

PUBLIC SAFETY COMMITTEE

10-0633R

RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A JOINT POWERS AGREEMENT WITH THE CITY OF SUPERIOR, WISCONSIN AND THE COUNTIES OF ST. LOUIS, MINNESOTA AND DOUGLAS, WISCONSIN PROVIDING FOR THE CITY OF DULUTH TO PARTICIPATE IN THE LAKE SUPERIOR FORENSIC TECHNOLOGY & INTERNET CRIMES AGAINST CHILDREN TASK FORCE.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized and directed to enter into a joint powers agreement with the city of Superior, Wisconsin, and the counties of St. Louis, Minnesota, and Douglas, Wisconsin, providing for the participation by the city of Duluth in the Lake Superior forensic technology & internet crimes against children task force. The agreement to be substantially in the form of Public Document No. \_\_\_\_\_ on file in the office of the city clerk.

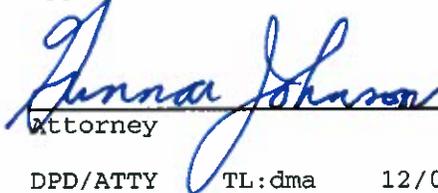
Approved:

  
Department Director

Approved for presentation to council:

  
Chief Administrative Officer

Approved as to form:

  
Attorney

Approved:

  
Auditor

DPD/ATTY TL:dma 12/07/2010

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to execute an agreement to participate in the Lake Superior Forensic Technology & Internet Crimes Against Children Task Force. The task force members include the City of Superior, Wisconsin, County of Douglas, Wisconsin, City of Duluth, Minnesota, and County of St. Louis, Minnesota. The task force shall target offenses that have the likelihood of being related to the production, distribution, and possession of child pornography, involve internet child enticement, and other crimes where the use of digital technology was used. The task force will also participate in community education and awareness initiatives

as well as provide forensic and investigative assistance, as able, to other Northwestern Wisconsin and Northeastern Minnesota law enforcement agencies. The participation by the city will enable the city to engage in an area-wide and coordinated effort to apprehend and prosecute offenders who utilize digital technology. It is expected that the task force will be funded with grant monies.

**JOINT POWERS AGREEMENT**  
**LAKE SUPERIOR FORENSIC TECHNOLOGY**  
**&**  
**INTERNET CRIMES AGAINST CHILDREN**  
**TASK FORCE**

**THE PARTIES TO THIS AGREEMENT** are units of government responsible for the enforcement of Internet Crimes Against Children and other technology- facilitated crimes in their respective jurisdictions. This agreement is made pursuant to the authority conferred upon the parties by the laws of the State of Wisconsin, including the Municipal Interstate Cooperation Act, Wisconsin Statutes §66.0303, and Mutual Aid Agreements, Wisconsin Statutes §175.46(2) and the State of Minnesota, including, the Joint Exercises of Powers Act, Minnesota Statutes §471.59, Minnesota Statutes §299A.641.

**NOW THEREFORE**, the undersigned government units, in the joint and mutual exercise of their powers agree as follows:

1. **Name.** The Lake Superior Forensic Technology & Internet Crimes Against Children (ICAC) Task Force ("Task Force") is hereby officially established as of the date of this agreement.

2. **General Purpose.** The purpose of this joint powers agreement is to establish an organization to coordinate efforts to apprehend and prosecute offenders who utilize digital technology. The Task Force shall target offenses that have the likelihood of being related to the production, distribution, and possession of child pornography, involve Internet child enticement, and other crimes where the use of digital technology was used. The Task Force will participate in community education and awareness initiatives regarding ICAC and other cyber crimes. The Task Force will also provide forensic and investigative assistance, as able, to other Northwestern Wisconsin and Northeastern Minnesota law enforcement agencies.

