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Montana Attorney General Tim Fox
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Dear Attorney General Fox,

In June of 2014, the Missoula County Attorney's Office (MCAO) entered into an agreement with the Montana Attorney General's Office (MAGO) and into a memorandum of understanding (MOU) with MAGO and the US Department of Justice. (USDOJ) These agreements set the expectations for a two year plan by which the MCAO would implement changes set out in the agreement and MOU intended to address how they handle sexual assault cases committed in Missoula. As a part of the agreements I was hired as the Technical Advisor to the MAGO and had the privilege of working closely with your office, the USDOJ and the MCAO in their efforts to meet the robust terms of the agreements. Brant Light and Ole Olson, two of your deputies were my main points of contact during these two years and working with them was both a delight and a great experience for me. My time under these agreements is coming to a close and I offer this letter of review as a way to provide you with my impressions of the progress made by the MCAO on this critical issue.

First of all, I have very much enjoyed working closely with the MCAO, and most specifically with members of the Special Victims Unit (SVU). Working with the first line prosecutors and supervisors who handle these cases day in and day out has been a rich experience for me. The members of the MCAO were welcoming of me and always responsive to any inquiries I had. I found that MCAO has a cadre of very talented trial attorneys who have dedicated themselves to sexual assault cases.

The agreements were primarily directed at putting thoughtful policies and practices in place, equipping courtroom prosecutors with the necessary skills required to handle these cases, improving relationships with law enforcement and other community partners, and including victim advocates more directly in the process. I am happy to comment on these and other aspects of the agreements.

While the MCAO has historically been a partner in multi-disciplinary efforts to address interpersonal violence in Missoula, the additional efforts made by MCAO in conjunction with efforts by the Missoula Police Department, the University of Montana Police Department and different victim advocacy groups has created a working system that is meeting the needs of sexual assault victims and survivors much more thoroughly and efficiently. When I began my work two years ago, one of my biggest concerns was the lengthy amount of time that passed from the time that the investigation was completed to when members of the MCAO met with the victims and made filing decisions on their cases. Heavy caseloads and a lack of a working system to address this problem left many victims waiting in the wings for long periods of time. With the implementation of new policies and guidelines for handling sexual assault cases, the hiring of an in-house victim assistance coordinator and the formation of a Special Victims Unit within the MCAO, the responses that victims receive has dramatically improved along these and other lines. Below, I will share some specific information with you as I walk through the most relevant portions of the agreements.

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

One of the first tasks taken on by the MCAO under this agreement was to develop written policies and guidelines for handling sexual assault cases. Suzy Boylan, a very experienced sex crimes prosecutor in the MCAO, located the best resources available from around the country and, with permission of the original authors, utilized materials and created an extremely comprehensive guide that is available to prosecutors across the state. At my request, the office created a more useful, shorter guide entitled “Condensed Policy and Guidelines for Handling Sexual Assault Cases” in order to aid in the collection of data and proper management of sexual assault cases internally. My review of the “Condensed Policies and Guidelines” document at this end stage confirms for me that the MCAO has embraced the practices contained within the policy and it has indeed guided in part the reformation of how these cases are handled. For example, cases are now handled only by appropriately trained and experienced prosecutors (SVU prosecutors), communication with victims is a top priority and happens within a day or days of the case being filed, prosecutors work closely with victim advocates on cases, and trial attorneys are very well educated and versed in the complicated dynamics of sexual assault. Each of these, along with the other aspects of the policies and guidelines, are critical to the professional and compassionate adjudication of sexual assault cases.

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

Sexual assault cases are complicated due to factors that span far beyond most other kinds of criminal cases. Prosecutors are required to understand everything from cultural bias and offender dynamics to victim trauma in addition to a host of other topics. During the time of my review, Missoula’s County Attorney Kirsten Pabst, and members

of the SVU have regularly attended trainings held locally and nationally to sharpen skills and build upon the knowledge base for the best practices in prosecuting sexual assault cases. I provided technical assistance to the SVU both by conducting sexual assault related training and by assisting them as they develop and deliver training to other Montana community members. In turn, SVU prosecutors from the MCAO have provided training to community members and law enforcement in Missoula, and they enthusiastically signed on to be members of the Montana Attorney General's Multi-Disciplinary Training Team. Your initiative to create this team is well done. The purpose is to provide more advanced sexual assault training to prosecutors across Montana and the members of the MCAO SVU have a lot of experience to share. On May 24, 2016 I attended their first pilot training in Helena. Three prosecutors from the Missoula SVU along with others from the University of Montana, Missoula police department and Missoula victim advocacy organizations provided training to an audience of approximately 60 people. One of the best ways to judge how well complicated concepts are truly understood is to observe how they are communicated in a training session. Each of the SVU members demonstrated their depth of understanding of the subjects they taught including the complicated topics of trauma, rape myths and investigations. Their involvement on the multi-disciplinary training team is a great benefit to the citizens of Montana who will likely attend similar conferences in the future.

