

**FEDERAL LAW ENFORCEMENT PRIORITIES IN MONTANA  
AND CHARACTERISTICS OF THE FEDERAL CRIMINAL JUSTICE SYSTEM**

**2001 - 2008**

**Resources**

Montana's U.S. Attorney's Office (USAO) is headquartered in Billings, with branch offices in Great Falls, Missoula, Helena and Butte. The USAO has seventeen Assistant U.S. Attorneys (AUSAs) and four deputy county attorneys who are cross-designated as Special Assistant U.S. Attorneys (SAUSAs) to handle federal criminal cases in the state. Another six AUSAs serve as civil litigators, defending the United States when it is sued and bringing lawsuits on behalf of the United States.

Criminal investigations are conducted by a number of federal agencies and frequently in a partnership with a state, local, or tribal officer.

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**Orientation**

- Engage in strategic planning;
- Articulate clear, measurable priorities and initiatives;
- Build partnerships with state, local, and federal agencies to execute priorities;
- If necessary, re-allocate resources to execute the priorities; and
- Evaluate successes and shortcomings on a periodic basis through data and other objective assessments.

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**Priorities and Initiatives**

**Anti-Terrorism**

After the attacks of September 11<sup>th</sup>, anti-terrorism initiatives became the top priority for the Department of Justice. Like all other U.S. Attorneys, I created an Anti-Terrorism Advisory Committee. The ATAC is a partnership between a number of state, local and federal agencies and focuses on everything from intelligence sharing to infrastructure prevention.

Border Security is a key component of our national security strategy. Working closely

with Border Patrol, the Bureau of Immigration and Customs Enforcement (ICE), Canadian authorities, and Customs and Border Protection personnel at our ports of entry, we work to secure the border and prosecute a broad range of crimes committed at or near the border.

The FBI manages the Joint Terrorism Task Force in Montana. Both international terrorism and domestic terrorism cases are investigated by agents in the JTFF.

### **Indian Country Public Safety**

The most significant local priority for the U.S. Attorney's Office is the prosecution of violent crimes on the six reservations (Fort Belknap, Rocky Boy's, Northern Cheyenne, Crow, Blackfeet, and Fort Peck) for which we have primary responsibility for cases. While tribal prosecutors may charge most offenses involving Native Americans, tribal judges cannot impose terms of incarceration in excess of one year. In addition, tribal jails lack adequate capacity to house all offenders who have committed crimes. Of greatest significance, through the Major Crimes Act, Congress established as federal crimes virtually all violent offenses which occur on the six reservations. For the FBI, BIA, and my office, this means that we have been entrusted with an enforcement responsibility and must make best efforts to meet it. In short, public safety on Montana's reservations is not possible without a serious commitment from federal and tribal investigators and the U.S. Attorney's Office.

Unlike other parts of the state in which county attorneys have the responsibility, in Indian Country cases, federal prosecutors are tasked with evaluating proof and making charging decisions on homicides, child sexual abuse, rape, manslaughter, involuntary manslaughter, burglary, assaults resulting in serious bodily injury, child abuse, aggravated domestic violence, and arson.

In October, I distributed a new case tracker form to tribal judges, tribal prosecutors, tribal councils, social service agencies on the reservations, and tribal law enforcement. In order to make sure that potential federal crimes are fully investigated, I have asked all of these individuals to submit the case tracker to my office with all relevant information about the crime, the victim, and the alleged perpetrator. I am hopeful that such a form will ensure that all criminal matters are investigated and people with relevant information about crimes will provide it for my officer to reconcile with the reports provided by federal investigators.

### **Drug Trafficking Organizations**

With the exception of a broader responsibility on Montana's Indian Reservations, the goal of federal drug enforcement is to dismantle drug trafficking organizations. In other words, a substantial percentage of the cocaine, heroin, methamphetamine, ecstasy, and marijuana supply in Montana comes from outside the state (and, oftentimes, the country) and is financed and transported here by organizations. While we prosecute Montanans involved in wholesaling and retailing the dope, our primary goal is to disrupt the organizations by prosecuting their leadership

and seizing their assets.

Unlike most federal crimes, drug offenses often carry mandatory minimum penalties. If significant drug quantities are attributable to the defendant and/or he has a significant criminal history, the minimum penalty may require imprisonment for a large number of years. Virtually the only way to get a sentence less than the mandatory minimum is to provide substantial assistance to the government in the form of the disclosure of significant facts regarding the drug conspiracy in question heretofore unknown to the government or other criminal activity of interest to the government.

Ten multijurisdictional drug task forces made up of state and local investigators work closely with the seven DEA agents and other federal agents in the FBI and ICE to combat the drug supply. The task forces rely on federal financial support from DOJ's Bureau of Justice Assistance and the Rocky Mountain High Intensity Drug Trafficking Area (HIDTA).

### **Economic Crimes**

White collar crimes are among the most difficult to investigate and prosecute given the volume of documents and the complexity of some of the schemes. These investigations are often costly because of these factors and the duration of the investigations.