3. **Members.**

3.1 The members of this Agreement shall consist of the following units of government:

City of Superior, Wisconsin  
County of Douglas, Wisconsin  
City of Duluth, Minnesota  
County of St. Louis, Minnesota

3.2 The City of Superior City Attorney shall participate as the legal advisor to the Task Force.

#### **4. Coordinating Agency.**

4.1 The City of Superior shall serve as the Coordinating Agency.

4.2 Acting on behalf of the Task Force and its members, the member agencies shall apply for funding under Federal and State Grants that may become available to the Task Force if the Task Force meets the qualifying criteria.

4.3 The Coordinating Agency shall be responsible for the day-to-day operations of the Task Force including supervision of staff, intelligence sharing, management of confidential funds and coordination with other agencies. The Coordinating Agency shall be responsible for drafting and compliance with Task Force Standard Operating Guidelines (SOG's).

#### **5. Executive Board.**

5.1 The advisory body of the Task Force shall be an Executive Board (hereinafter referred to as "Board") consisting of one representative from each member agency and the legal advisor. The legal advisor shall serve as a non-voting Board member and shall serve as the legal advisor to the Task Force. The Chief Executive Officer (CEO) of each member law enforcement agency may appoint a designee to serve on the Board at the CEO's pleasure or in the CEO's absence. Board members must be full-time supervisory law enforcement/peace officers of the jurisdiction that appoints the Board member. Prosecutors from the affected jurisdictions may be invited to attend board meetings as deemed appropriate.

5.2 Board members shall not be deemed employees of the Task Force and shall not be compensated by the Task Force.

5.3 At the first meeting of the Task Force, the Board shall elect from its members a chair, and a vice-chair. The legal advisor shall not be eligible to serve as an officer of the Board. The Board may adopt rules and regulations governing its meetings. Such rules and regulations may be amended from time to time at either a regular or a special meeting of the Board provided that at least ten (10) days prior notice of the meeting has been furnished to each Board member. The Board shall operate by a majority vote of all members present. A quorum for meetings shall consist of a majority of voting Task Force members.

5.4 The Board shall meet at intervals no less frequent than upon a quarterly basis and such meeting may be conducted in person or by telephone conference call.

## **6. Powers and Duties of the Executive Board.**

6.1 The Board will formulate a program to carry out its purpose. It shall be responsible for developing task force priorities, budgets, and operational policies and procedures.

6.2 The Board will coordinate intelligence between the members and the Task Force.

6.3 The Board shall approve a commander (hereinafter referred to as "Task Force Commander" or "Commander") who shall be responsible for the daily management of Task Force.

6.4 The Board may cooperate with other federal, state, and local law enforcement agencies to accomplish the purpose for which it is organized.

6.5 The Board may make contracts in its own name, incur expenses, and make expenditures necessary and incidental to the effectuation of its purpose, consistent with its powers and in accordance with its approved budget. The Board may not incur obligations or enter into contracts that extend beyond the terms of the Agreement or that exceed its approved budget.

6.6 The Board shall cause to be made an annual audit of the books and accounts of the Task Force to be prepared by the Task Force Commander. On or before December 30 of each year of this Agreement it shall file a written report to its members that includes the following information and subject to limitations on information available to the Task Force by applicable law or State data practices acts:

6.6.1 the financial condition of the Task Force;

6.6.2 the status of all Task Force projects;

6.6.3 the business transacted by the Task Force; and

6.6.4 other matters affecting the interests of the Task Force.

6.7 The Task Force's books, reports, and records shall be open to inspection by its members at all reasonable times and as required by law subject to limitations on dissemination of information by applicable law or State data practices acts. Records shall be maintained for a minimum of six (6) years.

6.8 The Board may recommend changes in this Agreement to its members.

6.9 No governmental unit participating in this joint powers agreement is liable for the acts or omissions of any other participating governmental unit. Each participating governmental unit shall be responsible for maintaining the necessary liability coverage on behalf of their members and/or employees relating to participation on the Task Force. The Board may authorize the purchase of additional liability

insurance, from Task force funds, on behalf of the Task Force, if the Board deems such additional insurance coverage necessary.

