

**ATTORNEY GENERAL**  
**STATE OF MONTANA**

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Attorney General



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**Montana Attorney General's Office**

**QUARTERLY REPORT**

**For Period Ending June 2015**

Re: MOU/Agreement Requirements between the Montana  
Attorney General, the US Department of Justice and the Missoula  
County Attorney's Office.

**Montana Attorney General's Office**  
**QUARTERLY REPORT**  
**JUNE 2015**

**TABLE OF CONTENTS:**

- Introduction from MT Attorney General Tim Fox.....p.
- Outline of Work Conducted Pursuant to the MOUs in the Reporting Period.....p.
- Outline of Compliance Updates.....p.
- Outline of Aggregate Data Analysis.....p.
- Conclusion.....p.
- Attached Exhibits 1-4:
  - Exhibit 1, Victim Advocate Survey
  - Exhibit 2, Spreadsheet of Cases Referred to MCAO for Prosecution, June 2014-June 4 2015
  - Exhibit 3, Spreadsheet of Cases Referred to MCAO for Review Only, June 2014-June 4 2015
  - Exhibit 4, Letter from Technical Advisor, Anne Munch, June 23, 2015

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### AN INTRODUCTION FROM TIM FOX, ATTORNEY GENERAL OF MONTANA

A little over one year ago, on June 10, 2014, I signed a memorandum of understanding (MOU)<sup>1</sup> with Missoula County, the Missoula County Attorney's Office (MCAO), and the United States Department of Justice (USDOJ) resolving USDOJ's investigation of the MCAO's handling of sex assault prosecutions. This MOU outlined a cooperative agreement between the Montana Attorney General's Office (MTAGO) and the MCAO to ensure the success of the MCAO's efforts to improve its response to sexual assault. My office provided the first, semi-annual report to the USDOJ in December 2014 and we published the first quarterly report in January 2015. The first and second quarterly reports are available here:

<https://dojmt.gov/agooffice/missoula-county-agreement>

I am now pleased to present to the public our third quarterly report covering progress and compliance with the agreements through June 4, 2015. One of the more notable accomplishments since the second quarterly report include the MCAO's creation of a new Investigative Specialist position. This prosecutor will be assigned to work in the MPD and to advise the MPD on investigations, subpoenas, warrants, and charging decisions in sex assault cases. This prosecutor

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<sup>1</sup> This and the other MOUs are attached to the First Quarterly Report, available here at <https://dojmt.gov/wp-content/uploads/Quarterly-Report-January-2015.pdf>.

should help increase the efficiency of sex assault investigation and charging decisions and may serve as a model for other prosecution offices in Montana.

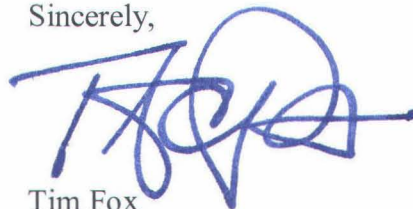
We are also in the initial planning stages of developing a multi-disciplinary team to work on developing, training, and implementing best practices in sex assault investigations, prosecution, and victim advocacy in Montana's communities.

Finally, we are working closely with the MCAO office to develop a more formalized process to review declined cases. This process will create documented feedback on declined cases to both investigators and prosecutors to improve both aspects of case work in future cases, where appropriate.

We have attached the letter written to our office from our technical advisor as an exhibit to this report and I am pleased to hear from my staff that all her recommendations are being implemented. We will update progress on her recommendations in the next report.

I look forward to continuing cooperation with the MCAO and the USDOJ on this matter and other efforts to bring Montana to the forefront of sex assault prosecutions.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Tim Fox', with a large, stylized loop at the end.

Tim Fox

**WORK CONDUCTED PURSUANT TO THE MOU'S IN THE REPORTING  
PERIOD – March 2, 2015 through June 4, 2015**

**COMPLIANCE UPDATES**

On June 30, 2015, a representative from the MT AGO's Prosecution Services Bureau (PSB), met telephonically with Missoula County Attorney Kirsten Pabst, Criminal Chief Deputy Jason Marks and Technical Advisor Anne Munch. Two weeks prior to this meeting, the MCAO had provided the MT AGO with the data described in the Monitoring and Compliance Plan, including a list of training and the updated Sexual Assault Case Data Forms. Having reviewed these materials, the MT AGO and MCAO discussed the reporting points outlined in the Monitoring and Compliance plan. The MT AGO followed up with specific queries on several particular cases. Finally, the MT AGO received a letter from the technical advisor, Anne Munch, dated June 23, as attached as Exhibit 4. The letter summarizes progress on compliance with the various MOUS and provides recommendations for further action. This letter will be used as a guide for planning compliance work in the upcoming quarter. Progress on Ms. Munch's recommendations will be reported in the next quarterly report.

The following is a summary of the updates provided by the MCAO to the MT AGO in order of the subject topics provided in the Monitoring and Compliance Plan.

***I. Changes, if any, to policies and guidelines for handling sexual assault cases:***

- There have been no changes during this reporting period.

***II. A list and description of any Sexual Assault related trainings conducted or attended by MCAO attorneys and supervisors, including victim advocates, the MPD or MSO since the last Quarterly Report:***

- Jen Clark conducted a Quarterly In-Service training with the MCSO Deputies, entitled, *Overcoming Rape Myths*. Materials have been provided to the AG and will be forwarded to USDOJ under a separate cover letter.
- Kirsten Pabst attended a Webinar entitled, *Trauma-Informed Practice Scales for DV Programs*. No materials were provided.
- All four SVU attorneys attended the Sexual Assault Investigation Through Prosecution training in Helena on March 2.
- Suzy Boylan participated as a panelist at the YWCA Advocate Training on March 4.

