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CIVILIAN “TO CATCH A PREDATOR” GROUPS

Muncie Indiana – I wanted to address the growing trend of what can best be referred to as civilian “to catch a predator” groups. They are online groups organized via Facebook or other social media sites and have the mission to identify, expose and publicly shame people who are seeking to have sexual encounters with children. These individuals use social media apps to communicate with “suspects.” Generally speaking, the civilian predator catcher assumes a fake online ID of a minor child, engages in a group or individual online chat, the “suspect” sends a private message to the civilian predator catcher, the private online chat evolves to a meet up for sexual activity. The civilian predator catchers then meet with the “suspect” at the designated meeting space and confront the suspect on what they have done. Often times this confrontation is livestreamed on Facebook or other social media apps.

Generally speaking I think most of these individuals have very noble goals of wanting to help catch those who attempt to have sexual encounters with children. Although, however noble their intentions, this kind of internet detective work carries significant legal and safety risks. There are significant legal and ethical issues that, in my opinion, prevent arrest and prosecution of the “suspects.” A quick internet search will produce statements of law enforcement agencies, prosecutors, and attorneys general asking civilian predator groups to stop their operations.¹ Some prosecutors have gone so far as to say these groups “cause more harm than good.”² The Indiana State Police have gone so far as to say “[w]e, as an agency, we don’t support what it is that they are doing. We don’t endorse what it is they are doing.”³ The Indiana State Police have also said these civilian predator catch groups “are also making it a little bit more difficult, and quite a bit more at times, for law enforcement to do what it is we need to do when it comes

¹ <https://www.southbendtribune.com/story/news/crime/2021/04/17/predator-hunter-groups-work-across-michiana-but-officials-say-they-do-more-harm-than-good/44596843/> Last checked February 18, 2022.

² *Id.*

³ <https://www.wibc.com/news/local-indiana/to-catch-a-predator-on-facebook-dangerous-and-counterproductive-say-police/> Last checked February 22, 2022.

to investigating.”⁴ The criminal justice professionals who have spoken out about concerns regarding these groups include, but are not limited to:

- Madison County Indiana Prosecuting Attorney.⁵
- Elkhart County Indiana Prosecuting Attorney.⁶
- Howard County Indiana Prosecuting Attorney.⁷
- Jackson County Indiana Prosecuting Attorney.⁸
- Orange County Indiana Prosecuting Attorney.⁹
- Indiana State Police Captain Bryan Harper, Commander of the Indiana Crimes Against Children Task Force.¹⁰
- Indiana State Police Captain Ron Galaviz, Chief of Public Information with Indiana State Police. (who has gone so far as to say “We, as an agency, we don’t support what it is that they are doing. We don’t endorse what it is they are doing”¹¹
- Tracy Prior, Chief Deputy District Attorney for San Diego County, CA.¹²
- Victor Vieth, Chief Program Officer of Zero Abuse Project and founder of the National Child Protection Training Center.¹³
- The Wisconsin Attorney General.¹⁴
- The Pennsylvania State Police.¹⁵

⁴ <https://www.wishtv.com/news/crime-watch-8/indiana-state-police-leery-of-facebook-groups-trying-to-catch-child-predators/> Last checked February 22, 2022.

⁵ <https://www.wthr.com/article/news/investigations/13-investigates/vigilante-justice-online-groups-target-child-predators-indiana-prosecutors-predator-catchers-indianapolis/531-056f5a21-cb50-42b3-bc85-fb6eae459c3e>. Last checked February 22, 2022.

⁶ <https://www.southbendtribune.com/story/news/crime/2021/04/17/predator-hunter-groups-work-across-michiana-but-officials-say-they-do-more-harm-than-good/44596843/> Last checked February 18, 2022.

⁷ <https://www.wrtv.com/news/public-safety/howard-county-prosecutor-asks-residents-in-vigilante-groups-to-not-take-the-law-into-their-own-hands> Last checked February 22, 2022.

⁸ <https://www.whas11.com/article/news/local/predator-catchers-indiana-online-citizen-posing-fake-children/417-9d6cd44b-a151-4389-8978-81f45475c32c> Last checked February 22, 2022.

⁹ <https://www.usatoday.com/story/news/nation/2021/02/25/indianapolis-predator-catchers-hunt-offenders-experts-urge-caution/4549340001/> Last checked February 22, 2022.

¹⁰ <https://www.southbendtribune.com/story/news/crime/2021/04/17/predator-hunter-groups-work-across-michiana-but-officials-say-they-do-more-harm-than-good/44596843/> Last checked February 18, 2022.

¹¹ <https://www.wibc.com/news/local-indiana/to-catch-a-predator-on-facebook-dangerous-and-counterproductive-say-police/> Last checked February 22, 2022.

¹² <https://www.southbendtribune.com/story/news/crime/2021/04/17/predator-hunter-groups-work-across-michiana-but-officials-say-they-do-more-harm-than-good/44596843/> Last checked February 18, 2022.

¹³ *Id.*

¹⁴ <https://www.weau.com/2021/10/11/wisconsin-ag-warns-against-vigilante-justice-online-predators/> Last checked February 22, 2022.

¹⁵ <https://www.fox43.com/article/news/local/contests/police-ask-local-vigilante-groups-trying-to-expose-child-sex-predators-to-stop/521-94d49d8c-fbe5-4a1a-8368-98190502ede> Last checked February 22, 2022.