## **7. Finances.**

7.1 The cost of operation of the Task Force shall be funded by individual member agencies, subject to individual member agencies approved budget, until and unless grant funds, forfeiture funds and any required matching funds become available.

7.2 Wages and benefits for investigators assigned to the Task Force will be paid by their respective departments in accordance with their current labor agreements.

7.3 The Task Force's funds may be expended by the Board in accordance with this Agreement, in a manner determined by the Board, and as authorized by its budget. The City of Superior shall serve as the fiscal agent and shall serve as depository for the Task Force's funds. In no event shall there be a disbursement of Task Force funds from the City of Superior depository without the signature of the Chief of Police of the City of Superior or the Chief's designee.

7.4 The Board shall receive a quarterly financial report of all expenditures and receipts and current fund balances from the Commander.

7.5 The members may contribute their grant funds and required matching funds to operate the Task Force. As equipment maintenance, replacement, and training needs develop member agencies will equally share in the costs.

7.6 The Board shall adopt a budget based upon Grant Funds, member matching funds and money made available from other sources. The budget shall be approved by the Task Force members. The Board may adjust line items but may not exceed the total budget amount without the prior approval of Task Force members.

7.7 The Board may not incur debts.

7.8 The Task Force's obligation to reimburse members for any expense, furnish equipment, and the like is contingent upon the Task Force receiving Grant Funds. The Board may reduce the level of expense reimbursement and cut back on equipment and other purchases otherwise required by this Agreement if grant funds are unavailable or reduced.

## **8. Law Enforcement/Peace Officers and Employment Status.**

8.1 Each member shall assign at least one experienced law enforcement/peace officer (hereinafter "law enforcement officer") to serve on the Task Force. The law enforcement officers assigned by the City of Superior and Douglas

County shall be certified law enforcement officers in the State of Wisconsin. The law enforcement officers assigned by St. Louis County, and the City of Duluth shall be licensed peace officers in the State of Minnesota. The law enforcement officers assigned by Wisconsin agencies shall meet the requirements set forth in Minnesota Statutes §471.59, Subd. 12 (1) and (2). The peace officers assigned by Minnesota agencies shall meet the requirements set forth in Wisconsin Statutes §175.46(1)(c).

8.2 Law enforcement officers assigned to the Task Force shall not be employees of the Task Force. Law enforcement officers assigned to the Task Force shall remain employees of the member that has assigned them to the Task Force and shall be supervised and paid by that member, not the Task Force. Law enforcement officers assigned to the Task Force shall report directly to the Commander on all Task Force activities.

8.3 Member agencies, ultimately, will have responsibility for selection of their employees to be assigned to the Task Force. It is strongly encouraged that selection of law enforcement officers to the Task Force is accomplished with input from the Commander. Law enforcement officers assigned to the Task Force must be able to successfully complete the requisite Task Force training as set forth in the Task Force SOPs.

8.4 Cases will be assigned to law enforcement officers by the Commander. Law enforcement officers will be responsible for investigations assigned, including intelligence management, case development, and case charging. Law enforcement officers assigned to the Task Force shall focus investigative activities on cases that involve the use of digital technology, with particular priority on cases that involve ICAC. Law enforcement officers assigned to the Task Force will also assist other agents in surveillance and undercover operations. Law enforcement officers assigned to the Task Force will work cooperatively with other Federal, State, County agencies and community agencies.

8.5 The member agency appointing the law enforcement officers shall furnish the law enforcement officers a weapon, cellular phone, laptop computer, and vehicle (as needed) and pay any lease payments, insurance, maintenance, and operating costs of the vehicle subject to any conditions required by the applicable policies of the member agency and collective bargaining agreements between the member agency and their respective employees.

