

**MEMORANDUM OF UNDERSTANDING
RESTATING AND REVISING THE MOU DATED MAY 1, 2017
ESTABLISHING THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN
STEERING COMMITTEE FOR THE ISLAND OF OAHU, STATE OF HAWAII**

This Memorandum of Understanding (MOU) is intended to extend the Memorandum of Understanding dated May 1, 2017, a copy of which is attached as Exhibit A. This MOU restates and revises the goals and related responsibilities of the Signatories with respect to their participation on the CSEC Steering Committee that was established by the May 1, 2017 Memorandum of Understanding, by and among the following entities (each a "Party" or collectively the "Parties"):

Family Court of the First Circuit, State of Hawaii
Department of Human Services (DHS)
Department of Health (DOH)
Department of Education (DOE)
Department of Public Safety (PSD)
Department of the Attorney General (AG)
Office of the Public Defender
Department of the Prosecuting Attorney, City & County of Honolulu
Honolulu Police Department (HPD)
US Department of Homeland Security, US Immigration and Customs Enforcement,
Homeland Security Investigations (ICE HSI)¹
US Attorney's Office, District of Hawaii
Federal Bureau of Investigation (FBI)

I. BACKGROUND AND PURPOSE

A. Several child-serving State agencies, law enforcement agencies, and branches of government entered into a Memorandum of Understanding dated May 1, 2017, to establish a

¹ Regarding ICE HSI authority, the US Department of Homeland Security is authorized to enter into this agreement pursuant to 6 U.S.C. 112(b)(2). ICE HSI is a federal law enforcement agency with enforcement authorities under the provisions of 19 U.S.C. 1589a; 8 U.S.C. 1357; 21 U.S.C. 873; 8 U.S.C. 1103(c); 18 U.S.C. 981(e); and 19 U.S.C. 1616a. Nothing in this MOU is intended to conflict with current law or regulation or the directives or policies of the US Department of Homeland Security and/or ICE. If a term of this Agreement is inconsistent with such authority, then the term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect. Nothing in this MOU is intended, or should be construed to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees. Further, no provision of this MOU shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. 1341. Each Participant is responsible for any expenses it incurs as a result of activities under this MOU. Nothing in this MOU is intended to imply that Congress will appropriate funds to any Party for activities under this MOU.

steering committee to coordinate their responses to the Commercial Sexual Exploitation of Children (CSEC).

B. An individual who is described as CSEC may be a sexually exploited or trafficked minor as defined by the Trafficking Victims Protection Act of 2000, 22 USC §7102, as amended, or a minor subject to commercial sexual exploitation of children as defined in Act 83, 2023 Haw. Sess. Laws.

C. The Parties desire to coordinate their efforts to more effectively serve commercially sexually exploited children by utilizing a multidisciplinary approach for training, prevention, identification, assessment, case management, service planning, and the provision of services, including system improvement.

D. The Parties agree to continue a CSEC Steering Committee to provide ongoing oversight and support to ensure that the Parties effectively collaborate with each other and community service providers and organizations to better identify and serve children and families who are victims of commercial sexual exploitation or who are at risk of becoming exploited.

II. STATEMENT OF PRINCIPLES

The Parties to this MOU agree and commit to the following:

A. Guiding Principles

1. Commercial Sexual Exploitation of children must be understood as child abuse and reported as such;
2. The Parties' response to CSEC should not criminalize the youth being exploited and should avoid arrest or prosecution of the youth whenever possible; and
3. The Parties agree to work together and with community service providers and organizations to improve the awareness of CSEC, and enhance a coordinated response and appropriate services for children and families.

B. The Parties will strive to have responses to children and families experiencing CSEC that are:

1. Victim-centered;
2. Trauma-informed;
3. Strengths-based;
4. Developmentally appropriate;
5. Culturally, linguistically, and LGBTQ+ competent and affirming;
6. Committed to active efforts that engage commercially sexually exploited children safely, early, and only to the extent it is necessary;
7. Multidisciplinary in scope, individualized, flexible, and timely; and
8. Data and outcome driven.

