



# The EAGLE

Issue No. 32

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## Meet the Management Team



A new management team has taken the helm at the United States Attorney's Office in the District of Minnesota. Frank Magill is now the Acting U.S. Attorney, replacing Rachel Paulose, who vacated the position earlier this year to take a job with the Justice Department in Washington, D.C.

Prior to his appointment as U.S. Attorney, Frank Magill was the First Assistant U.S. Attorney. Magill joined the Office in 1990 and served as chief of its white-collar crime section for many years.

Magill grew up in Fargo, North Dakota, where he attended Shanley High School. He graduated from Georgetown University in 1981 and earned his law degree at the Georgetown Law Center in 1985.

U.S. Attorney Magill named Nicole Engisch Acting First Assistant United States Attorney. Engisch joined the Office in 2002. Since then, she has successfully prosecuted many complex white-collar crime cases, the latest being one of the country's largest Internet pharmacy fraud cases.



As a result of the efforts of Nicole and the prosecution team in that case, the defendant, Christopher Smith, of Prior Lake, Minnesota, was sentenced to thirty years in federal prison for operating an illegal Internet pharmacy. Through that pharmacy, Smith was responsible for selling about \$24 million worth of Schedule III controlled substances.

Nicole is a native of New Jersey but has called Minnesota home for over twenty years. She is a 1987 graduate of Rutgers University and a 1990 graduate of the University of Minnesota Law School.

Prior to joining the U.S. Attorney's Office, Nicole was a partner at the Minneapolis law firm of Leonard, Street, and Dienard.

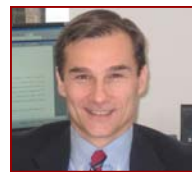
Jeffrey Paulsen is chief of the Office's criminal division. Paulsen was named to that post by U.S. Attorney Paulose last year. Paulsen has been a federal prosecutor since 1988. He is highly regarded for his courtroom work in many notable cases, among them, the prosecution of those responsible for the 1994 arson murder of the five Coppage children in St. Paul and the 1996 murder of Davisha Brantely-Gillum, the St. Paul girl killed by a bullet intended for a street-gang member.

Paulsen grew up in the Twin Cities and attended Minneapolis West High. In 1979, he graduated from Carleton College and, in 1982, earned his law degree from Stanford Law School. Prior to joining the Office, he worked as a trial lawyer for the Justice Department in D.C.



Greg Brooker remains chief of the Office's civil division. Before becoming an Assistant U.S. Attorney in 1999, Greg represented Minnesota municipalities in private practice and served as an Assistant City Attorney for Bloomington, Minnesota.

Since joining the Office, Greg has worked on many issues, including enforcement of the Americans with Disabilities Act against Fairview hospitals, which resulted in the nation's first consent decree to set standards for deaf-patient interpreters. He also has enforced federal civil rights laws, lead-paint regulations, environmental statutes, and has prosecuted civil fraud cases.



Greg is a native Minnesotan, having grown up in Rush City. He graduated from the University of Wisconsin at Stevens Point in 1982 and the University of Minnesota Law School in 1985.

## From the Desk of...



### Frank Magill United States Attorney

I am honored to serve as the U.S. Attorney for the District of Minnesota and look forward to working with all of you in that capacity.

During my tenure, the Office will do its best to assist you in a variety of areas of the law, with particular attention focused on—

- Terrorism;
- Public corruption;
- Civil rights violations, with particular emphasis on human trafficking;
- Cybercrime, including Internet crimes against children;
- Immigration violations, with an emphasis on identity theft;
- Criminal gang activity, which often involves guns and drugs; and
- Economic crime, such as health care fraud, mortgage fraud, and corporate fraud.

Please review the information in this newsletter relative to these priority areas and then let us know if we can be of assistance.

**The EAGLE is Back!**

*Inside this Issue...  
Can We Help?*

## The Housing Crisis: Felt Across the State

In Minnesota, the highest mortgage foreclosure rates are found in the seven-county Twin Cities' metropolitan area. Last year, sheriff sales on foreclosed properties jumped more than 125 percent in some of those counties. Residents of greater Minnesota, however, have not escaped the threat of foreclosure. Sheriff sales of properties shot up by over 200 percent in 2007 in the rural counties of Rock and Traverse.

During the last decade, while real estate values in Minnesota's metropolitan areas soared, the demand for rural lake homes and recreational property pushed values up in many parts of greater Minnesota too. Countless rural homeowners, like their city counterparts, then rushed to refinance their mortgages and take advantage of their new-found home equity. Others hurriedly bought homes for the first time.

Some borrowers only qualified for subprime adjustable-rate mortgages, which are high-interest loans for people with deficient credit histories. Others obtained fixed-rate mortgages but borrowed a lot, certain housing values would continue to climb. The national economy, however, began to weaken, and the housing market followed suit. Home values fell, while interest on adjustable-rate mortgages edged upward. Mortgage payments increased, but wages remained stagnant. Homeowners who wanted to sell often found their mortgages exceeded their property values. As a result, borrowers defaulted.

At times, these situations were worsened by criminals who preyed on naïve borrowers or trusting lending institutions. Sometimes, though, the wrong-doers included the borrowers, lenders, and mortgage brokers themselves. In the most egregious cases, this office took action.



### Owner of LHS Mortgage Gets Federal Prison Sentence—

On January 31, 2008, Ronald Clark Joseph, the 49-year-old part-owner of LHS Mortgage, Inc., was sentenced to 63 months in federal prison for his role in a mortgage-fraud kickback scheme. Joseph, of Prior Lake, had earlier pled guilty to one count of mail fraud and one count of money laundering.