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

Comments about this all-encompassing aspect of the "agreement" can best be summed up by pointing to the stark difference between how cases were being managed pre-agreement vs. now. Before this agreement, cases were handled in a non-specialized manner and there was no in house victim witness coordinator at the MCAO. No data was being formally collected by which to understand how the cases were being processed once they reached the MCAO. The MCAO hired a victim witness coordinator part way through this agreement which had an immediate and positive impact. They also implemented the use of a victim's experience survey that is distributed to all victims whose cases are prosecuted by the MCAO and solicits specific feedback from them. The feedback received has been overwhelmingly positive. The office also hired an investigator to assist in criminal cases including sexual assault cases. In my opinion, these cornerstone changes set the groundwork for noticeable improvements that followed.

Special Victims Unit: Kirsten Pabst authorized the formation of a Special Victim's Unit within her office which is made up of the most experienced and interested attorneys in the area of sexual assault. Over the course of the last 18 months, the SVU grew from two attorneys to three attorneys, all of whom specialize exclusively in sex crimes cases. The SVU specialized attorneys began attending meetings with the Missoula Police Department's (MPD) own in house SVU that also includes victim advocates. In these meetings, cases are discussed at the investigation stage and input is received from meeting participants in order to assist in strengthening the cases for filing. Sometime

last year, the MCAO approached the MPD and suggested they co-locate one of the SVU prosecutors at the police department's SVU in order to assist with investigations, victim interviews and victim contact. Jordan Kilby, a sex crimes prosecutor in the office, was assigned to the MPD in this capacity and the response has been extremely positive. Members of the police department have come to rely on her expertise. Sexual assault cases are investigated, evaluated and sent for filing decisions in a fraction of the time they were before such innovative changes were implemented. As noted in the first quarterly report, in the period of time from June 2014-November 2014, victims waited an average of 35 days from the time a case was referred over to the MCAO by law enforcement to the time that they had contact by someone in the MCAO. Now, that time period has been reduced to less than a day due in great part to the changes mentioned above. This immediate outreach to victims and survivors is key to gaining the trust of the survivors who are impacted by this pervasive crime, as well as for increasing the chances of holding their offenders accountable. The efforts by the MCAO, the MPD and the in house and community based victim advocates are remarkable and signal the kind of comprehensive system change that is consistent with best practices for responding to sexual assault in our communities.

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

As a part of the agreements, the MCAO and numerous other community organizations participated in a Safety and Accountability Audit. One of the gaps cited in the audit is an inconsistent law enforcement response. During the course of this agreement I believe that the working relationships between prosecutors and law enforcement officers in the city of Missoula, and with the University of Montana Police Department have evolved and been refined in ways that benefit victims of sexual assault. The Missoula County Sheriff's Office (MCSO) was not the subject of any DOJ agreements, but they entered into an MOU with the MCAO which, among other things, called for them to assure that appropriate and adequate investigative services are available on sexual assault cases. My hope was that the MCSO would provide a dedicated investigator with expertise in this area to do the investigations. This has not happened. I know the MCAO is interested in supporting a more advanced approach by the MCSO on these cases. The MCSO plays an important role as the first responders for a large geographic area where victims reside and I am hopeful that they will at some point benefit from the lessons and changes being embraced by their law enforcement partners. Jen Clark, one of the sex crimes prosecutors from the MCAO and I have both provided training on sexual assault investigations to some members of the MCSO which was well received. I hope that the MCAO will continue to reach out to the MCSO and find ways to improve the responses to victims in the county.

