


SPECIAL DIRECTIVE 19-04

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM: JACKIE LACEY 
District Attorney

SUBJECT: USE IMMUNITY OPERATIONAL AGREEMENT

DATE: MARCH 13, 2019

Effective March 1, 2019, a Use Immunity Operational Agreement (Use Immunity OA) for the benefit of commercially sexually exploited children (CSEC) shall be implemented. The Use Immunity OA is between the District Attorney's Office, Public Defender's Office, Alternate Public Defender's Office and the Independent Juvenile Defenders Panel. The purpose of this Use Immunity OA is to ensure that children that have been identified as victims of commercial sex trafficking can speak freely without concern that their statements would be used to prosecute them. Though private attorneys are not signatories to the Use Immunity OA, CSEC represented by private attorneys shall also be afforded the opportunity to enter into the agreement.

The Use Immunity OA is limited to the statements made by the CSEC during the course of a human sex trafficking investigation/prosecution and is applicable to all CSEC who consent to use immunity pursuant to this agreement.

Deputy District Attorneys (deputies) who are prosecuting human sex trafficking cases shall seek permission from their Head Deputy (or the Head Deputy's designee) prior to entering into the Use Immunity OA. There may be times when the CSEC declines to enter into the Use Immunity OA. In those cases, the deputies handling the case shall seek immunity in accordance with Legal Policies Manual §18.03. A copy of the Use Immunity OA and signatory page is attached and can be found in PIMS.

After the use immunity agreement is signed, the signatory page shall be sent to the secretary for the appropriate Bureau Director, or the secretary for the Special Circumstances Committee Chair. The date of birth and the Criminal Information and Identity number (if available) shall also be included. That secretary shall then enter the use immunity information into the Leniency, Immunity and Jailhouse Information System.

Any questions regarding the implementation of the Use Immunity OA should be directed to Special Assistant, Jane Creighton.

jc

Attachment

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

USE IMMUNITY OPERATIONAL AGREEMENT FOR

COMMERCIALY SEXUALLY EXPLOITED CHILDREN

OPERATIONAL AGREEMENT

BETWEEN

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

LOS ANGELES COUNTY PUBLIC DEFENDER'S OFFICE

LOS ANGELES COUNTY ALTERNATE PUBLIC DEFENDER'S OFFICE

INDEPENDENT JUVENILE DEFENDER PANEL

I. PARTIES

This Use Immunity Operational Agreement (USE IMMUNITY OA or USE IMMUNITY OPERATIONAL AGREEMENT) is entered into by and between the Los Angeles County District Attorney's Office (LADA), Los Angeles County Public Defender's Office (PD), Los Angeles County Alternate Public Defender's Office (APD), and the Independent Juvenile Defender Panel, the approved panel of juvenile attorneys administered by the Los Angeles County Bar Association. This USE IMMUNITY OA binds only the Los Angeles County Public Defender's Office, the Los Angeles County Alternate Public Defender's Office, the Independent Juvenile Defender Panel, the Commercially Sexually Exploited Children (CSEC) minor who consents to a use immunity agreement pursuant to this USE IMMUNITY OA, and the Los Angeles County District Attorney's Office; it does not bind any other law enforcement or other prosecuting authority.

II. PURPOSE

The purpose of this Operational Agreement is to ensure that children that have been identified as victims of commercial sex trafficking can speak freely without concern that their statements would be used to prosecute them. This protection will facilitate the prosecution of human sex traffickers. This USE IMMUNITY OA is in keeping with treating CSEC as victims, not suspects. As such, this agreement will be extended to all CSEC, including those represented by members of the Independent Juvenile Defender Panel and by private counsel.

III. BACKGROUND

The District Attorney's Office remains committed to a comprehensive approach to combating human trafficking. This includes not only prosecuting the sex traffickers to the fullest extent of the law, but also holding those accountable who purchase sex from

children. To that end, the District Attorney's Office secured funding to further staff the Human Sex Trafficking Section (HSTS), which was established in 2014 and expanded in October, 2016. The HSTS has three specially trained Deputy District Attorneys, a Deputy-In-Charge, three Victim Service Representatives and two District Attorney Investigators, who are responsible for assisting in the investigation of human sex trafficking cases. The HSTS handles cases throughout Los Angeles County. The prosecutors assigned to the HSTS participate in a quarterly meeting of prosecutors from throughout California, whose goals are to come up with best practices for prosecuting these challenging cases and discuss current issues and trends pertaining to human sex trafficking. Recognizing that human sex trafficking is a problem, which seeps into many different areas of criminal activity, the HSTS continues to meet quarterly with the Los Angeles District Attorney's Human Trafficking Committee which is comprised of a Deputy District Attorney from the Hardcore Gang Division, Organized Crime Division, Bureau of Victim Services, and Juvenile Division.

CSEC victims are often on probation and have a number of legal concerns. The Los Angeles County Public Defender's Office, the Los Angeles County Alternate Public Defender's Office, and the members of the Independent Juvenile Defender Panel are committed to providing zealous legal representation to each and every minor represented by their respective offices who are called to testify under this USE IMMUNITY OA.

The USE IMMUNITY OA confirms the duties of the Public Defender's Office, the Alternate Public Defender's Office, and the members of the Independent Juvenile Defender Panel to provide CSEC youth with effective legal representation.

IV. SCOPE OF THE USE IMMUNITY OPERATIONAL AGREEMENT

This USE IMMUNITY OA is limited to the statements made by the CSEC minor during the course of a human sex trafficking investigation/prosecution.

