many were charged, by whom they were charged, what crimes were alleged in each case, whether the charges resulted in convictions, and the sentences imposed upon conviction.

A principal purpose of Project Safe Childhood is to increase the number of prosecutions of individuals responsible for on-line predation of children and the possession, distribution and publishing of child pornography. It is crucial to develop a system to report case data to demonstrate the outcomes of investigations and the impact of this very important work. Both before and after the initiation of PSC, we have heard a variety of concerns (e.g., federal prosecutors are not interested in ICAC cases; ICACs will not present cases to some U.S. Attorneys' Offices; sentences imposed in some state courts fail to advance the primary purposes of punishment - - to protect the public, to promote respect for the law, to deter other crimes, and to rehabilitate; certain federal prosecutors decline cases involving only possession of child pornography, etc.). The Attorney General is committed to eliminating such obstacles in order to achieve the principal objective of increasing the number of child pornography and coercion enticement prosecutions. The success of a highly effective and productive task force is dependent upon an equally engaged and prolific prosecutorial effort. As with all programs funded by the Office of Justice Programs through monies appropriated by Congress, it is our collective obligation to ensure that financial investment results in coordinated and effective action. The Department has sought and obtained the necessary approval on an expedited basis under the Paperwork Reduction Act for implementing the case reporting form.

This Office will provide a set of the reports to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) each quarter. Because OJJDP does not have an operational need to know the names of the individuals referred for prosecution, the set forwarded to OJJDP will be a redacted version.

DEFINITIONS FOR THE REPORTS

What Cases Must Be Reported. For purposes of this reporting requirement, an ICAC case is one in which an investigative agency receiving \$20,000 or more a year in monies from the ICAC program served as the principal agency in an investigation of child pornography possession, distribution and/or production and/or an on-line predator or as an equal partner in such an investigation with another state, federal, or local law enforcement agency. Entities receiving minimal financial resources through or from the ICAC program (those receiving less than \$20,000) are not considered major grantees or subgrantees for purposes of this reporting requirement and need not have their cases reflected on the report form. Only those cases referred for prosecution after March 1, 2007, need to be reported. This reporting requirement is not retroactive to January 1st or an earlier date. Nor does it require cases to be reported that were charged at an earlier date but for which the sentencing or change of plea occurred after March 1, 2007. However, once a case is reported, it should be included and updated in all subsequent reports. In other words, the reports must be cumulative: For example, the case listed as No. 1 will remain case No. 1 on the tracker even after the case is over and no further updating of information is appropriate.

Guide For Completing The Form. The form includes a maximum of twelve fields to be completed for each case. In completing responses to each of the questions, please note the following:

1. "First Referral For Prosecution" is designed to generate a "yes" or "no" answer. It is on the form to ensure that cases declined by one prosecutor, but subsequently charged by another, are not double-counted.
2. "Subject Name" is limited to one name per line. Please provide a first and last name for all potential defendants.
3. "Referral Date" requests the date on which a task force referred the case to a prosecutor for prosecution. If an arrest and complaint were filed on the same date, report that date as the referral date.
4. "Office Where Case Referred For Prosecution" does not seek information on the name of an individual prosecutor, but rather the name of the office (e.g., "Harris County District Attorney", "Wisconsin Attorney General's Office", or "U.S. Attorney's Office for the Middle District of Alabama"). Given that some states have more than one U.S. Attorney's Office, please specify the district if appropriate.
5. "Lead Investigative Agency/Other Agency" is designed to generate information about whether the case was investigated by an ICAC task force, a subgrantee of the ICAC grantee, or a subgrantee within an ICAC task force. In addition, if another law enforcement partner (e.g., ICE) played a role in the investigation, the partner agency should be listed.
6. "Charged/Declined" is the first section under the heading "Prosecution Information". Please enter either "Charged" or "Declined" based upon the decision of the prosecutor. If the case is declined by the prosecutor, no further information will be entered under the heading of "prosecution information". If the case is charged by another prosecutor's office, that information would be set forth on a separate line below, not on the line providing information about the initial referral.
7. "Offense(s) Charged" should note the most significant charge and, if space allows, the next most serious charge. With respect to child pornography offenses, please specify whether it is a possession, distribution, and/or production offense.
8. The columns labeled "Guilty", "Acquitted", and "Pre-Trial Diversion" should be completed with the placement of an "X" in the appropriate box.

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9. The columns seeking information about the terms of sentences require entry of the number of months of incarceration. Incarceration is full-time confinement in a prison or jail. Home arrest or community confinement is not incarceration. It should be listed in the "Other Sentencing Outcomes" column.

QUESTIONS.

If ICAC task force personnel or others have questions about the reporting form, reporting requirements, definitions, or anything else set forth in this memorandum, they may submit them by e-mail to icaccasetracker@usdoj.gov.

cc: Robert Flores, Director, Office of Juvenile Justice and Delinquency Prevention