In entering his plea, Joseph admitted he had devised and implemented a scheme to defraud mortgage lenders out of millions of dollars between 2004 and 2006. Specifically, he caused fraudulent mortgage loan applications to be provided to potential lenders. Those applications misrepresented the terms of the proposed transaction by, for example, overstating the purchase price. In those instances, Joseph then worked with a closing agent to disburse the excess loan amounts, or "kickbacks," to property buyers and third parties, including himself. Joseph and LHS Mortgage, Inc., were involved in approximately 40 separate real estate transactions, involving more than \$2.5 million in kickbacks.

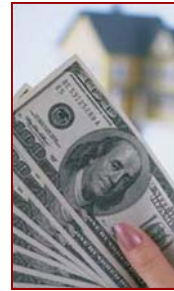


Three other defendants in the case were also prosecuted and sentenced. Mario Lewis, age 37, of Minneapolis, was sentenced to four and one-half years in prison for his wrongdoing. Lewis was a LHS Mortgage employee. Jill Lehn, age 40, of Prior Lake, was the closing agent involved in the scheme. She will serve the next two years in prison for her criminal actions. And, Isadore Stewart, a 40-year-old property buyer from Stillwater, will spend the

next 18 months in federal prison for obtaining kickbacks on three properties in this case.

### Minnesota Home Builder Pleads Guilty to Mortgage Fraud—

On November 2, 2007, long-time home builder Michael Parish and his wife, Ardith Parish, owners of Parish Marketing and Development Corporation (PMDC), along with PMDC agent Christopher Troup, pleaded guilty to federal charges of conspiring to commit mortgage fraud and money laundering. In entering their pleas, the defendants acknowledged obtaining more than \$25 million for PMDC through an elaborate scheme that utilized "straw buyers" to purchase approximately 200 properties built by the company in New Prague, New Market, and Lonsdale.



The defendants admitted completing fraudulent home loan applications, manufacturing and providing false supporting documents, such as employment verification, and obtaining inflated property appraisals.

They also executed loan documents under the names of straw buyers, who neither viewed the properties nor negotiated the purchase prices. Moreover, after purchasing these homes, the straw buyers made no mortgage payments. Instead, PMDC made all payments or allowed the mortgages to be foreclosed.

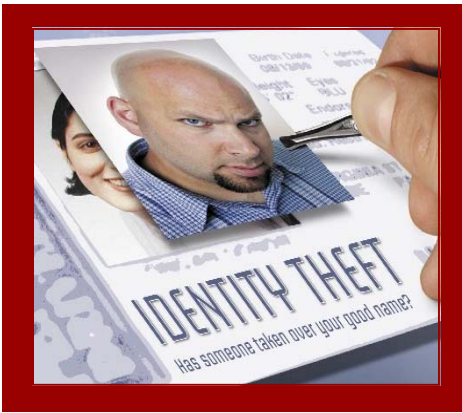
Earlier, Melissa Smith, of Ohio, pled guilty and admitted she was a straw buyer, purchasing 45 homes between October of 2004 and January of 2007. Ramiz Yousef Saadeh, a former U.S. Bank officer, pled guilty and admitted he provided false verifications of deposit to PMDC on behalf of straw buyers. Donald Yeager, of Oklahoma, pled guilty and admitted giving misleading and inflated home appraisals to PMDC. And, Kristopher Robbins, a closing agent, pled guilty to conspiring to commit mortgage fraud by allowing others to sign the signatures of the buyers noted. Sentencing is expected soon.

*These cases were investigated by the Federal Mortgage Fraud Task Force, comprised of the IRS, the FBI, and the U.S. Postal Inspection Service. For more information or assistance, contact Andy Gibart, IRS, at (651)767-3213.*

## Training Alert!

Watch for upcoming  
mortgage-fraud training..





**South St. Paul Man Charged with Identity Theft—**

A 34-year-old South St. Paul man was indicted by a federal grand jury on December 4, 2007, in connection with an identity-theft scheme. Christopher Bierbrauer was charged with nine counts of bank fraud and five counts of aggravated identity theft as well as one count of possession of stolen mail.

The indictment alleges that between November of 2005 and February of 2006, Bierbrauer submitted to various financial institutions counterfeit checks in the names of third parties without their knowledge or consent. Then, using false identification, he allegedly obtained cash from the banks based on those checks. According to the indictment, Bierbrauer defrauded Bremer Bank of \$29,603, U.S. Bank of \$39,006, and the Twin City Co-op Federal Credit Union of \$1,200. If convicted of bank fraud, Bierbrauer faces a potential maximum penalty of 30 years in prison. If convicted of aggravated identity theft, he faces up to an additional two years per count.

This case was investigated by the U.S. Postal Inspection Service.

**Bemidji Residents Federally Indicted for Identity Theft—**

In December of 2007, Bemidji residents Monica Spencer, age 33, and Sean Adams, age 28, were each charged with one count of aiding and abetting bank fraud and one count of aggravated identity theft. Specifically, the indictment states that Spencer and Adams stole mail containing financial information and documents, such as credit card account information and bank checks. In one instance, they allegedly stole cash

advance checks drawn on Washington Mutual Bank, forged the victim’s signature, and then used the checks to purchase items at a grocery store.

If convicted, each defendant faces a potential maximum penalty of 30 years in prison on the bank fraud charge and two years on the identity-theft charge. Spencer also faces ten years in prison for allegedly stealing approximately \$7,043 worth of computers and accessories belonging to the U.S. Bureau of Indian Affairs.

The investigation in this case was conducted by the U.S. Postal Inspection Service, the U.S. Secret Service, the FBI, and the Beltrami County Sheriff’s Office.

**Elzahabi Sentenced—**

On March 14, 2008, Mohamed Kamal Elzahabi, also known as Abu Kamal al Lubnani, was sentenced to time served and ordered to spend the next two years on supervised release for possessing fraudulent immigration documents. Elzahabi, who has been in federal custody since May of 2004, was convicted of three counts of possession of false immigration documents following a four-day trial in August of 2007.