First and foremost, I have serious safety concerns about untrained civilians confronting targets in stings that take place in public places that may threaten public safety and have unintended consequences. Local law enforcement agencies and I have met with local predator catcher groups and advised them of some of the dangers they are facing by going out and putting themselves in harm's way. They aren't trained. You never know how a suspect is going to react to being confronted. People who commit these crimes know they're caught in very serious situations. Much like a cornered animal, sooner or later someone is going to get hurt. It is a matter of time before one of the suspects armed with a gun gets confronted in these public places and opens fire. To me, the nightmare scenario is that one of these targets is armed and when confronted in a Wal-Mart parking lot by the predator catchers, they pull the gun and open fire, striking the predator catchers or even innocent adults and children who may be present in the public parking lot. This is why it is so crucial to have trained law enforcement officers conduct these investigations and make proper and safe arrests. In 2017, such a public confrontation took place in the parking lot of a Planet Fitness in Ohio. When the suspect realized he was being videotaped, he repeatedly punched and beat the civilian predator catcher.

Secondly, the civilian predator catchers have no specialized education or training in conducting criminal investigations and more importantly they are not sworn law enforcement officers. Covert investigations must be carried out by trained and sworn law enforcement officers in a particular manner that fits within the confines and requirements of the law. Law enforcement agencies spend an inordinate amount of time and effort training officers on how to conduct these investigations in a secure and safe way that will maintain the integrity of evidence and end with successful prosecution. These civilian sting operations put innocent bystanders in danger and they can increase the chance that someone who has committed a crime will go free. Law enforcement officers, in coordination with prosecutors, are best able to safely apprehend suspects and to ensure that someone who has committed a crime is successfully prosecuted. Victor Vieth, chief program officer of Zero Abuse Project and founder of the National Child Protection Training Center, told IndyStar in February of 2021 that private citizens may not have a complete understanding of how a predator's mind works — or the danger and gravity of the situation they've created. "Even a lot of detectives are not well-trained on all of these nuances, and it's hard for me to believe your average layperson is properly educated," Vieth said. "They're playing with fire." Vieth, the training expert and former prosecutor, said law enforcement professionals who go undercover understand there are legal parameters to what they can say and do. Victor Vieth is an eminently qualified and well-respected expert in this field. Victor has trained thousands of child-protection professionals from all 50 states, two U.S. Territories, and 17 countries on numerous topics pertaining to child abuse investigations, prosecutions and prevention. Victor gained national recognition for his work in addressing child abuse in small communities as a prosecutor in rural Minnesota, and has been named to the President's Honor Roll of the American Professional Society on the Abuse of

Children. In 2012, Victor was awarded the Pro Humanitate Award from the North American Resource Center for Child Welfare. I share all of Victor's concerns and apprehensions about governmental agencies working in concert with civilian predator catcher groups.

Third, because the civilians are not trained law enforcement officers, any evidence they have collected against the perpetrator will likely be inadmissible at trial. For example, if I, as Prosecuting Attorney, were to condone these sting operations, the civilians can legally be considered agents of the State which means that in a court of law they will be held to the same standards of a law enforcement officer. Did they properly *Mirandize* the suspect before asking them questions? Are there issues with the statutory defense of entrapment? Did they follow the proper evidence handling and preservation requirements imposed by law?

Fourth, the Delaware County Prosecutor's Office and local law enforcement agencies are members of the Indiana Internet Crimes Against Children Task Force or "ICAC." ICAC is a national network of 61 coordinated task forces, representing over 5,400 federal, state, and local law enforcement, dedicated to investigating, prosecuting and developing effective responses to internet crimes against children. Members include Indiana prosecutors as well as state and federal law enforcement agencies. ICAC has crystal clear Operational and Investigative Standards which include the following:

8.1 Investigations shall be conducted in a manner consistent with applicable laws and the ICAC Standards.

8.2 Only Sworn Personnel shall conduct Investigations.

8.2.1 Authorized Personnel acting under the direction and supervision of Sworn Personnel may participate in Investigations.

8.2.2 Members shall not approve, condone, encourage, or promote cyber- vigilantism by private citizens. As such, Members shall not use unauthorized private citizens to proactively seek out Investigative targets.

Therefore, participation in the civilian "to catch a predator" groups activities clearly violate ICAC's Operational and Investigative Standards and by doing so would jeopardize the legitimacy of any arrest or conviction.

Fifth, prosecutors are bound to certain ethical codes of conduct. I believe that it is unethical for a prosecutor to condone these types of civilian stings. We want to make sure we are doing things by the books – according to the law. We want to make sure we are not violating anyone's rights and we want to make sure

that if the targets are violating the law that they can be successfully prosecuted and held accountable. That cannot happen without a legitimate investigation conducted by sworn and trained law enforcement officers.

Sixth, I am aware of several instances where civilian predator catchers have unknowingly thwarted legitimate ongoing criminal investigations that were being conducted by trained law enforcement officers resulting in the inability to prosecute the suspect and have made it harder for valid law enforcement operations. Had these law enforcement investigations not been thwarted the suspects would have been arrested and faced lengthy prison sentences. I don't want to get too specific because I don't want to give away the criminal a "how to guide" of how to avoid prosecution. However, generally speaking when the civilian predator catchers confront potential suspects, it can cause the suspect to delete and destroy evidence or move to a different online platform, which can interrupt or even altogether thwart an ongoing law enforcement investigation.

The bottom line is that no matter how noble the goal is, I cannot legally or ethically condone civilian predator catchers. We must leave criminal investigations to sworn law enforcement officers who are extensively trained in how to conduct these types of investigations. This will ensure that those who violate the law will be legally and ethically arrested and prosecuted and their convictions will be upheld on appeal.

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