

ICAC TASK FORCE PROGRAM--- Two

INFORMATION REGARDING ICAC AND THE DEPARTMENT OF JUSTICE PROJECT SAFE CHILDHOOD INITIATIVE.

Utah County Officials (County Prosecutor and Sheriff) in May 2019 conducted a “sting operation” under the auspices of the ICAC. The “sting” was improper, according to the Task Force guidelines but resulted in the arrest of numerous men who were not, from all indications, seeking an encounter with a minor child. The following information is provided to establish the basis for my conclusion that the arrests were not appropriate.

These “stings” are apparently conducted annually. Please continue reading to see why I have concluded that the manner in which they were conducted in Utah County in 2019 and Perhaps also in earlier years was not lawful.

Let me first explain what the Task Forces are.

ICAC-FROM THEIR NEWS RELEASES, BULLETINS AND OTHER INFORMATION.

ABOUT US- THEY SAY

“The Internet Crimes Against Children Task Force Program (ICAC) helps state and local law enforcement agencies develop an effective response to technology facilitated child sexual exploitation and internet crimes against children. This support encompasses forensic and investigative components, training and technical assistance, victim services, prevention and community education.” In that regard Read The Protect Our Children Act of 2008; which was created for similar purposes.

BACKGROUND

“The Internet Crimes Against Children Task Force Program (ICAC) IS A National network of 61 coordinated task forces representing more than 4,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both proactive and reactive investigations, forensic examinations, and

criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization-including responses to child sexual abuse images, the ICAC Program has increased law enforcements capacity to combat technology facilitated crimes against children at every level.”

“The ICAC Program was developed in response to the increasing number of children and teenagers using the Internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened ONLINE ACTIVITY BY PREDATORS SEEKING UNSUPERVISED CONTACT WITH POTENTIAL UNDERAGE VICTIMS. Because ICAC Members understand that arrests alone cannot resolve the problem of technology-facilitated child sexual exploitation, the ICAC Program is also dedicated to training law enforcement officers and prosecutors, as well as educating parents and youth about the potential dangers of online activity.” (Emphasis, CAPS, Added)

The above is from 2017 Official information and it states that they can be contacted for assistance at 877-798-7682.

With regard to “Project Safe Childhood” I quote the following:

“Anyone who targets a child for harm will be a primary target of law enforcement.” George W. Bush, October 23, 2002. Then Attorney General Alberto R. Gonzales went on the state that the initiative was “designed to protect our children as they navigate the internet.”

Some of the pornography problem would be easier to deal with if the U.S. Supreme Court had made a different decision when asked to rule on a case involving obscenity. The court ruled that the graphic pictures were a form of free speech and could not be prohibited. One of the Justices commented that he could not define obscenity, but he recognized it when he saw it. The decision was a bad decision and left the door open for much of what is now available on line.

In a 2017 Bulletin the ICAC TASK FORCE PROGRAM was described as: “an effective response to technology facilitated child sexual exploitation and internet crimes against children.” :Background” information included the following: “ The ICAC Program was developed in response to the increasing number of children and

teenagers using the internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened online activity by predators seeking unsupervised contact with potential underage victims.”

NEWS RELEASE: June 22, 2015.

The Department of Justice referenced “operation Broken Heart” and arrests of 1,140 Child predators from 41 states. The news release stated that: the operation “targeted offenders who: possess, manufacture and distribute child pornography; engage in online enticement of children for sexual purposes; engage in the commercial sexual exploitation or prostitution of children; and engage in sex tourism....” I guess this would mean people like the man recently found deceased in a New York Prison.

NEWS RELEASE: June 12, 2018.

Indicated arrest of 2,300 offenders in “operation broken heart” and stated “targets” were as follows: “suspects who: (1) produce, distribute, receive and possess child pornography; (2) engage in online enticement of children for sexual purposes; (3) engage in the sex trafficking of children; and (4) travel across state lines or to foreign countries and sexually abuse children.”

NEWS RELEASE: U.S. Department of Justice, Tuesday June 11,2019.

Selected quotes from the New Release follow:

“OPERATION BROKEN HEART:”

“The Department of Justice today announced the arrest of almost 1700 suspected online child sex offenders during a two month nationwide operation conducted by Internet Crimes Against Children task forces.”