*Sample Green Card*

The evidence at that trial showed that on two occasions, Elzahabi used a fraudulently obtained “green card” as evidence of his eligibility to stay and work in this country. Specifically, the card was issued because of Elzahabi’s 1984 marriage to a U.S. citizen. That marriage took place, however, only after Elzahabi paid a dancer at the Pink Pussy Cat Club in Houston, Texas, to become his wife for the sole purpose of evading immigration law.

The case was investigated by the FBI, ICE, the police departments in Minneapolis and Boston, and the Matagorda County Sheriff’s Office in Texas.

**Federal Laws Enacted to Aid in Fight Against Identity Theft**

The federal Identity Theft and Assumption Deterrence Act of 1998 makes identity theft a federal crime, with a maximum penalty of 25 years in prison, when someone “knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of federal law, or that constitutes a felony under any applicable state or local law” (18 U.S.C. 1028).

The Act also directs the Federal Trade Commission to refer identity-theft complaints to the appropriate law enforcement entities, including local agencies, for action.

In 2004, Congress also passed the Identity Theft Enhancement Act, which, among other things, established a new crime known as “aggravated identity theft.” That crime occurs when someone commits identity theft during and in relationship to any of an extensive list of financial-based or immigration-based federal felonies, such as embezzlement. In such cases, the offender gets a two-year mandatory prison term (a five-year term in terrorism-related cases) in addition to any sentence for other offenses.

*The U.S. Immigration and Customs Enforcement (ICE) agency leads a document and benefit task force that has aggressively and effectively targeted identity theft, document trafficking, and benefit fraud. For more information about this task force or for assistance from the task force, contact ICE Group Supervisor John A. Weess, at (612)348-1300, Extension 321.*



## Federal Laws Against Human Trafficking

Under federal law, human trafficking is defined as obtaining the labor or services, including sexual services, of another through force, fraud, or coercion; or sexually exploiting anyone under the age of eighteen, even if force, fraud, or coercion is not involved. The federal definition does not require that victims be moved or transported.

In 2000, Congress passed the Trafficking Victim Protection Act, which, among other things, expanded the definition of trafficking so federal prosecutors would not be limited to prosecuting physical bondage cases. Now, prosecutors can also bring suit against those who use psychological abuse and threats in an effort to hold their victims captive. In addition, the Act provided victims with a civil cause of action against their captors.

A number of other federal human-trafficking statutes now also exist:

- The Peonage, Slavery, and Labor Trafficking statutes (18 U.S.C. 1581, 1583, 1584, 1589, and 1590) prohibit anyone from forcing another into involuntary servitude, forced labor, or labor to pay off purported debts.
- The Sexual Trafficking statute (18 U.S.C. 1591) prohibits participation in the sexual exploitation of children. It also prohibits the sexual exploitation of anyone by force, threats, coercion, or other non-physical tactics.
- The Document Servitude statute (18 U.S.C. 1592) authorizes penalties against anyone who “destroys, conceals, removes, confiscates, or possesses” government-issued identification documents in an effort to further a trafficking crime.

As a result of these federal laws, U.S. Attorney offices nationwide saw the number of trafficking prosecutions rise by almost 300 percent between 2001 and 2005. During that same period, federal prosecutors collectively obtained convictions against 109 sex traffickers and 59 labor traffickers.

This office may be of particular help with large-scale trafficking cases or cases involving victims brought here under false pretenses from other countries.



### Burnsville Woman Sentenced for Human Trafficking—

On January 7, 2008, nineteen-year-old Justine Reisdorf was sentenced to five years in federal prison for operating a prostitution business that involved minors and was advertised on the Internet. Reisdorf had earlier pled guilty to one count of using an interstate facility to promote prostitution.

In entering her plea, Reisdorf admitted employing female students from Minnesota School District 191 to serve as prostitutes. She also admitted advertising her business on Craigslist.com. Those advertisements outlined both adult and minor prostitution services and prices and displayed photos of the young prostitutes.

The FBI and the Eagan Police conducted the investigation in this case.

### St. Paul Man Charged in Alleged Prostitution Ring—

On December 20, 2007, Liqing Liu was charged with transporting illegal immigrants and using them in his Twin Cities’ prostitution ring.

The Bureau of Immigration and Customs Enforcement (ICE) received a letter in August of 2007 that outlined the prostitution operation. The letter alleged that Chinese women worked as prostitutes in Twin Cities’ apartments and businesses that advertised as “massage” parlors. The letter also alleged that the brothels consistently changed locations, and after two to three weeks, the women were rotated out of Minnesota.

Liu allegedly arranged for the women to come to Minnesota from California, New York, and Texas. If convicted, Liu faces up to ten years in federal prison.

This investigation was conducted by ICE and the police departments from St. Paul, St. Louis Park, Plymouth, Minneapolis, and Bloomington.



*This office routinely works with the Gerald D. Vick Human Trafficking Task Force, which was established in 2006 to address the issue of human trafficking. The Task Force is named for the slain St. Paul police officer who dedicated his career to ending the trafficking of human beings. The Task Force, which is led by the St. Paul Police Department, is comprised of local, state, and federal investigators, including representatives from the FBI, ICE, the Minneapolis Police Department, and the Sheriff’s offices in the counties of Ramsey and Hennepin.*

*The Task Force works closely with Civil Society, a local victim-advocacy group, funded in part through the Justice Department, to provide services to victims of human trafficking here in Minnesota. Those services are often provided through victim screening clinics throughout the State.*

*For Task Force assistance, contact Sarg. John Bandemer, St. Paul Police, at (651) 265-6930.*

**Training Alert!**

A human-trafficking conference, designed for law enforcement, is being planned for September 23-25, 2008, at River Center in St. Paul. Watch for more details.