- Jen Clark and Suzy Boylan went to EVAWI [End Violence Against Women International] April 7-9 in New Orleans. Topics included Impact of Sexual Violence and Trauma; Contesting "He said, She said" Defense; Sexual Assault on College Campuses, Ethical Considerations in Special Victims Prosecution; Effective Strategies for Engaging Victims of Crime; Providing Law Enforcement with Information to Hold Sexual Offenders Accountable; Improving Investigations and Prosecutions of Alcohol Facilitated Sexual Assault; and Sexual Predators.
- Kirsten Pabst spoke to the Missoula Breakfast Club on April 21 and then to Kiwanis club on April 23 about our SVU unit and our new initiatives to combat sexual assault.
- Anne Munch and Ole Olson visited the MCAO on May 4, 5 and 6 and worked with our SVU on case review, building better cases and strategically dealing with rape myths at trial.
- Suzy Boylan spoke at the SANE training at St. Patrick's Hospital on May 20

**III. *A list of the designated sex assault prosecutors, supervisors, and in-house victim advocate: (\* Indicates there has been a change since the last Quarterly Report.)***

- SVU Supervisor: Jason Marks
- SVU Attorneys: Jen Clark, Suzy Boylan, Jordan Kilby, & Brian Lowney
- Jordan Kilby is the newly assigned "Investigative Specialist."\*
- Victim Witness Coordinator: Cathy Dorle

**IV. *Changes, if any, to MOU's between MCAO and MPD and MCSO since the last Quarterly Report:***

- None.

**V. *Current Sex Assault Case Data Forms on all sex assault cases referred to MCAO for charging or review. Data forms show new referrals and/or changes in status of previous referrals since the last Quarterly Report:***

- The MCAO forwarded all current Sex Assault Case Data Forms to the AG.

**VI. *Updates as to participation and/or results of Missoula's sex assault safety and accountability audit and the victim and advocate survey through the University of Montana and MPD.***

- The Missoula County Sexual Assault Safety and Accountability Audit report was released on May 1. The MCAO is participating in discussions regarding gaps in the audit and the way forward with suggestions.
- Victim Advocate Survey: This survey officially began the week of June 29, 2015. The final victim survey questions are attached as Exhibit 1. This survey will be administered by a phone interview after any and all sexual assault cases are closed. The MCAO reports that the University of Montana Sociology Department will conduct research based on the results. Data from these surveys will be made available to the MT AGO and the USDOJ.

***VII. Status update on the Special Victims Unit process at the MPD:***

- The MCAO has assigned Jordan Kilby to the MPD to act as an in-house “investigative specialist” at the MPD. Her duties will be to provide advice to the MPD SVU detectives on active investigations, reviewing search warrants and subpoenas related to those investigations, and work in real time with detectives to decide when a case under investigation is ready to be charged.

***VIII. Status update on MCAO involvement with law enforcement and community partners and update on community education efforts:***

- As noted above, Jen Clark conducted an in service training with Sheriff’s deputies during this reporting period.
- The MCAO and MT AG have made preliminary plans for the formation of a Multi-disciplinary team that would develop and disseminate best practices for community-wide response to sexual assault investigation, prosecution, and advocacy. The parties plan to conduct an initial meeting in September with community partners, with Anne Munch as the coordinator. Members on the team are expected to include prosecution, law enforcement, victim advocacy representatives, members of the medical community, and representatives from the University of Montana.

***IX. Status of the \$10,000 Expert Witness fees fund:***

The fund has been used to pay the following experts in sexual assault cases tried this past Quarter:

- Nothing new in this reporting period.

***X. Review of all MCAO files for all declined sexual assault cases since the prior Quarterly report, if any:***

- One case was declined during this reporting period. The case has been received and reviewed by the AG and the Technical advisor. The AGO is preparing feedback for the MPD and the MSCO on this case pursuant to a more formalized case review and feedback policy to be rolled out in the coming quarter.

### **AGGREGATE DATA ANALYSIS**

The MOU between the MT AGO and MCAO<sup>2</sup> contemplates that the MT AGO will provide in this quarterly report “an analysis of collected data from the MCAO and a report on all measurable improvements in the response to allegations of sex assault.” For purposes of this report, the Data analyzed will include those items listed on page 3 of the MOU between the MCAO, MT AGO and USDOJ, which includes the Aggregate Data on Sex Assault cases from June 2014 through March 1, 2015, specifically including:

- The number of sexual assault cases referred for review by local law enforcement to MCAO;
- The number of sexual assault cases charged by MCAO;
- The disposition of charged sexual assault cases;
- The number of sexual assault cases in which additional investigation was requested of local law enforcement;
- The number of victims of sexual assault who have utilized the services of the in-house victim witness-coordinator.

As a pre-requisite to gathering this Aggregate Data and as a way to monitor compliance in particular cases, the MCAO also is providing the MT AGO with the following case specific data as outlined in the Monitoring and Compliance Plan (March, 2015 report, Exhibit 2):

- Copies of all Current Sex Assault Case Data Forms on all cases referred to MCAO for charging or review since the last Quarterly Report.

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<sup>2</sup> All the MOUs referenced in this report are attached as Exhibit to the First Quarterly Report, available here at <https://dojmt.gov/wp-content/uploads/Quarterly-Report-January-2015.pdf>.

- Copy of the complete files for all declined sex assault cases, if any, since prior Quarterly report.
- Data on sexual assault cases, organized by Defendant name and Case Number, which includes:
  - Referral type: review or charging.
  - Decision made
  - Disposition
  - Sentence
  - The following dates and time spans: Date of referral, Date of any request for further investigation; Date of prosecution decision; Date of meeting with victim; Date of meeting with advocate; Date of plea offer; Date of Disposition.

The Aggregate Data provided by the MCAO is presented in attached Exhibits 2 and 3. Exhibit 2 represents cases referred for a charging decision from June 2014 through March, 2015. Cases referred for a charging decision are cases where law enforcement feels it has completed investigation and that there is probable cause to charge the case.

Exhibit 3 represents cases referred from June 2014 through June 4, 2015 for “review only.” Cases referred for “review” are cases “where, in the eyes of the MPD detective, the investigation has not developed probable cause necessary for arrest and prosecution.”<sup>3</sup> The assigned prosecutor reviews that investigation and either agrees with the law enforcement decision to make the case inactive or refers the case back for further investigation.

We note that the sub-categories of “cases referred for review,” which includes cases where victims declined to participate, should not be read to imply that the MPD or the MCAO or the MT AGO considers a victim’s decision to cooperate with the case as a pre-requisite for probable cause to arrest or sufficient evidence to charge. Regardless of the way that these cases are referred to the MCAO, all the cases are subjected to the same substantive review by a prosecutor to determine whether the case should be charged, declined, or referred for further investigation. The victim’s decision to participate is only one of the many factors that play into the prosecutor’s decision, and does not necessarily foreclose the possibility of charging the case.