“The 61 ICAC task forces, located in all 50 states and comprised of more than 4,500 federal, state, local and tribal law enforcement agencies, led the coordinated operation known as ‘Broken Heart’ during the months of April and May 2019....investigated more than 18,500 complaints of technology-facilitated crimes TARGETING children....” (Emphasis added)

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“The operation was set up to target suspects who: (1) PRODUCE, DISTRIBUTE, RECEIVE AND POSSESS CHILD PORNOGRAPHY; (2) ENGAGE IN ONLINE ENTICEMENT OF CHILDREN FOR SEXUAL PURPOSES; (3) ENGAGE IN SEX TRAFFICKING OF CHILDREN, AND (4) TRAVEL ACROSS STATE LINES OR TO FOREIGN COUNTRIES AND SEXUALLY ABUSE CHILDREN.” (Caps added)

The “Sting” in Utah County included Officers going on “Adult” websites and pretending to be adults as they communicated with men coming onto the Adult sites. They would eventually lead them to a particular place, and just before they arrived tell them they, the officers, were underage (which none of them were). Read the 4 definitions of those the Operations are looking to target and decide for yourself how going onto an “Adult” website meets any of the target goals.

By way of explanation “...In 1998, (the office of justice) launched the ICAC Task force Program to help federal, state and local law enforcement agencies enhance their investigative responses to offenders who use the internet, online communication systems or computer technology TO EXPLOIT CHILDREN.” (Caps added). The question again, how can going after someone on an adult website, seeking adult companionship, help find someone who is attempting to “Exploit Children”?

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Let me explain: Men, and I assume some women also subscribe to an Adult Website. Adults go on the site, as I understand it, to “hook up” with other adults. Somehow online communication by men using the website can be, and in the case of Utah County Sheriff’s Office, was intercepted by law enforcement officials who ask the person to follow directions to a certain place, or switch to another website and then follow directions to a particular place. The “officer” engages them in conversation and eventually leads them to a meeting site. Meanwhile the person who was using the adult website has assumed he is talking to someone who is interested in dating. Just before they arrive at the designated location, the Officer informs them he, or she, is not an adult, but a minor. If they show up, they are charged with a crime against a minor child.

I have received the following information from a source informing us that there is a United States Department of Justice Federal Training Manual for the Internet

Crimes Against Children Task Force which provides that the following Rules are Mandated:

“ 1.) Law enforcement officers shall not use and are prohibited from using Online Dating Websites for consenting adults.”

There are other requirements listed on the document.

I have not yet verified the accuracy of the above stated official requirements.

What I can conclude is that it would be a violation of the privacy rights of any individual who was on the website for a legal purpose and a law officer interjected himself onto the site.

The Utah Attorney General ICAC Task Force was created in the year 2000. Utah’s ICAC has 32 affiliates. Six of the 32 are located in Utah County. They are:

- 1. Lindon City Police Department.
- 2. Orem Department of Public Safety.
- 3. Pleasant Grove Police Department.
- 4. Provo City Police Department.
- 5. Utah County Attorney’s Office.
- 6. Utah County Sheriff’s Office.

It is interesting that only two of the Counties have Attorney’s offices which are affiliates. The following are stated requirements in the official documents:

ICAC GUIDELINES: (For investigations)

- 1. A child is in immediate risk of victimization.
- 2. A child is vulnerable to victimization by a known offender.
- 3. A known suspect is aggressively soliciting children
- 4. Possessors of images known or appearing to be home photographs of children.
- 5. Aggressive pornography manufacturers or distributors.

6. Manufacturers, distributors, or solicitors involved in pornography or high volume trafficking.
7. Distributors, solicitors and possessors of child porn.
8. Any other form of child victimization.

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All of the above information obtained primarily from official documents, make it clear that the focus is on three things pertaining to exploitation of a child:

1. Those producing and distributing child pornography.
2. Online enticement of children for sexual purposes.
3. Sex trafficking of children.

All of these are reasonable and legitimate, but none of them are applicable regarding the arrest and incarceration of someone who went on an adult website looking for adult companionship.