## Federal Child Porn Cases Filed and Prosecuted Recently—

On March 26, 2008, a federal trial jury convicted a Minneapolis man of producing a pornographic videotape of a 14-year-old boy he had enticed into his home. Refugio Gadea Pliego, a 29-year-old illegal alien living in Minneapolis, now faces a potential maximum penalty of 30 years in federal prison. His sentencing date has not been set. According to a criminal complaint filed in Hennepin County relative to this case, authorities found the videotape when searching Pliego's apartment. The tape showed Pliego engaged in sex with the boy. The case was investigated by the BCA.

On October 30, 2007, Robert Johnson, age 50, of Minneapolis, was charged with child-porn offenses. The indictment filed against Johnson alleges that he knowingly possessed on his computer one or more visual depictions of minors engaged in sexually explicit conduct. The images were allegedly

transported from several states, including Illinois, Iowa, and Washington. If convicted, Johnson faces a maximum sentence of 20 years in federal prison. This case was investigated by the Minnesota Internet Crimes Against Children Task Force.

On December 11, 2007, Adrian Campbell, age 45, of Minneapolis, was charged with one count of attempted distribution of child pornography and one count of possession of child porn, which had been transported via the computer. If convicted, Campbell faces a maximum potential penalty of 20 years in prison. This case was investigated by the Minneapolis Police Department and the FBI.

According to an indictment unsealed on December 18, 2007, Joel Wells, age 49, of Eagan, has been charged with one count of possession and one count of receipt of child pornography. The indictment alleges that Wells knowingly maintained on his computer at least 131 images of minors engaged

*Continued on Page 6*



*In Minnesota, Project Safe Childhood is successful in large part because of the efforts of the Minnesota Internet Crimes Against Children Task Force. That task force was established in 2000 through a U.S. Justice Department grant to the St. Paul Police Department. Today, the Task Force is one of this country's 59 federally funded task forces focused on investigating the online sexual exploitation of children. These task forces have collectively made over 10,000 arrests since their inception a decade ago.*

*Since 2000, the Minnesota Task Force has grown to more than 20 local, state, and federal members, including this office, the Minnesota BCA, the FBI, the U.S. Secret Service, the U.S. Postal Inspection Service, and Immigration and Customs Enforcement. The Task Force also includes police from Minneapolis, St. Paul, Baxter, Burnsville, Fergus Falls, Hutchinson, Mankato, Moorhead, White Bear Lake, Woodbury, and Hermantown. In addition, it has sheriff representatives from the counties of Anoka, Crow Wing, Dakota, Hennepin, Polk, Ramsey, and Rice. Furthermore, the Task Force enjoys the support of every County Attorney in the state as well as the Minnesota Attorney General's Office, the Midwest Children's Resource Center, the Family Advocacy Center of Northern Minnesota, the Minnesota Chiefs of Police, the Minnesota Sheriffs, the Wetterling Foundation, Target Corporation, and Qwest.*

*To become part of the Minnesota Internet Crimes Against Children Task Force or to receive assistance from the Task Force, call Commander Neil Nelson, at (651) 793-1045.*

## Project Safe Childhood

Project Safe Childhood is a national initiative that encourages U.S. Attorneys to work with multi-jurisdictional task forces to investigate and prosecute cases involving the sexual exploitation of children over the Internet.

Under federal law, a "child" or "minor" is any person under the age of eighteen, and "child pornography" is a visual depiction, including a photograph, film, video, or computer image or picture, whether produced by electronic, mechanical, or other means, of sexually explicit conduct involving a child.

While child pornography is a crime in all states, it is also a federal crime when federal jurisdiction can be established, which occurs when:

- prosecutors can show that the child porn was produced using materials that traveled in interstate or foreign commerce, including via computer; or
- prosecutors can show that the image itself moved in interstate or foreign commerce, including via computer; or
- prosecutors can show the defendant knew, had reason to know, or intended the image to move in interstate or foreign commerce, including via computer.

Although the U.S. Attorney's Office is unable to take all child-porn cases, it will take those cases that would benefit most from federal prosecution. For example, by federally prosecuting a production case, a county attorney may not have to file state assault charges against the offender, which would require the child victim to testify. Moreover, federal grand jury subpoenas, available only in federal cases, could prompt receipt of computer information unavailable in state cases.

In reviewing referrals, the Office will look at the crime, the offender's criminal history, the number of victims, the relationship between offender and victim, the possible federal sentence, the offender's ties to the community, the county's desire to prosecute, and the crime's impact on the community.



## Federal Laws for Use in Child Porn Cases

### Production

18 U.S.C. § 2251

- 15-year mandatory minimum (with no criminal history against children)
- 25-year mandatory minimum (1 prior)
- 35-year mandatory minimum (2 priors)

### Distribution

18 U.S.C. § 2252(a)(1)

- 5-year mandatory minimum (with no criminal history against children)
- 15-year mandatory minimum (any priors)

### Receipt

(affirmative act as opposed to possession)

18 U.S.C. § 2252(a)(2)

- 5-year mandatory minimum (with no criminal history against children)
- 15-year mandatory minimum (any priors)

### Possession

18 U.S.C. § 2252(a)(5)(B)

- No mandatory minimum (with no criminal history against children)
- 10-year mandatory minimum (any priors)

**Training Alert!**

A regional PSC conference will be held in the Twin Cities August 18-22, 2008. This conference will focus on the nuts and bolts of investigating and prosecuting Internet-based child-porn cases. The conference is geared toward those new to this area of the law. More information to follow!