The Safety and Accountability Audit mentioned above also described a problem in the Missoula community, one which is widely shared by other communities across this

country, regarding how myths and misperceptions about sexual assault are a deterrent to victims reporting their crimes and to offenders being held accountable. While neither the MCAO nor any other agency is singularly responsible for changing these deeply embedded cultural misunderstandings, the implementation of policies and practices that actively eliminate any biases during investigations and prosecutions provides an optimal setting for those victims who are able to participate in the criminal justice process and have their cases advance to trial. The problem of cultural bias, belief in rape myths and community held misperceptions about this crime continues to reside in Missoula, as it does everywhere. I have had numerous conversations over the last two years with first line trial attorneys in Missoula who experience extreme frustration when, after preparing cases and victims for trial the jury acquits offenders sometimes citing these same rape myths as a the reason for their verdicts. The SVU attorneys work extremely hard on behalf of victims and are personally and professionally impacted by these losses. They are active in educating the community whenever requested to provide education about the realities of sexual assault and make time in their extremely busy lives to do so as evidenced by the list of educational sessions they have participated in seen in the last quarterly report to the DOJ. Still, as critical players in the lives of victims and offenders, more needs to be done by the MCAO and every other agency that serves victims of sexual assault in Missoula. As an example, community members have undertaken efforts to educate members of the media about the importance of how they report on these cases and the impact of their reporting in the lives of survivors. In previous letters to you I recommended that the MCAO (and other partners) create and implement a strategy to systematically address this problem over time. I don't believe the MCAO took my recommendation along these lines; I stand by that recommendation and see it as a critical component of future success.

5. Assessment of this Agreement and Review of Cases by the Montana Attorney General: case reviews

As a part of this agreement, your staff and I began reviewing each case that was declined for prosecution by the MCAO. Additionally, at our request the MCAO made other cases available for our review in order to strengthen cases for filing or to identify trends or factors with populations of vulnerable victims whose cases were not able to proceed past the probable cause standard. This case review process is extremely useful and necessary to examine individual case dynamics and improve responses in every way possible for future victims. Jason Marks, the supervisor of the SVU, spends a significant amount of time analyzing cases and looking for ways to strengthen them for filing and success. I personally believe that also having someone from *outside* the MCAO review the cases is an important "best practice" and I hope it will continue after the agreement is over; in my opinion it is invaluable.

Other areas of note:

To say the least, it has been a tumultuous time for sexual assault victims in Missoula these last several years as the members of the criminal justice community change the system that serves them. Missoula has garnered much attention both locally and nationally. Locally, the attention has resulted in much hard work on the part of the entire law enforcement, prosecution, University of Montana and victim advocacy community to improve their cases and responses to victims of this insipid crime. An unintended positive consequence of some of this attention could be the potential for much needed legislative changes to Montana sexual assault laws and definitions. Nationally, it has sparked important conversations about how communities handle sexual assault cases.

Over this period of time the MCAO has identified several practices that have had an immediate and positive impact on victims and on the quality of their cases. I have long been a believer in “specialized units” for sexual assault cases as not every police officer or prosecutor is well suited for this case load.

To follow up on my earlier comments about the impact of serving victims of sexual assault day in and day out, I made recommendations in a previous letter that members of the SVU receive the benefit of training and assistance in the area of vicarious (or secondary) trauma. I am happy to inform you that Kirsten Pabst accepted that recommendation and this month members of her SVU are attending specialized sessions designed to help them cope with the impact of these cases consistent with best practices in this area. I urge them to continue this practice with the SVU on a routine basis in order to alleviate some of the stress of working sex crimes cases.

Going forward, I reiterate my recommendation that the MCAO and its partners identify opportunities to obtain financial support from Federal grants in order to create a more sustainable future to continue their efforts in this area. Responding to sexual assault is challenging and will continue to be so, and the most successful communities build systems that are sustainable so that when there are changes in leadership or priorities, the programs can withstand such changes. In addition, I recommend that the MCAO pay special attention to the issue of “attrition” among reporting victims. A high percentage of reporting victims stop participating in the process at some point. While this is not an uncommon problem based on the realities that victims face over their loss of privacy and trauma related stressors, the MCAO and its partners are in a great position to tackle this problem to see if there are additional ways to support victims and survivors through the criminal justice process. Holding offenders accountable is a critical to community safety, and I believe addressing the attrition issue deserves a specialized effort. Much is yet to be learned about how to best serve victims in a way that meets their needs while holding offenders accountable in more meaningful ways. I trust the Missoula community to continue to explore and improve on this shared goal.

In closing, I want to thank you, the USDOJ and the MCAO for this most valuable and enriching experience as the Technical Advisor under these agreements. I am deeply grateful for the opportunity.

Sincerely,

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