- (a) This USE IMMUNITY OA does not apply to any other statements made by the CSEC minor at any other time, whether oral, written or recorded, unless specifically mentioned in this USE IMMUNITY OA.
- (b) The term "during the course of the investigation" is defined as follows: the human sex trafficking investigation for which the CSEC minor is interviewed by District Attorney personnel, or persons specifically directed by the District Attorney's Office, for the purpose of filing consideration, providing victim services, or any court proceedings.
- (c) This USE IMMUNITY OA does not provide any protection to the CSEC minor not expressly set forth herein.
- (d) This USE IMMUNITY OA recognizes that the offices of the Los Angeles County Public Defender, the Los Angeles County

Alternate Public Defender, and the members of the Independent Juvenile Defender Panel represent individual clients according to the needs of each individual client. An immunity agreement pursuant to this USE IMMUNITY OA will apply to a CSEC minor only upon the affirmation and signature of the CSEC minor in question. Each CSEC minor must be afforded the opportunity to discuss the terms of the CSEC immunity agreement with counsel, affirm through counsel a desire to enter into the agreement, and sign an immunity agreement authorized under the terms of this USE IMMUNITY OA. The immunity agreement signed by the CSEC minor shall be substantially similar to the form attached to this USE IMMUNITY OA as Attachment A.

- (e) The Los Angeles County Public Defender's Office designees (CLilienfeld@pubdef.lacounty.gov and LHarris@pubdef.lacounty.gov), the Los Angeles County Alternate Public Defender's Office designees (FDelatorre@apd.lacounty.gov and MHenderson@apd.lacounty.gov), and the Independent Juvenile Defender Panel designees (CYamashiro@lacba.org and ERodstrom@lacba.org) shall be notified of the CSEC minor's status as a witness at the time of filing against the suspected trafficker, or at the time of the suspected trafficker's arraignment. It should be noted that if a designee changes, written notification shall be given to the Deputy District Attorney in Charge of the Human Sex Trafficking Section (Jchung@da.lacounty.gov and Jlink@da.lacounty.gov).

V. THE USE IMMUNITY OPERATIONAL AGREEMENT

The Los Angeles County District Attorney's Office will not use any statements made by the CSEC minor during the course of the investigation against the minor for any reason, other than the reasons listed below:

- (a) Statements made by the CSEC minor during the meeting may be used during any prosecution in which the CSEC minor is a witness and has testified in a manner inconsistent with a previous statement. The statement may be used to impeach the CSEC minor or as cross examination for testimony in court.
- (b) The CSEC minor's truthfulness and candor are express material conditions to the undertakings of the District Attorney's Office. Therefore, if it is determined by a judicial officer after a hearing that the CSEC minor has knowingly withheld material information pertaining to the prosecution at issue, and/or knowingly given false


information, the immunity provided by this USE IMMUNITY OA is null and void.

VI. EFFECTIVE DATE

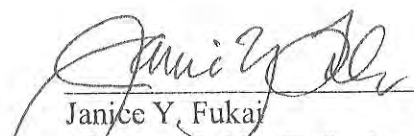
This USE IMMUNITY OA shall be effective on March 1, 2019 and continue until the USE IMMUNITY OA expires one year from the effective date, or until such time as the USE IMMUNITY OA is canceled by any party.

This USE IMMUNITY OA may be amended by written mutual consent of the parties. Any party to this USE IMMUNITY OA may terminate this USE IMMUNITY OA by giving written notice to each of the other parties. This written notice shall constitute a cancellation of the USE IMMUNITY OA and release all parties from the responsibilities and duties therein. The cancellation of the USE IMMUNITY OA shall be effective five days after written notice is provided.


We, the undersigned, as authorized representatives of the Los Angeles County District Attorney's Office, the Los Angeles County Public Defender's Office, Los Angeles County Alternate Public Defenders Office and the Independent Juvenile Defender Panel do hereby approve this document.


Jackie Lacey
District Attorney
Los Angeles County

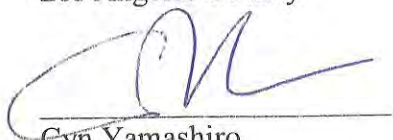
2-13-19
Date


Janice Y. Fukai
Alternate Public Defender
Los Angeles County

2-12-19
Date


Ricardo D. Garcia
Public Defender
Los Angeles County

2-7-19
Date


Cyn Yamashiro
Director
Independent Juvenile Defender Panel
Los Angeles County Bar Association

2/11/19
Date

USE IMMUNITY AGREEMENT

Case #: _____

Case Name: _____

Witness Name: _____

Witness _____ will testify truthfully and completely at all future proceedings to the events which form the basis for the criminal proceeding against _____.

The witness has discussed the USE IMMUNITY OPERATIONAL AGREEMENT with the attorney signing below. The USE IMMUNITY OPERATIONAL AGREEMENT was entered into between the Los Angeles County District Attorney's Office, the Public Defender's Office, the Alternate Public Defender's Office, and the members of the Independent Juvenile Panel, and is incorporated into this document by reference.

After discussing this with the attorney signing below, the witness agrees to accept the offer of USE IMMUNITY, as set forth in the USE IMMUNITY OPERATIONAL AGREEMENT. A copy of the USE IMMUNITY OPERATIONAL AGREEMENT has been provided to the witness.

Witness:

I understand this agreement. No other promises have been made to me other than what is in the USE IMMUNITY OPERATIONAL AGREEMENT.

Print Name: _____ Sign Name: _____

Attorney for Witness:

Print Name: _____ Sign Name: _____