## Child Pornography Indictments

*Continued from Page 5*

in sexually explicit conduct and traded child porn with others through his Internet e-mail account. If convicted, Wells faces a potential maximum sentence of 40 years in prison on the receipt charge and 20 years on the possession charge. This case was investigated by the Eagan Police Department, the Dakota County Sheriff's Office, and the FBI.

On December 18, a 38-year-old man from Chanhassen was charged federally with one count of possession and one count of receipt of child porn. The indictment against Douglas Basch alleges that he knowingly possessed on his computer

crime. He faces up to ten years in prison. The case was investigated by the Apple Valley Police Department and the FBI.

On February 5, 2008, 57-year-old Timothy Cain of St. Paul was charged with one count of possession of child pornography after his computer was allegedly found to have one or more visual depictions of minors involved in sex. Cain faces a potential maximum sentence of ten years in federal prison if convicted. The case was investigated by the St. Paul Police Sex Crimes Unit, Ramsey County Corrections, and the FBI.

Finally, on March 20, 2008, three charges of receipt of child pornography were added to a federal child-porn indictment originally



one or more images of a minor engaging in sexually explicit conduct and received child porn via the Internet. If convicted, Basch faces up to ten years in prison on the possession charge and 20 years on the receipt charge. The case was investigated by the FBI, the Carver County Sheriff's Office, and the Minnesota Internet Crimes Against Children Task Force.

Brian Lowe, age 30, of Apple Valley, was indicted by a federal grand jury on January 23, 2008. The indictment charged Lowe with one count of possession of child porn, alleging that Lowe knowingly had on his computer one or more images of a minor engaged in sexually explicit conduct. On April 15, 2008, Lowe pled guilty to the

filed against Scott Anderson on July 18, 2007. Anderson, age 47, of Coon Rapids, was initially charged with one count of possession of child porn after authorities allegedly found child-porn images on his computer. The superseding indictment alleges that Anderson also knowingly received through interstate commerce computer images of minors engaged in sexually explicit conduct. If convicted, Anderson faces a potential maximum sentence of 20 years in federal prison on the possession charge and 40 years on each of the receipt charges. The case was investigated by the Coon Rapids Police Department, the FBI, and Immigration and Customs Enforcement.



In 1999, approximately 12,658 murders occurred in this country. Two-thirds were shooting deaths. In response, the Justice Department, in the year 2000, created a national initiative to deal with illegal gun use and related violence. That initiative is called Project Safe Neighborhood.

Project Safe Neighborhood, commonly referred to as "PSN," focuses on reducing gun and gang violence and related crime by encouraging multi-jurisdictional law enforcement and crime prevention efforts. To date, approximately \$1.5 billion in federal dollars has been spent on local, state, and federal PSN efforts nationwide.

Minnesota's PSN initiative was launched in 2003. Since that time, prosecutors in the U.S. Attorney's Office have worked with local, state, and federal investigators, as well as with county attorney offices statewide, to combat gun and gang crime throughout Minnesota. As a result of those efforts, prosecutions rose at both the State and federal level, crippling many area gangs, such as the Latin Kings and the Native Mob.

During the past two years, however, the nation has witnessed a surge in gang violence. Minnesotans are seeing gang crime in rural communities, and cities, such as

Minneapolis, are experiencing increases in the violence associated with illegal street gangs.

In response to the nationwide uptick in gang activity, the International Association of Chiefs of Police convened a summit on the subject in 2007 and, afterwards, published its recommendations for more effectively addressing this issue. Those recommendations include:

- Requiring that law enforcement and judges remove firearms from situations of domestic violence as well as from those adjudicated mentally ill or drug dependant;
- Requiring that all gun sales take place through Federal Firearms License holders and include mandatory background checks;
- Enacting an effective ban on military-style assault weapons and other weapons that allow criminals to outgun law enforcement;
- Restoring COPS funding to provide vital resources to local, state, and tribal law enforcement;
- Repealing the Tiahrt Amendment, which hinders investigation of illegal gun trafficking;
- Destroying guns that come into police possession once their law enforcement use has ended;
- Improving officer training in debriefing suspects and handling crime guns;
- Training officers in tactics that can lessen the possibility that a hostile situation will erupt in violence;
- Mandating safe storage of firearms; and
- Mandating the reporting of lost or stolen firearms.

## Hobbs Act

Title 18 U.S.C. 1951, commonly referred to as the "Hobbs Act," is a useful tool in addressing violent crime. The statute prohibits the obstructing, delay, or affecting of commerce or the movement of any article or commodity in commerce. Robbery, extortion, conspiracy, and the commission or threat of physical violence are all specifically included in the statute and carry a penalty of up to 20 years. Robbery, however, is typically to be the subject of a Hobbs-Act case only in circumstances involving organized crime, gang activity, or wide-ranging criminal schemes.

The Hobbs Act does not require that the commerce affected be legitimate commerce. Only de minimis effect is necessary to establish the jurisdictional predicate. Moreover, use of the Hobbs Act is not restricted to actual interference with commerce. Threats or violence committed to compel furtherance of a plan that would violate the statute are also prohibited.

In addition to those crimes specifically named in the statute, criminal offenses such as drug trafficking, carjacking, and drive-by shootings should be considered for federal prosecution under the Hobbs Act. In fact, the Act may be useful in prosecuting many of the offenses often associated with street gangs, including property destruction or intimidation associated with gang wars, robbery of drugs or drug money, and bribery of law enforcement officers sworn to enforce drug laws. Prosecutors may also consider employing the Act in cases against groups that engage in illegal protest or interfere with lawful business.

If you would like to discuss the use of the Hobbs Act in more detail or if you have a case you think may be ripe for federal prosecution pursuant to the Hobbs Act, contact the U.S. Attorney's Office.