I am informed that there were 35 or 40 arrests by the Utah County Sheriff's Office in May and June 2019 from just one of the "sting" operations. Were all of these arrests the result of law personnel going on adult websites? We need to know. An investigation is required.

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INVESTIGATIONS

THERE HAVE BEEN INVESTIGATIONS IN OTHER PLACES REGARDING ABUSE OF THE ICAC PRIORITIES AND LIMITATIONS. FOR EXAMPLE:

An investigation into activities in Pinellas, Clearwater and Polk Counties in Florida, as reported by TV Chanel 10 apparently conducted by investigative reporter Noah Pransky found that:

"ICAC guidelines, obtained by 10 investigates through court records, indicates the online cover up stings, which typically don't involve real children or victims, are not even specified in the list of priorities agencies are supposed to target."

The report then goes on to list the 8 target priorities listed above.

The report went on to state: "ICAC guidelines also require law enforcement to determine if there is reasonable cause to investigate EACH potential target." Emphasis added. I would add, how can you have reasonable cause to investigate a target which you pick up randomly from an adult website?

The report quotes statements by a man named Pheneger who is associated with the ACLU, and I quote:

If (the sheriff) is investigating hundreds of men who showed no interest in breaking the law and provided law enforcement no "reasonable cause" to be investigated....it would be a clear violation of civil liberties."

Speaking further about the sheriff, Pheneger said: "His job is to enforce the law, not to basically ruin the lives of people who got involved in this through enticement, not through criminal intent."

It is surely true that an arrest under these circumstances can ruin the life of a man who had no desire or intention of interacting with a minor. Just for example, being placed on a sex offender registry for life.

A report from the same news , dated October 3, 2014 reports:

" A sting conducted by the Pinellas County Sheriff's Office and Clearwater Police Department last weekend netted just 11 arrests down significantly from the 30-40 arrests most central Florida stings were netting in recent years. Local attorneys told 10 news the drop is likely the result of increased attention on the officer's behavior, prompting them to stop boosting arrest totals by bending the rules."They were doing things that were not productive. They were going after people who had not done anything wrong."

In January 2015, "The Atlantic: reported on the WTSP, A CBS Affiliate (channel 10) in Tampa Florida investigation"

"After a year long investigation, WTSP,has uncovered an alarming pattern of police trying to entrap innocent adults in sex crimes. The stings follow the basic pattern familiar to anyone who has seen *to catch a predator*, except "many of the men whose mugshots have been paraded out by local sheriffs in made for TV press conferences were not seeking to meet children online. Instead, they were

minding their own business, looking for other adults, when detectives started to groom and convince them to break the law.”

On page 3, the article continues:

“What 10 new still doesn’t know is just how far police went to deceive men, and how many men on totally legal adult dating sites they interacted with in their sting operation—we’ve only heard the stories of men who were ultimately arrested. Not the stories of never arrested men who were seeking adult partners on totally legitimate adult dating sites only to be strung along by detectives who flirted as if they were interested adults, then announced at a later time that they were underage.”

The Atlantic article went on to suggest that there were two likely reasons for the bending of the rules targeting men on adult websites.

1. The amount of Federal Funding for affiliates is based largely on the number of people arrested and convicted.
2. Asset forfeiture.

It may be really all about the dollars.

An interesting question is whether anyone arrested ever used an adult website to try and entice a minor.

With regard to Federal Funding of ICAC affiliates, I quote from Federal Code 42 USC 17611, section 101 (8) (C) and (D):

“ (C) the amount of Federal grants awarded to each ICAC task force;
(D) an assessment of the Federal, State and local cooperation of each task force, including-

- (i) the number of arrests made by each task force;
- (ii) the number of criminal referrals to United States attorneys for prosecution;
- (iii) the number of prosecutions and convictions from the referrals made under clause (ii);
- (iv) the number, if available, of local prosecutions and convictions based on ICAC investigations.
- (v) any other information demonstrating the level of Federal, State and local coordination and cooperation....”