## **9. Commander**

9.1 The Coordinating Agency shall appoint a law enforcement officer to serve as Commander, subject to the approval of the Board under Section 6.3 hereof. The Commander may be removed at the sole discretion of the Coordinating Agency. The Commander must be a full-time, licensed and/or certified law enforcement officer, of Supervisory rank, of the Coordinating Agency and shall be paid by the Coordinating

Agency. The Commander shall serve full-time as a Commander of the Task Force. The Commander shall remain an employee of the Coordinating Agency.

9.2 The Commander shall be in charge of the day-to-day operation of the Task Force subject to direction from the coordinating agency the Board. The Commander is responsible for staffing, scheduling, case assignment, case management, record keeping, informant management, buy fund management, petty cash management, and intelligence management. The Commander shall be the lead agent for any coordinated, large scale Task Force operations. The Commander will assist or advise in the drafting and execution of all search warrants initiated by the Task Force and will work cooperatively with prosecuting attorneys with venue over cases. The Commander shall cause or coordinate with necessary member agencies for Task Force data to be entered into any information system implemented for the purpose of information sharing related to ICAC or technology investigations subject to the requirements of the Wisconsin Open Records Law and Minnesota Government Data Practices Act and any other applicable state or Federal rules or regulations.

9.3 The Commander shall provide a written report on Task Force activities to the Board at each Board meeting and shall report more frequently as need arises, or at the request of the Board.

9.4 The Commander may exclude a law enforcement officer from further Task Force involvement subject to review by the Board and approval of the member that assigned the agent to the Task Force.

9.5 The Commander will be responsible for acquisition, storage, updating, and maintenance of equipment utilized by the Task Force. Initial acquisition and forensic computer equipment for the Task Force will be accomplished by the Coordinating Agency. Future equipment acquisitions or updates may require financial support from each member agency should grant funding not be available, in which case the Board may authorize such appropriations.

10. **Forfeitures, Seizures, and Fines.** All money and property that is obtained as a result of a Task Force operation shall be forfeited by the member agency originating the specific case. Forfeited monies or property shall be distributed in the manner consistent with the State Forfeiture Guidelines of the State having jurisdiction over the forfeiture proceedings. The portion of forfeiture proceeds inuring to the members under the applicable law shall be used for the benefit of the Task Force when the related case is considered and reported as a Task Force arrest. The Task Force proceeds shall be deposited into a Task Force forfeited funds account to be maintained by the Coordinating Agency for the Task Force operating expenses. Any disputes on disbursement of funds will be decided by the Board. In the case of Federal forfeiture actions, established Federal Rules shall be followed. Fine or restitution monies ordered paid to the Task Force by court order may be used to offset equipment or operating costs of the Task Force not funded by grant or matching monies subject to compliance with applicable laws.

11. **Headquarters.** The City of Superior and Douglas County will furnish the Task Force without cost, office space at 1316 N. 14<sup>th</sup> Street, Suite 150, Superior, Wisconsin 54880. All utilities, including electricity, heat, air conditioning, and the like shall also be furnished to the Task Force by Superior and Douglas County without costs.

12. **Internet Crimes Against Children (ICAC) Task Force**

12.1 Cases that have an ICAC element will generally receive higher priority of the Task Force.

12.2 Each participating member agency will be a member of their respective State's ICAC Task Force.

12.3 Each member agency will be responsible for reporting the required statistical information for their jurisdiction to their State ICAC Task Force.

12.4 The Task Force will operate in compliance with the ICAC Task Force Operational and Investigative Standards.

13. **Liability**

13.1 It is expressly understood and agreed that neither members nor the Task Force shall be responsible or liable for any claim for injury or death of any law enforcement officer in the employ of another member agency or for any damage to the equipment owned by another member.

13.2 No law enforcement officer acting under this Agreement may be considered, for liability purposes, as an employee or law enforcement officer of any other member, regardless of the supervision or control of the law enforcement officer while providing services on Task Force matters. The law enforcement officer is considered as continuing to be an employee of the law enforcement officer's appointing member.