## Use of the Hobbs Act

**In April of 2006, the leader of a robbery ring responsible for a string of bar robberies in the Minneapolis-St. Paul area was sentenced to 20 life sentences. Earlier, after being prosecuted under the Hobbs Act, Carlos Lattrell McAdory, of St. Paul, was found guilty of one county of conspiracy, nine counts of robbery, nine counts of possession of a firearm in furtherance of a crime of violence, and two counts of possession of a firearm by a convicted felon.**

**The jury determined that McAdory and his accomplices had committed the armed robberies of no fewer than 18 Twin Cities' bars between December of 2002 and May of 2004. The men often entered the bars near closing time, ordering employees and patrons down on the floor. They then took money from the cash registers and pull-tab booths. On several occasions, McAdory also assaulted customers and threatened people with death.**

**McAdory's sentence was based in part on his extensive and violent criminal history. His six co-defendants, who pled guilty before trial, were sentenced to prison terms ranging from 78 months to 131 months.**



## Prohibited Persons

The following categories of people cannot, under federal law (18 U.S.C. 922 (g)), receive, possess, ship, or transport firearms or ammunition, if the firearms were or the ammunition was transported across state lines at any time:

- Felons (those convicted in any court of a crime punishable by imprisonment for more than one year);
- Those under indictment for a felony;
- Fugitives;
- Drug users;
- The mentally ill;
- Aliens (includes illegal aliens and aliens lawfully admitted under non-immigrant visas; i.e., aliens not admitted for permanent residence; but does not include green-card holders);
- Dishonorably-discharged military;
- Citizens who have renounced citizenship;
- Those subject to a domestic restraining order. (The order must prohibit contact with an intimate partner or child and must have been issued after a “noticed” hearing at which the subject had an opportunity to participate. The order also must find that the subject poses a threat to the physical safety of the partner or child or must prohibit the use, threatened use or attempted use of physical force.); and
- Those previously convicted of domestic assault (includes misdemeanor convictions in any court).

Anyone who violates this law is subject to ten years in federal prison. Violators with three or more prior felony convictions for crimes of violence are subject to a minimum sentence of 15 years and a maximum sentence of life (18 U.S.C. 924 (a)(2) and 18 U.S.C. 924(e)).

Anyone who knowingly sells, gives, or otherwise provides firearms or ammunition to a person described in the above categories is subject to ten years in federal prison (18 U.S.C. 922(d) and 18 U.S.C. 924(a)(2)).



## Federal Gun Laws

### General Gun Laws

#### 18 U.S.C. 924(c)

Anyone who possesses or carries a firearm in relation to or in furtherance of a drug felony or a federal crime of violence is subject to the following penalties:

- Five years to life in prison without parole, or death, if death results from the use of the firearm;
- Such a sentence must be served consecutively to other sentences imposed;
- The mandatory minimum sentence increases depending on
  - The type of firearm used;
  - Whether more than one offense was committed; and
  - Whether the gun was simply possessed or actually brandished or discharged.

#### 18 U.S.C. 922(g)(3)

It is unlawful for any person “who is an unlawful user of or addicted to a controlled substance” to possess firearms or ammunition. (The firearms or ammunition must have been transported across state lines at some point during or before the defendant’s possession of them.) The maximum penalty for violation of this statute is ten years in federal prison.

### Other Illegal Gun-Related Acts

- Anyone who knowingly makes a false statement to a federal firearms dealer when buying a gun is subject to ten years in prison.
- Anyone who buys a firearm from a federally licensed firearms dealer for the purpose of concealing the identity of the true and intended recipient of that firearm is subject to federal felony penalties.
- It is also a federal felony to be an unlicensed firearms dealer. An unlicensed dealer is someone who devotes time, attention, and labor to dealing, manufacturing, importing, repairing, or pawnbrokering firearms as a regular course of trade or business with the principal objective of profit or livelihood.

### Firearms and Young People

#### 18 U.S.C. 922(q)(2)(A)

An adult who possesses or discharges a firearm in a school zone (within 1,000 feet of the grounds of a public or private school), except as authorized by law, is subject to five years in federal prison.

#### 18 U.S.C. 922(x) and 18 U.S.C. 924(a)(6)(A)(1)

A juvenile (under age 18) who possesses a handgun or handgun ammunition, except in cases of employment, the military, or with parental consent, is in violation of federal law and subject to a fine and up to one year imprisonment.

#### 18 U.S.C. 924(a)(6)(B)(i)

An adult who gives or sells a handgun or handgun ammunition to a juvenile under circumstances other than those noted above is subject to one year in prison.

#### 18 U.S.C. 924(a)(6)(B)(ii)

An adult who gives or sells a handgun or handgun ammunition to a juvenile, knowing the juvenile plans to use either the weapon or ammunition in the commission of a crime of violence, is subject to ten years in federal prison.



### Weapons Prohibited Under Federal Law

- A machine gun;
- A fully automatic weapon;
- A sawed-off shotgun;
- A sawed-off rifle;
- A semi-automatic assault weapon;
- A silencer;
- A firearm that lacks a serial number or has an altered or obliterated serial number;
- A stolen firearm; or
- A destructive device.





## U.S. Attorney's Office Continues to Focus on Prosecuting Large-Scale Drug Cases—

In November of 2007, a Stacy, Minnesota, man was sentenced to life in federal prison for dealing methamphetamine out of his home. After a four-day trial, a jury convicted Jeffrey Jeanetta, age 52, of one count of conspiring to distribute and possessing with the intent to distribute 18 pounds of meth, one count of distribution of 87.2 grams of meth, and one count of possession of multiple firearms by a felon. Trial evidence showed that between 1998 and 2006, Jeanetta conspired with others to possess and distribute meth, supplying much of the meth found in Chisago County. Jeanetta obtained the meth from sources in Arizona and California and then sold it to users and dealers in the area. Jeanetta was arrested for his role in this crime in 2005 but fled, only to be apprehended in 2006 by the U.S. Marshal's Fugitive Task Force. When he was captured, Jeanetta was found in possession of two semi-automatic weapons. Because he had been previously convicted of felonies in State court, Jeanetta was prohibited from possessing firearms. This investigation was conducted by the DEA, the BCA, and the Chisago County Sheriff's Office.