C. The Parties shall strive for Policies & Procedures that:

1. Ensure and track cross-system collaboration at the system and individual case level,
2. Incorporate mechanisms to identify and assess commercially sexually exploited children at key entry and decision points,
3. Address the unique physical and emotional safety considerations of commercially sexually exploited children,

4. Address unique physical and emotional safety consideration, including effects of vicarious trauma of staff, caregivers, and other relevant support persons; and
5. Ensure guiding principles are reflected in all policies, procedures, program development, and contracted agreements.

NOW THEREFORE, the Parties to this MOU set forth the following as the terms and conditions of their understanding:

III. STEERING COMMITTEE

The Parties shall:

- A. Participate in a Steering Committee that will meet at least quarterly.
- B. Develop and effectively implement a CSEC Response Protocol for Oahu.
- C. Provide ongoing oversight and leadership to ensure effective collaboration to better identify and serve youth who are at risk of or have been commercially sexually exploited, specifically by:
 1. Providing oversight of the CSEC Response Protocol,
 2. Collecting and analyzing aggregate data related to the MOU,
 3. Assessing the sufficiency of CSEC-specific resources in the County of Honolulu with plans to expand to neighbor islands,
 4. Identifying necessary training and ensuring such training occurs,
 5. Trouble shooting issues to ensure collaboration,
 6. Providing reports as required by any State or Federal law or rule, and
 7. Other actions that may become necessary.
- D. Send a representative or multiple representatives to regularly attend and actively participate in scheduled meetings and who is empowered to make decisions on behalf of the Party and all of the relevant divisions in the Party's organization necessary to fulfill the responsibilities defined in this MOU.
- E. Provide staff or administrative support to complete the work necessary to effectively participate in the Steering Committee.
- F. Invite service providers and other community organizations who regularly interact with the Parties in their responses to CSEC to participate in the meetings of the Steering Committee.
- G. Report to the Steering Committee on successes, barriers to providing services, and areas for improvement, including recommendations for adapting this MOU and identifying training needs or gaps in knowledge among the Parties.
- H. Develop data governance and data sharing policies to facilitate tracking individual and aggregate data on and cases of commercially sexually exploited children that come to the attention of the CSEC program.

IV. LEAD AGENCIES

- A. The Lead Agencies for the Steering Committee are:
 1. Judiciary

2. Department of Human Services

B. The Lead Agencies shall be responsible for convening meetings of the Steering Committee; provided that any member of the Steering Committee may request to convene a meeting by notifying the lead agencies in writing of the request.

C. The Lead Agencies shall provide staff to coordinate the work of the Steering Committee.

V. IDENTIFICATION, ASSESSMENT, AND SERVICES

The Parties shall:

A. Develop and implement a systematic screening process for their organization and report their progress to the Steering Committee.

B. Provide aggregate data on identified CSEC, including the numbers identified and the services accessed by those youth.

C. Use reasonable efforts to ensure that an assessment of an exploited youth's needs and strengths will occur upon identification.

D. Use reasonable efforts to limit unnecessary or duplicative assessments and coordinate to ensure that assessments are streamlined and limited, when appropriate.

E. Consult with community service and treatment providers, contracted service providers, and survivors of CSEC to continue to assess and improve the methods and procedures surrounding the identification of, treatment for, and case processing procedures for children and families who have experienced CSEC.

VI. INFORMATION SHARING, CONFIDENTIALITY, & RESPONSIBILITIES IN THE EVENT OF DATA BREACH

A. The Parties will adopt a policy concerning the sharing, disclosure, transmittal and storage of confidential information including protected health information that complies with state and federal laws regarding confidentiality and privacy, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA); the Confidentiality of Medical Information Act (CMLA); special provisions regarding HIV test results; the Patient Access to Health Records Act (PAHRA); the Family Educational Rights and Privacy Act (FERPA); state and federal laws governing Criminal Offender Record Information, and state and federal laws or rules governing the Honolulu County Prosecutor's Office and US Attorney's Office duty to disclose to criminal defendant potentially exculpatory information.

B. Unless statutory authority permits disclosure of protected information and the Steering Committee adopts a policy concerning the sharing, disclosure, transmittal, and storage of information, that has been reviewed and approved by the Parties, confidential information may not be shared between the Parties pursuant to this MOU without the consent of the client or his or her legal representative, or other legal authorization is provided.