### ***I. Comparative Analysis of Cases Referred for Charging Decisions:***

An analysis of the aggregate data for cases referred for a charging decision is provided

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<sup>3</sup> Memorandum of Understanding Between Office of the Missoula County Attorney’s Office and the City of Missoula Police Department (Dec. 13, 2013), at p.2.

below in Tables 1 and 2. Table 1 is based on data compiled in the first quarterly report (June 2014 through November 2014). Data gathered for the second quarterly report (November, 2014 through March 1, 2015) indicates that no cases were referred for charging in the reporting period ending March 1, 2015. Table 2 is based on the Data compiled during the current reporting period of March 2, 2015 through June 4, 2015. Three cases were referred for charging in the current reporting period. As of June 4, 2015 none had been charged. One has been declined for prosecution, one has been referred for further investigation, and the MCAO has offered a pre-charge plea agreement on the third.

According to the MCAO Sex Assault Manual there is no specific deadline for making a charging decision on cases referred for prosecution or meeting with the victim. The manual states at pages 19 to 20 that the prosecution should make contact with the investigator within two weeks of referral and emphasizes that communications with victims is of paramount importance. While the number of cases reported in this period are few, the cases that have been reported show improvement in the time elapsed between referral and first contact with the victim. The time between referral and charging remains at an average of less than 30 days, and the longest time between referral and charging was significantly less than this reporting period as compared to prior reporting period. We expect that the charging decisions will become quicker with the placement of the “investigative specialist” at the MPD.

**Table 1: Analysis of Sex Assault Cases Referred for a Charging Decision  
Between June 2014 and November 25, 2014 (Exhibit 2).**

|                                                             |                |
|-------------------------------------------------------------|----------------|
| SA Cases Referred to MCAO for Charging by MPD and MCSO      | 10             |
| SA Cases Charged by MCAO                                    | 8              |
| SA Cases Referred for Further Investigation by MCAO         | 1              |
| SA Cases Declined by MCAO                                   | 1              |
| SA Cases in Which Prosecutor Made Contact with Victim       | 8 <sup>4</sup> |
| Average Time Between Referral and First Contact with Victim | 35 days        |

<sup>4</sup> Regarding the two cases in which the victim was not contacted, one victim was unable to be reached despite attempts by the Detective and Crime Victim Advocate. The other victim had not been contacted at the time of this report.

|                                                              |           |
|--------------------------------------------------------------|-----------|
| Longest Time Between Referral and First Contact with Victim. | 147 days  |
| Shortest Time Between Referral and First Contact with Victim | 0 days    |
| Average Time Between Referral and Charging Decision          | 21.4 days |
| Longest Time Between Referral and Charging Decision          | 70 days   |
| Shortest Time Between Referral and Charging Decision         | 0 days    |

**Table 2: Analysis of Sex Assault Cases Referred for a Charging Decision  
March 1, 2015 through May 31.**

|                                                              |         |
|--------------------------------------------------------------|---------|
| SA Cases Referred to MCAO for Charging by MPD and MCSO       | 3       |
| SA Cases Charged by MCAO                                     | 0       |
| SA Cases Referred for Further Investigation by MCAO          | 1       |
| SA Cases Declined by MCAO                                    | 1       |
| SA Cases in Which Prosecutor Made Contact with Victim        | 3       |
| Average Time Between Referral and First Contact with Victim  | 28 days |
| Longest Time Between Referral and First Contact with Victim. | 55 days |
| Shortest Time Between Referral and First Contact with Victim | 9 days  |
| Average Time Between Referral and Charging Decision          | 27 days |
| Longest Time Between Referral and Charging Decision          | 38 days |
| Shortest Time Between Referral and Charging Decision         | 16 days |

## ***II. Comparative Analysis of Cases Referred for “review only”:***

An analysis of the aggregate data for cases referred for “review only” is provided below in Tables 3, 4 and 5. Table 3 includes data collected from June 2014 through November 2014 for the first quarterly report. Table 4 includes all data gathered collected from November 2014 through March 1, 2015 for the second quarterly report. Table 5 includes all data collected from March 2, 2015 through June 4, 2015 for this third quarterly report.

The Sex Assault Policy and Procedure Manual, at page 19 through 21, provides that cases referred to MCAO for “review only” should be reviewed by a prosecutor within one month of referral. For the first quarterly report (period ending November 2014), only 6 out of the 16 (or 38%) of cases referred for review were reviewed within 30 days. For the second quarterly report (period ending March 1, 2014), 6 out of the 9 cases (or 67%) of cases were reviewed within the 30 day window.<sup>5</sup> For the current reporting period 6 out of 6, or 100% of the cases, were reviewed within the 30 day window.

**Table 3: Analysis of Sex Assault cases Referred for “Review Only”  
(Exhibit 3--June 2014 through November 25, 2014)**

|                                                                              |           | Average Time<br>Between<br>Referral and<br>Decision<br>(Days) | Cases in Which<br>CA Agreed with<br>Investigator | Cases in Which<br>CA Referred<br>Back for<br>Further<br>Investigation | Cases in<br>Which the<br>CA’s<br>Review is<br>Pending |
|------------------------------------------------------------------------------|-----------|---------------------------------------------------------------|--------------------------------------------------|-----------------------------------------------------------------------|-------------------------------------------------------|
| Total SA Cases<br>Referred for<br>Review                                     | <b>16</b> | 40                                                            | 12                                               | 4                                                                     | 0                                                     |
| SA Cases<br>Referred for No<br>PC                                            | <b>9</b>  | 41                                                            | 7                                                | 2                                                                     | 1                                                     |
| SA Cases<br>Referred Where<br>Victim Declined<br>to Participate <sup>6</sup> | <b>8</b>  | 40                                                            | 5                                                | 3 <sup>7</sup>                                                        | 0                                                     |

<sup>5</sup> At the time of the March 1, 2015 data, review was still pending in 4 cases and it is possible that subsequent data will show that that review will have been completed in less than 30 days or more than 30 days.

<sup>7</sup> The reasons for referring a case back for further investigations are varied. In one case the CA made contact with the victim and the victim decided to participate. Even where the victim has declined to participate, the CA will sometimes want to insure the timely collection of ephemeral evidence in the event the victim decides to later participate.