On December 6, 2007, 12 members of a Minneapolis drug ring were arrested on

federal charges related to the possession and distribution of cocaine and crack cocaine. The following day the court unsealed the related 68-count indictment, which named 20 defendants from the Twin Cities' area and one from Hibbing, Minnesota. The indictment alleges that from October of 2007 through November of 2007, the 21 knowingly and intentionally conspired with each other and with others to distribute and to possess with the intent to distribute 50 or more grams of a substance containing crack cocaine.



Fourteen of the 21 defendants were also charged with distribution of cocaine base. If convicted, each of the 21 defendants faces a potential maximum penalty of life in prison. Those charged with distribution also face a potential maximum penalty of 40 years on each count. The case was investigated by the Minneapolis Police Department's Violent Offender Task Force and the ATF, with assistance from the U.S. Marshal's Service, the Metro Gang Strike Force, and police from Crystal, Hopkins, Maplewood, New Hope, and Shakopee.

On December 13, 2007, a major Twin Cities' marijuana distribution ring was shut down after the last of the 11 defendants in the federal case pled guilty to conspiracy to distribute marijuana. Court documents indicate that beginning in 2005, defendants conspired to possess with the intent to distribute 100 kilograms or more of marijuana. Each defendant faces a potential maximum penalty of 40 years in prison. The case was investigated by the DEA, the Southwest Hennepin Drug Task Force, and police from Eden Prairie, Minneapolis, Brooklyn Park, and Rochester.

## When Will the Feds Take a Drug Case?

The U.S. Attorney's Office in Minnesota considers every drug investigation on a "case by case" basis. It does not have mandatory thresholds for prosecution of narcotics' matters. As guidance, however, the Office asks the following questions when reviewing a drug-case referral:

1. Does the case involve drug amounts needed to result in a mandatory federal prison sentence of at least five years?
2. Does the case involve aggravating circumstances that may warrant federal prosecution?
  - a. Were firearms involved?
  - b. Does the defendant have a history of violent behavior?
  - c. Does the defendant have prior serious drug convictions?
  - d. Is he or she a menace to a particular community?
  - e. Are there gang ties to the crime?
  - f. Were juveniles used to facilitate the illegal activity?
  - g. Were other criminal activities involved; for example, money laundering?
  - h. Did the activity occur in a federally-protected areas, such as in a school zone or a Weed and Seed neighborhood?
3. What are the mitigating circumstances surrounding the case?
  - a. Does the defendant lack a criminal record?
  - b. Did the defendant play a minor role in the offense?
  - c. How strong is the evidence against the defendant?
  - d. Can justice be served better by prosecuting the case in another jurisdiction?

**Free law enforcement training sponsored by the BCA Training Unit, along with the Midwest Counterdrug Training Center and the Minnesota Counterdrug Task Force:**

- Science-Based Drug Education, June 17-20, 2008, 32 post credits, at the BCA, St. Paul
- Spanish for Law Enforcement, June 23-25, 2008, 24 post credits, at the BCA, St. Paul
- Detecting Danger, July 2, 2008, 8 post credits, at the BCA, St. Paul
- Interviews and Interrogation, July 21-25, 40 post credits, at the BCA, St. Paul
- Vehicle Contraband Concealment, July 29-30, 2008, 16 post credits, at the BCA, St. Paul
- Highway Drug Interdiction, August 4-8, 2008, 40 post credits, at the BCA, St. Paul
- Advanced Spanish II, September 8-11, 2008, 32 post credits, at the BCA, St. Paul, MN

See the (MCTC) Midwest Counterdrug Training Center for course descriptions. Contact S/A Stevens, at (651)793-1116, or Sergeant First Class Robinson, at (651)793-1058, with questions or for more information.

**Training  
Alert!**





## Downward Departures 18 U.S.C. 3553(e); U.S.S.G. 5K1.1

Primarily, downward departures require a motion by the prosecutor, based on “substantial assistance” provided by the defendant in the investigation and prosecution of other persons engaged in criminal activities. Prosecutors can file:

- A 5K1.1 motion for downward departure below the applicable guideline range for imprisonment;
- A Section 3553(e) motion for downward departure below the statutory mandatory minimum penalties; and
- A “safety-valve” reduction under U.S.S.G. 5C1.2, which
  - allows the court to impose a sentence below the statutory mandatory minimum penalty;
  - is available to first-time, non-violent offenders;
  - permits a two-level guideline reduction under U.S.S.G. 2D1.1(b)(11); and
  - requires the defendant to provide a truthful “proffer” concerning narcotics trafficking activities.



## Federal Drug Laws

### Five-Year Mandatory Minimums, 21 U.S.C. 841(b)(1)(B)

- Cocaine—500 grams
- Cocaine Base (“crack”)—5 grams
- Methamphetamine—50 grams (mixture); 5 grams (actual)
- Marijuana—100 kilograms; 100 plants
- Heroin—100 grams

### Ten-Year Mandatory Minimums, 21 U.S.C. 841(b)(1)(A)

- Cocaine—5 kilograms
- Cocaine Base (“crack”)—50 grams
- Methamphetamine—500 grams (mixture); 50 grams (actual)
- Marijuana—1,000 kilograms; 1,000 plants
- Heroin—1 kilogram

### Enhancements for Prior Convictions, 21 U.S.C. 851

- Dependent upon prosecutor’s filing of an “information.”
- With one prior drug felony—
  - Five-year mandatory becomes ten years, and
  - Ten-year mandatory becomes twenty years.
- With two prior drug felonies—
  - Ten-year mandatory becomes mandatory life.