We have developed a specialty in economic crimes prosecutions. Be it securities fraud, federal program fraud, health care fraud, or identity theft, the U.S. Attorney's Office and a number of federal agencies have an interest and the capacity to pursue these cases.

Deterrence is more viable in this category than any other. A greater number of those who commit economic crimes are rational actors who are capable of modifying their behavior if they believe incarceration is probable if their crime is detected. Among these offenders, many believe they are too smart to be detected and/or investigators and prosecutors are not smart enough to detect them. If detected, they believe that it is possible to avoid a criminal charge, either because the crime is non-violent or all will be forgiven if they pay back the proceeds of their crime. If charged, many believe that a jury will not find an intentional act or will be confused by the facts. If convicted, many believe that a sentence of incarceration will not be imposed by the judge because it is not a violent crime, or they have made important contributions to the community or the like. We impair community confidence in the administration of justice with such sentences.

### **Illegal Aliens**

Without exception, my office has for the past six years prosecuted any illegal alien found in Montana who had been deported or administratively removed from the United States in the past. While the United States incurs costs associated with detention and incarceration of illegal aliens, we have attempted to articulate with clarity that an illegal alien who has re-entered the United States and is found in Montana will be charged and convicted of a crime, incarcerated,

and again removed.

### **Project Safe Childhood**

DOJ's national initiative to combat on-line predators, child pornography, and those who fail to register as sex offenders is the most significant new priority in the last three years.

The prosecution of child pornography offenses (possession, receipt, distribution, and/or production) and on-line predators ("travelers") has been a priority targeted by PSC given the compelling research on the sexual offense histories of those convicted of child pornography offenses. Dr. Andres E. Hernandez, Director of the Sex Offender Treatment Program in the Federal Correctional Institution in Butner, North Carolina, published a study in 2000. In his paper, "Self-Reported Contact of Sexual Offenses by Participants in the Federal Bureau of Prisons' Sex Offender Treatment Program: Implications for Internet Sex Offenders," Dr. Hernandez revealed that 76% of offenders convicted of child pornography/traveler crimes had committed contact sexual offenses. Moreover, each child pornography/traveler offender on average had 30.5 contact sexual offense victims.

To combat on-line predators, we continue to investigate large numbers of individuals who use the Internet to attempt to entice and coerce children to engage in sex.

In the Adam Walsh Act, Congress created a new crime for individuals who go from one state to another and fail to register as a sex offender in the receiving state. For those who are required to register as sex offenders based upon past criminal conduct, the law also makes it a crime for an individual to enter and remain in Indian Country without registering as a sex offender.

#### **Internet Crimes Against Children (ICAC) Task Force**

With the announcement of a \$200,000 award by the U.S. Department of Justice's Office of Justice Programs to the Billings Police Department as an ICAC task force grantee in late 2007, Montana has gained a full-time investigator in Helena, a ICAC task force coordinator in Billings, and 18 affiliated local law enforcement agencies.

#### **Prevention of On-Line Predation Through Outreach and Education For Kids and Adults**

In 2009, we will work closely with our state and local law enforcement partners to bring the message of safe Internet practices to kids and their parents and grandparents alike.

### **Project Safe Neighborhoods**

In 2001, the Department of Justice launched PSN to combat gun violence through the investigation and prosecution of felons in possession of firearms or individuals in possession of

illegal weapons (e.g., sawed-off shotguns). In short, working with the Bureau of Alcohol, Tobacco, and Firearms (ATF) and our state and local partners, we have focused our investigations and prosecutions on individuals with significant criminal histories and the propensity to commit other drug and violent crimes.

The principle behind the program is straightforward: vigorous enforcement of existing gun laws designed to keep firearms out of the hands of felons will improve public safety and demonstrate that additional gun control is unwarranted.

Working closely with probation officers, police officers, and sheriffs' deputies, ATF has worked up cases against a number of recidivists.

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### **Goals of Punishment**

- Since 1984, defendants convicted of federal crimes have been sentenced pursuant to sentencing guidelines. Before a decision by the United States Supreme Court in 2005, district courts were required to sentence defendants pursuant to the guidelines. The case converted the guidelines so that now they are merely advisory.
- Before a judge imposes sentence, the Sentencing Reform Act of 1984 requires him to consider whether the sentence will (1) promote respect for the law, (2) deter others from committing the same type of crime, (3) deter the defendant from committing other crimes, (4) protect the public from further crimes of the defendant, (5) rehabilitate the defendant, (6) reflect the seriousness of the offense, (7) provide just punishment, (8) provide restitution, and (9) avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.
- Either the defendant or the United States may appeal an unreasonable sentence.
- Parole is not available in the federal criminal justice system. Although defendants may receive credit for good behavior while incarcerated, no less than 85% of a term of incarceration must be spent in the custody of the Federal Bureau of Prisons.

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### **Emerging Trends**

Prescription Drug Abuse

Financial Exploitation of the Elderly