**Table 4: Analysis of Sex Assault cases Referred for “Review Only”  
(Exhibit 3--November 26, 2014 through March 1, 2015)**

|                                                                 |           | Average Time<br>Between<br>Referral and<br>Decision<br>(Days) | Cases in Which<br>CA Agreed with<br>Investigator | Cases in Which<br>CA Referred<br>Back for<br>Further<br>investigation | Cases in<br>Which the<br>CA’s<br>Review is<br>Pending |
|-----------------------------------------------------------------|-----------|---------------------------------------------------------------|--------------------------------------------------|-----------------------------------------------------------------------|-------------------------------------------------------|
| Total SA Cases<br>Referred for<br>Review                        | <b>13</b> | 16                                                            | 2                                                | 7                                                                     | 4                                                     |
| SA Cases<br>Referred for No<br>PC                               | <b>5</b>  | 19                                                            | 1                                                | 2                                                                     | 2                                                     |
| SA Cases<br>Referred Where<br>Victim Declined<br>to Participate | <b>4</b>  | 4                                                             | 1                                                | 3 <sup>8</sup>                                                        | 0                                                     |

**Table 5: Analysis of Sex Assault cases Referred for “Review Only”  
(March 2, 2015 through June 4, 2015)**

|                                                                 |          | Average Time<br>Between<br>Referral and<br>Decision<br>(Days) | Cases in Which<br>CA Agreed with<br>Investigator | Cases in Which<br>CA Referred<br>Back for<br>Further<br>investigation | Cases in<br>Which the<br>CA’s<br>Review is<br>Pending |
|-----------------------------------------------------------------|----------|---------------------------------------------------------------|--------------------------------------------------|-----------------------------------------------------------------------|-------------------------------------------------------|
| Total SA Cases<br>Referred for<br>Review                        | <b>6</b> | 19                                                            | 4                                                | 2                                                                     | 0                                                     |
| SA Cases<br>Referred for No<br>PC                               | <b>3</b> | 25                                                            | 1                                                | 2                                                                     | 0                                                     |
| SA Cases<br>Referred Where<br>Victim Declined<br>to Participate | <b>4</b> | 15.25                                                         | 3                                                | 1                                                                     | 0                                                     |

<sup>8</sup> The reasons for referring a case back for further investigations are varied. In one case the CA made contact with the victim and the victim decided to participate. Even where the victim has declined to participate, the CA will sometimes want to insure the timely collection of ephemeral evidence in case the victim decides to later participate.

## **CONCLUSION**

The MT AGO concludes on the basis of the data collected and discussions with the MCAO and Technical Advisor that the MCAO continues to make significant substantive improvements in way MCAO handles sex assault cases. Specifically, data from the current reporting period makes it clear that all cases referred for review are being reviewed within the 30 day deadline. We continue to see an opportunity for improvement for quicker decision making and victim contact on cases referred for charging. We expect that the MCAO's assignment of an investigative specialist will improve this metric.

Thank you for agreeing to answer a few brief questions. I would like to talk with you about your experience with the Missoula County Attorney's Office. I appreciate any information that you are willing to provide. It is important to recognize that your participation is voluntary. You may skip any question(s) that you do not feel comfortable answering. Your responses to the survey questions will be kept strictly confidential. At no point will your name and/or identity be connected with this survey and the answers that you provide. In other words, prosecutors will not know who has taken the survey or who has provided a particular answer. The information that your answers provide is important to us, and we ask that you answer candidly. Your answers will be used to identify key issues and will provide a basis for informing future efforts to, where needed, reform and improve the responses of prosecutors to victimization reports.

**1. Did a prosecutor from the Missoula County Attorney's Office meet or offer to meet with you to discuss whether or not charges would be filed in your case?**

☐ No

☐ Yes ----- *If yes, please answer Question 1a before answering Question 2.*

1a. If yes, did the prosecutor give a good explanation as to why the Missoula County Attorney's Office decided to file or not file charges?

☐ No

☐ Yes

Comments:

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**2. Did the Missoula County Attorney's Office file any charges in your case?**

☐ No ----- *If no, skip ahead to question 12.*

☐ Yes ----- *If yes, continue with the rest of the survey.*

**3. If the case was charged, did you meet with the prosecutor in person?**

☐ No

☐ Yes-----If yes, answer questions 3a and 3b before answering question 4.

3a. If yes, how many times did you meet in person with the prosecutor?

☐ 1 or 2

☐ 5 or 6

☐ 3 or 4

☐ more than 6

3b. Did you meet in person with the prosecutor before the case was charged?

☐ No

☐ Unsure

☐ Yes

**4. At what stage(s) of the case did you meet with the prosecutor in person?**

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**5. Did you meet or speak with an advocate or the Victim/Witness Coordinator before the case was charged?**

☐ No

☐ Yes

**6. Did you meet or speak with the prosecutor and/or Victim/Witness Coordinator by phone while the case was pending?**

☐ No

☐ Yes ----- If yes, answer Question 6a.

6a. How many times did you meet or speak with the prosecutor and/or Victim/Witness Coordinator by phone while the case was still pending?

☐ 1 or 2

☐ 5 or 6

☐ 3 or 4

☐ more than 6

**7. Did you have to go to court for a pre-trial hearing, trial or sentencing hearing?**

☐ Yes

☐ No

☐ Unsure

**8. Did the prosecutor prepare you for court?**

☐ Yes

☐ No

☐ Unsure

Comments:

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**9. Did the prosecutor describe the prosecution process to you?**

☐ Yes

☐ No

☐ Unsure

Comments:

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**10. Did the prosecutor inform you of your rights as a victim in the following stages of the case?**

*a. Investigative*

- ☐ Yes
- ☐ No
- ☐ Unsure
- ☐ N/A

*b. Pretrial*

- ☐ Yes
- ☐ No
- ☐ Unsure
- ☐ N/A

*c. Trial*

- ☐ Yes
- ☐ No
- ☐ Unsure
- ☐ N/A

*d. After Trial/Sentencing*

- ☐ Yes
- ☐ No
- ☐ Unsure
- ☐ N/A

Comments:

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**11. If the case was charged by the Missoula County Attorney's Office, what was the result?**