I quote also from paragraph (15) of the same section which more clearly outlines the basis for Federal Funding”

“(15) An assessment of Federal investigative and prosecution activity relating to reported incidents of child exploitation crimes, which shall include a number of factors, including:

- (A) The number of HIGH- PRIORITY suspects (identified because of the volume of suspected criminal activity or because of the danger to the community or a potential victim) who were investigated and prosecuted;
- (B) The number of investigations, arrests, prosecutions and convictions for a crime of child exploitation; and
- (C) The average sentence imposed and statutory maximum for each crime of child exploitation.” Caps were added.

Thus, the funding to the affiliates is based in large part on three things:

1. The number of persons arrested.
2. The number prosecuted.
3. The average sentence imposed and the statutory maximum.

We must conclude that going to the Adult websites, enticing men not wishing to break the law to a certain place and arresting them, then being tough in prosecution and imposition of a serious penalty all adds up to additional funding for the local affiliates. There is really no doubt of it.

From all of this we see that arrest, prosecution and “statutory maximum sentence for men arrested all added to the prospect of additional Federal funding for the Utah County Sheriff and the Utah County Prosecutor as ICAC Affiliates. Probably also, the Utah Attorney General’s Office.

The Utah attorney General would have been required to execute a Memorandum of Understanding (MOU) with the U.S. Department of Justice. We will need a copy of that.

The Department of Justice first issued ,so far as we know, “Operational and Investigative Standards in the year 2011. Among definitions in those written Standards is a definition of “Affiliate” which would include the Attorney General’s

Office and more particularly those working under the AG's direction, such as Utah County Prosecuting Attorney and Utah County Sheriff.

" AFFILIATE is defined as a law enforcement agency that is working in partnership with a Task Force and has agreed in writing to adhere to ICAC Operational and Investigative Standards."

"NATIONAL INITIATIVE is defined as any investigative proposal that relies on the cooperation and resources of all Task Forces or mandates action by OJJDP.(U.S. Department of Justice):

What are they, those included in the NATIONAL INITIATIVE looking for? They state:

"Unlawful images, contraband images, images depicting the sexual exploitation of minors" "Any visual depiction of child sexual exploitation as defined by federal and/or state statute."

Section 4.1.2 of the "Standards" states:

"Supervisors are responsible for determining investigative priorities and selecting cases for investigations. Assuming the information is deemed credible, that determination should begin with an assessment of victim risk and should consider other factors such as jurisdiction and known offender behavioral characteristics. The following factors should be considered:

SEE A LIST OF THOSE FACTORS SPECIFIED ABOVE AND NUMBERED 1. THROUGH 8.

I COMMENT AS FOLLOWS:

1. How can a supervisor "select a case" by going onto an adult website and beginning a conversation. No "case" has been identified.
2. Where is the "supervisors" assessment of victim risk when they have no knowledge of the person they will interdict on the adult website and there is no known victim. AND
3. There is no known offender, much less a known offenders "behavioral characteristics."

4.2.4 " Task Forces will compile and submit information on all cases referred for local , state or federal prosecution." Section 4.2.2 requires this submission by the 10th of each month using certain performance measures.

4.3.4. "The following minimum standards apply to ICAC investigations:

- a. Only sworn, personnel shall conduct ICAC investigations in an undercover capacity. Private citizens shall not be asked to seek out investigative targets,...." (parenthetically I would ask, If a "sworn" person goes to an adult website for a target, is this going to a "private citizen" for a target.)
 - b. Re contraband.
 - c. Other than images or videos of individuals, age 18 or over, which have provided their informed written consent, and at the time were employed by a criminal justice agency, no actual human images or videos shall be utilized in an investigation.....
 - d. Absent prosecutorial input to the contrary, during online dialogue, undercover officers should allow the investigative target to set the tone, pace and subject matter of the online conversation. (I ask, how would this apply if the person is an adult seeking an adult relationship and the undercover officer brings up, "I am under a certain age, near the end of the conversation")
 - e. Undercover online activity shall be recorded and documented."
- 6.1 "Identifying child victims is a critical element of the ICAC Program...."
- 6.2 "A focus of the ICAC Program is to protect children"

My comments:

The above guidelines make it clear that the purpose of the ICAC Program is to protect children. It is also clear that the law does not apply to adults who are private citizens and have not consented in writing to an ICAC investigation. It is a violation of their civil rights and an unlawful arrest of those caught in the "sting".

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