13.3 Any law enforcement officer acting under this Agreement shall continue to be covered by the law enforcement officer's employing member for purposes of worker's compensation, unemployment compensation, disability, other employee benefits and civil liability purposes in the law enforcement officer's home state. Any law enforcement officer acting in another state under this Agreement is considered while so acting to be in the ordinary course of the law enforcement officer's employment with the law enforcement officer's employing member .

13.4 Any law enforcement officer acting under this Agreement in another state is subject to any immunity from liability to the same extent as any officer of the other state.

**14. Indemnification.** The Task Force, through the insurance maintained by each member agency and any additional insurance purchased on behalf of the Task Force, shall fully indemnify and hold harmless the other members against all claims, losses, damage, liability, suits, judgments, costs, and expenses by reason of the action or inaction of its employees assigned to the Task Force. This agreement to indemnify and hold harmless does not constitute a waiver by any member of limitations on liability provided by Minnesota Statutes, Chapter 466 and Wisconsin Statutes §893.80.

**15. Other Law Enforcement Agencies**

15.1 The Task Force is committed to providing investigative and forensic assistance to non-member law enforcement agencies in Northwestern Wisconsin and Northeastern Minnesota.

15.2 Request for assistance by non-member agencies will be evaluated to determine the priority of the requested assistance. Non-member agencies may incur fees for requested assistance should the assistance be of an immediate nature, or require overtime expenditures by member agencies. The Board may establish an appropriate fee schedule that may be waived at the recommendation of the Commander.

15.3 Non-member law enforcement agencies in Northwestern Wisconsin and Northeastern Minnesota may be allowed to participate with the Task Force at the recommendation of the Commander and the approval of the Board. This participation may include the assignment of a law enforcement officer to the Task Force (to include on a part time/as needed basis), so long as the law enforcement officer meets the requirements as indicated in this agreement for Task Force member law enforcement officers.

15.4 Acceptance of non-member law enforcement agencies participation in the Task Force will be accomplished through a Memorandum of Understanding (MOU) with the agency requesting participation and the Task Force. This MOU will require the requesting agency to meet the requirements as outlined in this agreement and the Task Force SOGs.

**16. Duration.**

16.1 This Agreement shall take full force and effect when all member agencies sign it. All members need not sign the same copy. The signed Agreement shall be filed with the City of Superior City Clerk, who shall provide each member a fully executed copy of the Agreement. This Agreement shall remain in full force and effect until such time as the Task Force is disbanded.

16.2 It is agreed that participation in the Task Force is voluntary and that any participating agency may withdraw at any time provided that they deliver a written

notice to other members at least 30 days prior to withdrawal. If an agency withdraws and the Task Force is not disbanded, the withdrawing agency is not entitled to any equipment or funds held by the Task Force except for the reimbursement of eligible expenses incurred prior to the date of notice of withdrawal.

16.3 In the event that the Task Force is disbanded; all cash and equipment resources remaining after any outstanding obligations are met shall be distributed in accordance with federal grant guidelines and upon a vote of the Board.

17. Governing Law. This Agreement shall be governed by the Laws of the State of Minnesota and to the extent necessary, the State of Wisconsin with respect to the City of Superior *and Douglas County*.

CITY OF SUPERIOR, WISCONSIN

CITY OF DULUTH, MINNESOTA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Mayor

Attest:

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Clerk

Countersigned:

Countersigned:

\_\_\_\_\_  
Chief of Police

  
\_\_\_\_\_  
Chief of Police

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
City Auditor

Approved as to form:

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Attorney

DOUGLAS COUNTY, WISCONSIN

ST. LOUIS COUNTY, MINNESOTA

By \_\_\_\_\_  
Chair, County Board

By \_\_\_\_\_  
Chair, County Board

Countersigned:

Countersigned:

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
County Auditor

\_\_\_\_\_  
County Sheriff

\_\_\_\_\_  
County Sheriff

Approved as to form:

Approved as to form:

\_\_\_\_\_  
County Attorney

\_\_\_\_\_  
County Attorney