- ☐ Plea agreement for the charged offense
- ☐ Plea agreement for a reduced charge
- ☐ Convicted at trial
- ☐ Acquitted at trial
- ☐ Hung jury
- ☐ Dismissed
- ☐ Other
- ☐ Unsure
- ☐ Case is still pending

**12. Do you have any final comments about your interactions with the Missoula County Attorney's Office?**

Comments:

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| LE Case Number            | Pre-referral Consult | Date Referred | Referred back before charging decision | Decision - 1)charged, 2) declined, 3)referred for investigation              | Date of Decision | Time Between Referral/ rereceipt and Decision | Date of first contact with Victim or CVA                                                                                                                                                                | Time between referral and first contact with victim or CVA     | Initial Plea Offer                                                                                     | Date of Initial Plea Offer | Time between charging/meeting and plea offer                                                    | Case Disposition                                                          | Sentence                                          | Time between initial offer and disposition | Time between referral and disposition | Time between charging and disposition | Victim Witness Corrdinator involved |
|---------------------------|----------------------|---------------|----------------------------------------|------------------------------------------------------------------------------|------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------|--------------------------------------------|---------------------------------------|---------------------------------------|-------------------------------------|
| 2014-12873                | Yes                  | 9/23/2014     | No                                     | Charged - DC-14-527                                                          | 9/24/2014        | 1 day                                         | 10/23/2014                                                                                                                                                                                              | 30 days                                                        | 30 MSP w/ 15 susp (waiting for victim approval before sending)                                         | 2/11/2015                  | Charging: 4 mo. 18 days, Contact: 3 mo. 17 ays                                                  | Trial: 8/10/15                                                            |                                                   |                                            |                                       |                                       | No                                  |
| 2014-1661                 | Yes                  | 6/11/2014     | Yes                                    | Charged CR-2014-12687-C1                                                     | 10/20/2014       | 3 mo 9 days                                   | 7/25/2014                                                                                                                                                                                               | 40 days                                                        | 40 years MSP                                                                                           | 1/28/2014                  | Charging: 3 mo. 19 days, Contact: 6 mo. 3 days                                                  | Defendant to be evaluated at Montana State Hospital: Order 6/3/15         |                                                   |                                            |                                       |                                       | Yes                                 |
| 2014-4203                 | Yes                  | 6/12/2014     | No                                     | Declined - Victim would not respond to correspondence from detective and CVA | 6/17/2014        | 4 days                                        | Detective and advocate unable to contact victim. Call to victim advocate 6/24/2014                                                                                                                      | 12 days                                                        | N/A                                                                                                    | N/A                        | N/A                                                                                             | N/A                                                                       | N/A                                               | N/A                                        | N/A                                   | N/A                                   | No                                  |
| 2014-20800                | Yes                  | 8/8/2014      | No                                     | Charged - DC-14-436                                                          | 8/8/2014         | 0 days                                        | 10/21/2014                                                                                                                                                                                              | 2 months 13 days                                               | 25 with 15 suspended MSP                                                                               | 10/29/2014                 | Charging: 2 months 21 days; Contact: 8 days                                                     | Pleaded Guilty- 12 years all suspended subject to exception to man min.   | Sentencing: 3/11/2015: 12 years with 10 suspended | 4 mo. 10 days                              | 7 mo. 3 days                          | 7 mo. 3 days                          | No                                  |
| 2014-29367                | No                   | 9/29/2014     | No                                     | Charged - DC-14-530                                                          | 9/29/2014        | 0 days                                        | CVA - 9/29/2014<br>VICTIM - 9/29/2014                                                                                                                                                                   | CVA - 0 DAYS<br>VICTIM - 0 DAYS                                | Met with victim 2.25.15 to discuss possible plea offers came up with offer: 20 years MSP, 12 suspended | 2/27/2015                  | charging: 151 days; first meeting: 151 days                                                     | defendant pleaded guilty; PSE being completed; SENT set for 9/3/2015      |                                                   |                                            |                                       |                                       | No                                  |
| 2014-35246                | No                   | 11/5/2014     | Ongoing                                | Charged - DC-14-598                                                          | 11/6/2014        | 1 day                                         | 11/7/2015 - Victim did not show up for meeting, called her and spoke with her over the phone, she did not want to come in at that time. Met with her finally on 3/4/2015 when her father brought her in | 2 days                                                         | Defendant has been clear he will not plead to SIWOC, no offer                                          |                            |                                                                                                 | Trial: 10/5/2015                                                          |                                                   |                                            |                                       |                                       | Yes                                 |
| 2014-35246 (co-defendant) | No                   | 11/5/2014     | Ongoing                                | Charged -DC-14-599                                                           | 11/6/2014        | 1 day                                         | 11/7/2015 - Victim did not show up for meeting, called her and spoke with her over the phone, she did not want to come in at that time. Met with her finally on 3/4/2015 when her father brought her in | 2 days                                                         | Tier 1: 20 with 10 suspended, Tier 2: 30 with 10 suspended, Tier 3: 40 with 20 suspended               | 3/6/2015                   | Charging: 4 months. Meeting: 2 days                                                             | Pleaded guilty and agreed to testify 4/1/2015. 20 years with 18 suspended |                                                   |                                            |                                       |                                       | Yes                                 |
| 2014-14691/2014-15207     | No                   | 7/9/2014      | No                                     | Charged DC-14-373                                                            | 7/10/2014        | 1 day                                         | CVA - 07/15/2014<br>VICTIM - voicemail: 8/6/2014; meeting: 08/20/2014                                                                                                                                   | CVA - 5 DAYS, VICTIM - phone: 27 days, meeting 1 month 10 days | 20 with 10* suspended MSP, 6 months, 6 months, unless eval comes back as tier 2 or 3                   | 11/21/2014                 | Charging: 4 months 11 days; Contact: 3 months 1 day (however, requests made through CVA 5 days) | Pleaded Guilty                                                            | Sentence 2/24/15: 30 years with 15 suspended MSP  | 3 mo. 3 days                               | 7 mo. 15 days                         | 7 mo. 14 days                         | Yes                                 |



The cases below were referred to the Missoula County Attorney's Office by law enforcement for review only. Cases referred for review only are cases in which the investigator has determined that probable cause for a charge does not exist, no suspect has been identified and all leads have been exhausted, or the victim has requested that the investigation be discontinued. The assigned prosecutor reviews that investigation and either agrees with the law enforcement decision to make the case inactive or refers the case back for further investigation.