C. Any information exchanged between the Parties will be done in accordance with all applicable laws, regulations, and policies. Records that are provided to and maintained by

federal agencies become federal records for the purpose of the Privacy Act and Freedom of Information Act. No Party will disclose agency records related to other Parties' activities or any other information that is privileged or confidential, law enforcement sensitive, or otherwise prohibited from disclosure by law, regulation, or policy. Parties will not disclose to third parties any information received from other Parties under this MOU without first obtaining authorization from the Party originating the information, unless compelled by legal obligation or court order.

D. Public releases of information regarding the activities of the Steering Committee shall be coordinated and made jointly by all participating agencies. Media releases will not include law enforcement sensitive information, such as specific investigative procedures or law enforcement techniques, confidential investigative sources, privileged information, or any information protected by Federal or State privacy law or by Federal or State directive or policy.

VII. LIABILITY

A. Each Party shall assume the responsibility and liability for the acts and omissions of its own officers, agents, or employees in connection with the performance of their official duties under this MOU. For tort liability purposes, no Party shall be considered the agent of another Party. Each Party shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties.

B. Responsibility and accountability for the personal and professional conduct of the Parties remain with the respective agencies. Additionally, all Parties to this MOU agree to adhere to the personnel rules, regulations, laws, and policies of the respective agencies.

C. State and county members and employees or affiliate or Party agencies, other than current federal employees, shall not be considered to be federal employees for any purpose, including but not limited to liability under the Federal Tort Claims Act (FTCA), 28 U.S.C. §1346(b)(1), 2671-2680, or *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. §388 (1971), or for purposes of the Federal Employees' Compensation Act, 5 U.S.C. §8101, et seq. The United States shall be liable for the acts or omissions of federal employees acting within the scope of their federal employment only to the extent authorized by the FTCA and other applicable federal law. The same principle applies to federal members and employees of affiliate and Party agencies, who shall not be considered to be state or county employees for any purpose. The State of Hawaii and the City and County of Honolulu shall each be liable solely for the acts or omissions of their own employees acting within the course and scope of their employment, and only to the extent authorized by applicable laws or ordinances.

VIII. GENERAL PROVISIONS

A. Effective Date and Duration. This MOU shall be effective as of the date of the last signature of the Parties listed, and shall continue indefinitely until terminated by the Parties, provided that the parties shall review this MOU at least every two years to determine if it should be amended or terminated.

B. Amendments. This MOU may be amended at any time by mutual written agreement of the Parties.

C. Quorum. A quorum is established by simple majority, with at least one of the Lead Agency representatives being present.

E. Termination. Participation in this MOU may be terminated by any party providing 30 days prior written notice to the other Parties, provided that the MOU will continue without the participation of that party, and all other terms shall stay in effect until such time as the remaining Parties execute a new MOU.

F. Limitations. Each party's participation is contingent upon, and limited by, the availability of each party's respective human and fiscal resources.

IX. SIGNATURES OF THE PARTIES

The signatures below indicate agreement to the terms of this MOU. This MOU may be executed in counterparts that when combined constitute the entire agreement of the parties as if it were one document.

Matthew J. Viola
Senior Family Court Judge
Family Court of the First Circuit, State of Hawaii

Date

Rodney A. Maile
Administrative Director of the Courts
Family Court of the First Circuit, State of Hawaii

Date

Catherine Betts
Director
Department of Human Services

Date

Anne Lopez
Attorney General
Department of the Attorney General

Date

Arthur Logan
Chief of Police
Honolulu Police Department

Date



Steven Alm
Prosecuting Attorney
Department of the Prosecuting Attorney

9/15/2023
Date

Keith Hayashi
Superintendent
Department of Education

Date

Kenneth S. Fink, MD
Director
Department of Health

Date

Tommy Johnson
Director
Department of Public Safety

Date

John F. Tobon
Special Agent in Charge
Homeland Security Investigations

Date

Steven B. Merrill
Special Agent in Charge
Honolulu Field Office
Federal Bureau of Investigation

Date

James S. Tabe
State Public Defender
Office of the Public Defender

Date