| LE Case Number | Pre-referral consult | Date Referred for review | Reason for review only                    | Decision - 1)review complete - agree with assessment or 2) review complete - referred for further investigation | Date of Decision | Time Between Referral and Decision |  |
|----------------|----------------------|--------------------------|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------|------------------------------------|--|
| 2014-854       | yes                  | 7/8/2014                 | No PC for charges                         | review complete - agree                                                                                         | 9/8/2014         | 2 months                           |  |
| 2014-11348     | yes                  | 7/9/2014                 | Victim discontinuation                    | review complete - agree                                                                                         | 7/29/2014        | 20 days                            |  |
| 2014-5100      | no                   | 7/25/2014                | No PC for charges                         | review complete - agree                                                                                         | 9/16/2014        | 1 month 22 days                    |  |
| P131012-010    | no                   | 6/18/2014                | No PC for charges; victim discontinuation | review complete - referred for further investigation - Review -complete agree                                   | 8/21/2014        | 2 months 4 days                    |  |
| 2014-2526      | yes                  | 6/20/2014                | Victim discontinuation                    | review complete - agree                                                                                         | 8/12/2014        | 1 month 22 days                    |  |
| 2014-3559      | ?                    | 6/23/2014                | No PC for charges                         | review complete - agree                                                                                         | 8/12/2014        | 1 month 19 days                    |  |
| 2014-6195      | yes                  | 7/15/2014                | Victim discontinuation                    | review complete - referred for further investigation                                                            | 11/13/2014       | 4 months 11 days                   |  |
| 2014-18539     | yes                  | 8/5/2014                 | Unable to contact victim                  | review complete - agree                                                                                         | 8/15/2014        | 10 days                            |  |
| 2014-8880      | yes                  | 8/5/2014                 | No suspect identified                     | review complete - agree                                                                                         | 8/12/2014        | 7 days                             |  |
| 2014-1341      | yes                  | 9/18/2014                | No PC for charges                         | review complete - agree                                                                                         | 10/20/2014       | 32 days                            |  |

|                            |     |            |                                               |                                                                                      |            |                 |  |
|----------------------------|-----|------------|-----------------------------------------------|--------------------------------------------------------------------------------------|------------|-----------------|--|
| 2014-26666                 | no  | 9/25/2014  | No suspect identified; victim discontinuation | review complete - agree                                                              | 11/14/2014 | 1 month 19 days |  |
| 2014-14419                 | no  | 9/29/2014  | No PC for charges                             | review complete - agree                                                              | 11/14/2014 | 1 month 14 days |  |
| 2014-14419                 | no  | 9/29/2014  | No PC for charges                             | review complete - agree                                                              | 11/14/2014 | 1 month 14 days |  |
| 2014-27553                 | yes | 10/30/2014 | No PC for charges; victim discontinuation     | review complete - agree                                                              | 10/31/2014 | 1 day           |  |
| 2014-2209/2014-2310        | no  | 8/26/2014  | No PC for charges                             | reviewed - referred for more investigation; Received report 2.26.15 - review pending | 9/19/2014  | 24 days         |  |
| S121126-013                | no  | 8/29/2014  | Victim discontinuation                        | reviewed - referred for more investigation                                           | 9/4/2014   | 5 days          |  |
| 2014-37431                 | ?   | 12/23/2014 | Victim discontinuation                        | reviewed - referred back because victim now wishes to proceed                        | 1/2/2015   | 10 days         |  |
| 2014-33668                 | yes | 12/19/2014 | No PC for charges                             | reviewed and met with victim on 2/3/15, referred for more investigation              | 2/9/2015   | 1 mo. 20 days   |  |
| 2014-12205/ UM: 1406-00221 | no  | 12/23/2015 | MPD wanted review while DNA being processed.  | reviewed - referred for more investigation                                           | 1/28/2015  | 1 month 5 days  |  |
| 2014-12205/ UM: 1406-00221 | no  | 12/23/2015 | MPD wanted review while DNA being processed.  | reviewed - referred for more investigation                                           | 1/28/2015  | 1 month 5 days  |  |
| 2014-31728                 | yes | 1/2/2015   | No PC for charges                             | reviewed - referred for more investigation                                           | 1/6/2015   | 4 days          |  |
| 2014-41168                 | no  | 1/5/2015   | No suspect identified; victim discontinuation | review complete - agree                                                              | 1/6/2015   | 1 day           |  |

|                      |     |           |                                                                |                                                                             |                                                                                |                   |  |
|----------------------|-----|-----------|----------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------|-------------------|--|
| 2014-37104           | yes | 1/29/2015 | Victim discontinuation                                         | reviewed and referred for more investigation. then, review complete - agree | referred back: 1/30/2015, complete: 2/26/2015                                  | 1 day and 28 days |  |
| 2015-1242            | yes | 2/2/2015  | No PC for charges; No suspect identified                       | review complete - agree                                                     | 2/5/2015                                                                       | 3 days            |  |
| 2015-1519            | no  | 2/10/2015 | No suspect identified                                          | review complete - agree                                                     | 3/20/2015                                                                      | 1 month 8 days    |  |
| 2014-39542           | no  | 2/11/2015 | Initially: Victim discontinuation rereferred for review: No PC | reviewed - referred for more investigation                                  | initially: 2/17/2015 referred back: 5/11/2015 after meeting with Anne Munch    | 6 days            |  |
| 2014-13070           | yes | 2/11/2015 | Reason for review only                                         | review complete                                                             | 2/27/2015                                                                      | 16 days           |  |
| 2015-4946, 2015-4985 | yes | 2/20/2015 | No PC for charges/unable to locate victim                      | review complete                                                             | reviewed 2/25/2015, but waited on finding victim and review complete 3/20/2015 | 5-30 days         |  |
| 2015-2668            | no  | 2/23/2015 | No suspect identified                                          | review complete                                                             | 4/1/2015                                                                       | 37 days           |  |

|            |     |           |                                                                   |                                                          |           |         |                                                                                                |
|------------|-----|-----------|-------------------------------------------------------------------|----------------------------------------------------------|-----------|---------|------------------------------------------------------------------------------------------------|
| 2014-12354 | no  | 3/6/2015  | No PC for charges, victim did not wish to pursue charges/recanted | reviewed and referred for more investiagion on 3/31/2015 | 3/31/2015 | 25 days | Referred back to MCAO after further investigation on 5/1/2015 and 2nd review complete 6/1/2015 |
| 2015-5041  | Yes | 3/24/2015 | No PC for charges                                                 | review complete/referred for further investigation       | 4/21/2015 | 27 days | Staffed with Anne Munch on 5/8/2015 and referred back for investigation on 5/22/2015           |
| 2015-9405  | Yes | 3/26/2015 | Victim discontinuation                                            | review complete                                          | 4/13/2015 | 18 days |                                                                                                |
| 2015-8222  | Yes | 4/1/2015  | Victim discontinuation                                            | review complete                                          | 4/6/2015  | 5 days  |                                                                                                |
| 2014-37546 | Yes | 4/14/2015 | Victim discontinuation                                            | review complete                                          | 4/27/2015 | 13 days |                                                                                                |
| 2015-14905 | no  | 5/11/2015 | No suspect identified                                             | review complete                                          | 6/4/2015  | 24 days |                                                                                                |

**Anne Munch Consulting, Inc.**

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June 23, 2015

Montana Attorney General Tim Fox  
1712 9<sup>th</sup> Ave.  
PO Box 201440  
Helena, MT 59620-1440

Dear Mr. Fox,

I am once again writing in my capacity as the Technical Advisor to your office pursuant to the agreements reached between the Department of Justice, The Montana Attorney General's Office and the Missoula County Attorney's Office as they relate to the handling of sexual assault cases and other related initiatives in Missoula, MT. Now that we are approaching the end of the first year of our work pursuant to the Memorandum of Understanding (MOU), this letter is to provide you with information on each aspect of the MOU and to outline the progress that has been made since my last letter to you as well as those areas where I see room for continued work and improvement.

As a reference, I will provide information by category as outlined in the "Agreement between the Montana Attorney General and The Missoula County Attorney's Office" (MOU)

**1. Development of policies and guidelines for sexual assault cases:**

At the time of my writing of my last letter to you in December of 2014, the MCAO had authored a comprehensive document that contains policies and guidelines for sexual assault cases in addition to many "best practices" from the field to help guide prosecutors in the office. I made a suggestion that the MCAO identify methods by which to measure compliance with the guidelines and policies and include them in an additional condensed document. Members from your office, the MCAO and I created this document entitled, "Condensed Policy and Guidelines for Handling Sexual Assault Cases" and it is being used to aid in the collection of data to better understand the dynamics in the cases and to aid in the reporting process under the MOUs. Recommendations: I recommend that Condensed Policy and Guidelines for Handling Sexual Assault Cases document continue to be utilized by the MCAO.

**RECEIVED**

JUN 29 2015

ATTORNEY GENERALS OFFICE  
HELENA, MONTANA

## **2. Training for county attorney supervisors and prosecutors in response to sexual assault:**

The MCAO sexual assault prosecutors attended numerous training sessions as detailed in the 4<sup>th</sup> quarter report. In addition to the listed trainings that the MCAO has provided or participated in to date, I provided some brief training on “Meeting the Consent Defense” and some technical assistance/training in the area of jury selection in non-stranger sexual assault cases to the members of the sexual assault prosecution team during my site visit May 4-7.

Recommendations: I recommend that members of the MCAO prosecution team continue to receive training on the topics listed in this portion of the MOU in addition to other topics that are specifically relevant to the Missoula victims community such as prosecuting cases involving Native American victims or drug and alcohol facilitated sexual assault. I also recommend that additional training opportunities be provided to the more junior members of the team in order to enhance their abilities to prosecute these complicated cases. I also recommend that I spend additional time with the MCAO per their request and/or the request of the Montana Attorney General’s Office (MAGO) developing additional training blocks for use in Missoula and the larger Montana community per the MOU as time limitations during my last site visit did not allow me to complete this task.

## **3. Assurances as to on-going practices within the Missoula County Attorney’s Office**

There are seven bullets in the agreement under this sub topic; I will generally address the ones on which I have been consulted.

- In-person meetings with complaining witnesses:  
The time between when the prosecutor makes a charging decision and the first contact with the victim is improving with the addition of a 4<sup>th</sup> prosecutor to the prosecution team and the addition of a MCAO victim advocate.  
Recommendation: I recommend that the MCAO victim advocate be utilized to reduce this time period by facilitating meetings with the prosecutor and the victim as quickly as possible. The MCAO’s active participation in the Special Victim’s Unit (SVU) provides an additional opportunity for early and consistent meetings with victims by MCAO staff.
- Case related communication with victims and victim advocates:  
Improvements are being made in this area based on data collected thus far this year and with the addition of an additional sex crimes prosecutor.  
Recommendation: I recommend that the process of collecting and evaluating data with regard to communication with victims and advocates continue in order to ensure that this positive trend results in long term system changes.

- **Victim advocates:**  
 The hiring of the MCAO victim advocate has added value to the office, the victims and other victim advocates in the community. Her involvement with the MCAO, the SVU and with the community is helping to bring additional information and resources to the MCAO and the victims as they step into the process of having their cases prosecuted.  
 Recommendation: Because the addition of a victim advocate in the MCAO is a brand new position, I recommend that the MCAO solicit and consider feedback of victims and community based victim advocates in order to ensure that her role and the introduction of these services to victims in the community are maximally effective and that services are not unnecessarily duplicated.
- **Utilization of specialized sexual assault prosecution expertise:**  
 The addition of the fourth prosecutor to handle sexual assault cases is improving the response to victims by cutting down on the amount of time between when cases are referred for charges and when they are accepted for filing of charges. The addition also helps to lessen the work load for the other attorneys.  
 Recommendation: The MCAO has committed itself to being a positive and active presence on the SVU, which is relatively young in its formation. I recommend that the MCAO and its more experienced prosecutors participate in some strategic planning with the SVU partners to identify the best methods for utilizing and growing prosecutorial expertise on the SVU.  
 Given the stressful nature of this assignment, I recommend that a process be identified and implemented by the MCAO to help the prosecutors in the unit evaluate stress levels and effectiveness on a routinely scheduled basis in order to assist with any vicarious trauma and other normal responses consistent with working in a specialized sex crimes unit.
- **Utilization of specialized sexual assault investigation expertise:**  
 The MCAO has entered into MOUs with local law enforcement agencies including the Missoula County Sheriff's Office (MCSO). The creation of the SVU is improving the more consistent and timely accesses that the investigators, prosecutors and victim advocates have to each other during the course of the investigation and filing decision. The MPD has selected experienced investigators with special expertise to handle sexual assault cases which the MCAO is supportive of and has added value to the quality of cases they are seeing. The MCSO is not yet participating on the SVU. The specialized services of the Division of Criminal Investigation (DCI) also remain available to the MCAO.  
 Recommendations: I recommend that the MCAO continue in its active role in the ongoing development of the newly formed SVU started by the MPD. Per my recommendation in the previous section, I suggest that strategic planning by the SVU will also enhance and improve the quality of the investigations by law enforcement partners. I also recommend that the MOU's which were signed by the MCAO and each law enforcement agency be reviewed to determine whether

they are being implemented and followed, and whether there is any need for revision of the MOUs. Finally, I recommend that the member of the MCSO who will be handling the sexual assault cases be identified and join the SVU as quickly as possible.

- Computer tracking system: Nothing to report. If requested, I will be happy to review the computer tracking system.
- Supervisor Review:  
Supervisors are actively involved in the review and evaluation of sexual assault cases at the MCAO.  
Recommendations: The MCAO has just started doing this type of data gathering and analysis and thus should continue this process over a longer period of time in order to guarantee forward progress and to watch trends over time.

#### **4. Improved communication and coordination with law enforcement and community partners:**

Significant improvements have been made with law enforcement partners as the result of the successful efforts per the requirements contained in the MOU. As an example, the MCAO delivered a two hour training session (twice) to the Missoula County Sheriff's Office on investigating sexual assault.

The most significant improvements can be seen as a result of the SVU formation which includes an active role for law enforcement partners, prosecutors and victim advocates. I was able to attend one SVU weekly meeting during my visit May 4-7, and believe that the SVU would benefit from refining the case review process as well as better defining its overall purpose and operation. Efforts are currently underway for some members of the SVU to participate in one or more site visits of other similar SVUs in order to glean expertise as they continue to develop.

Recommendations: This is an area that is ripe for strategic planning. I recommend that members of the SVU, including MCAO attorneys, advocates and supervisors receive additional technical assistance to improve and solidify the roles and responsibilities of people who serve on the SVU. If possible, I recommend that members of the MCAO be included in one or more site visits to other SVUs that are operating in similar communities.

I also recommend that the SVU identify specific areas where additional training for all SVU members would be helpful to improve the quality of the cases. For example, how to improve investigations and prosecutions of cases that impact specialized communities in Missoula such as Native Americans, victims with developmental disabilities, alcohol and drug facilitated sexual assault, interviewing suspects or other topics where additional expertise could be helpful.

As the multi-disciplinary expertise in handling sexual assault cases continues to improve, I will restate my earlier recommendation that MCAO consider being a partner in the formation of a multi-disciplinary training team that could provide training in other parts

of Montana as time allows. Someone from the University of Montana has expressed willingness to seek grant funding for the training project and to assist in the formation of the team. The community of Missoula Montana seems to be in a good position to seek grant funding for this or other initiatives, to support their continued efforts in improving their response to sexual assault. I recommend that the MCAO partner with law enforcement and other community members to explore the possibility of securing federal funding to support and expand on these current efforts.

## **5. Public Education and Outreach:**

In addition to the activities listed in the report, I have provided technical assistance to the MCAO on numerous occasions. This technical assistance has mostly focused on providing some examples of how to disseminate information about the MCAO role in sexual assault response on the web page and on visible displays in the front office, providing some education in the area of sexual assault prevention and risk reduction for the community, providing educational materials upon request, facilitating MCAO involvement with the Victim's Academy at the University of Montana and continuing outreach to community clubs and groups with information about the prosecution of sexual assault in Missoula.

Recommendations: Missoula has been continuously in the spotlight for how it has been impacted by the crime of sexual assault. Public perception about how cases are investigated and prosecuted in Missoula has been negative and many victims have expressed dissatisfaction and concern over how their cases have been handled in the criminal justice system. The Safety and Accountability Audit which focused on, "How Does the Community Response to Sexual Assault Engage and Support Victims, and Enhance Victim Safety and Offender Accountability" was released in the spring of 2015. It lists as one of three gaps *"Societal myths and misperceptions about sexual assault are deterrents to victims reporting and offenders being held accountable"*. The need for active involvement with the community by members of the MCAO and its criminal justice partners is high. I recommend that the MCAO create a strategy for how to continue outreaching to and educating the public about the improvements they are making in their office in an effort to both educate and receive feedback from the public whom they serve.

## **6. Assessment of this Agreement and Review of Cases by the Montana Attorney General:**

Monitoring: Monitoring of the agreement is going smoothly with the creation of the monitoring and compliance plan and tools previously mentioned that assist in data collection by the MCAO.

Recommendation: I recommend that monitoring of the cases and data continue and that any areas of concern that emerge from this process be considered for training topics for the prosecutors in the future.

**Review of Cases:** The practice of reviewing cases is rich and instructive. I encountered some difficulties reviewing declined and pending cases due to not having access to full reports, complete case files or victim and suspect interviews from outside of Missoula during the first six months that the MOU was in place, and more recently due to a lack of time for reviews during a site visit to Missoula in May of 2015. Interestingly, the number of cases sent over from MPD for filing dropped significantly in the second half of the year (as noted in the 4<sup>th</sup> quarter report) thereby reducing the opportunity to review cases. Case reviews are an important tool in improving the quality of prosecutable cases as well as the outcomes of the cases themselves.

**Recommendation:** I recommend that a more formal case review process be identified and implemented by the MCAO and MAGO in order to create a more consistent method for case reviews where data and feedback can be collected and reviewed in a manner that will be helpful to the MCAO. I also recommend that this practice continue beyond the first year of the MOU in order to review a sufficient number of cases over time and to identify and document any trends.

Please let me know if you have any questions or need any clarification from me. It is indeed an honor to assist your office and the citizens of Missoula, Montana.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne Munch", with a long, sweeping horizontal line extending to the right.

Anne Munch, Esq.  
Technical Advisor to the Montana Attorney General