### Enhancements for Firearms, 18 U.S.C. 924(c)

- Statute punishes defendants who “use or carry firearms during and in relation to any crime of violence or drug trafficking crime.”
- Possession of firearm must be “in furtherance” of the “drug trafficking crime.”
- Mandatory Penalties—
  - Possession—5 years;
  - Brandishing—7 years;
  - Discharging—10 years;
  - Subsequent conviction—20 years;
  - Short-barreled firearm—10 years; and
  - Machine gun/silencer—30 years.
- Sentence is consecutive to underlying drug sentence.

### “Career Offender” Provisions, U.S.S.G. 4B1.1

- Defendant who is a “career offender” is subject to enhanced punishment under the Federal Sentencing Guidelines.
- Defendant qualifies as a “career offender” if—
  - The instant offense of conviction is a felony that is either a “crime of violence” or a “controlled substance offense”; and
  - The defendant has at least two prior felony convictions of either “crimes of violence” or “controlled substance offenses.”
- Sentence enhanced substantially under Federal Sentencing Guidelines. (Base Offense Level 32/Criminal History Category VI.)

### Armed Career Criminal Act, 18 U.S.C. 924(e)

- Defendant is convicted of being a felon in possession of a firearm under 18 U.S.C. 922(g).
- Defendant has three previous convictions for either “violent felonies” or “serious drug offenses.”
- Defendant will be subject to a mandatory minimum term of 15 years in prison without parole.

## Civil Litigation Assistance



### Civil Rights

The civil division of the U.S. Attorney's Office has an active civil-rights enforcement project. Lawyers enforce federal civil rights laws, including the Fair Housing Act, the Americans with Disabilities Act, and

the Voting Rights Act. They also assist prosecutors in enforcing federal hate-crime laws.

Under the Fair Housing Act, which is Title VIII of the Civil Rights Act of 1968, property owners and managers are prohibited from discriminating against tenants, as well as prospective tenants, on the basis of race, color, religion, sex, familial status, national origin, and disability. When evidence suggests that such discrimination has occurred, agents with the U.S. Department of Housing and Urban Development investigate, and, if warranted, litigators in this office bring suit to end the illegal practice, restore victims, and prevent future wrongdoing.

In an effort to enforce the Americans with Disabilities Act, the U.S. Attorney's Office actually investigates claims and then brings lawsuits on behalf of the aggrieved parties. Those claims may be prompted by the failure of a business to provide adequate wheelchair access or the failure of a hospital to offer appropriate assistance for deaf patients. Again, the goal is to end illegal practices, restore victims, and prevent wrongdoing in the future.

Perhaps no civil right is more important than the right to vote, and the civil litigators in the U.S. Attorney's Office ensure that right by working with the criminal division and the Justice Department's Civil Rights Division to enforce the Voting Rights Act of 1965. The Voting Rights Act, which permanently guarantees all Americans the right to vote regardless of race or color, is considered by many the most effective civil rights statute ever enacted. Enforcement of the Act is accomplished by monitoring elections, and litigating disputes when necessary.

### Immigration Enforcement

The civil division at the U.S. Attorney's Office also enforces federal immigration laws, including the deportation of illegal aliens, the denial of asylum claims, and lawsuits by persons who have been denied naturalization. Although lawyers for the U.S. Department of Homeland Security handle the initial administrative proceedings, the U.S. Attorney's Office litigates all immigration matters in U.S. District Court and the Court of Appeals.



### Environmental Cases

The civil division also has an active environmental enforcement unit. The U.S. Attorney's office has enforced federal environmental laws against individuals who illegally drain wetlands, fail to obtain federal permits for environmental work, and illegally dump toxic waste on federal property. Moreover, the Office routinely defends the actions of the U.S. Forest Service, the Fish and Wildlife Service, and the National Park Service.



### Fighting Hate Crimes

The civil litigators in the U.S. Attorney's Office work with the prosecutors to fight federal hate crimes, from cross burnings to desecration of religious sites. Under 18 U.S.C. 245 (b)(2), federal prosecution may be sought against any person who "by force or threat of force willfully, injures, intimidates or interferes with...any person because of his race, color, religion or national origin and because he is or has been" attempting to engage in "federally protected activities."

"Protected activities" include voting, employment, jury duty, attending school, participating in a state or federally funded program or activity, or acquiring accommodations, such as hotel rooms and restaurant service. Penalties for such acts include fines and prison terms for up to one year. If bodily injury results from one of those acts or if a firearm or other dangerous weapon is involved in the commission of the act, the maximum potential prison sentence is ten years. Finally, when kidnapping, sexual assault, or murder is involved, the offender is subject to a maximum potential sentence of life in prison or the death penalty. Federal law provides for criminal sanctions alone in these cases; no cause of action for civil liability is available.

While gender, sexual orientation, gender identity, and disability are not part of the protected class, they may be considered in the sentencing of federal hate crimes. Under the Hate Crime Sentencing Enhancement Act of 1994, the Sentencing Commission was required to increase the penalties for crimes committed on the basis of "actual or perceived" race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person. In 1995, the Sentencing Commission implemented those guidelines, but they apply to federal crimes only.

Members of the civil division are also available to speak to community groups about hate crimes and the federal response to them.





## The Fight Against Terrorism

### Training Alert!

A Tribal Lands Anti-Terrorism Law Enforcement Briefing will be held at the Leech Lake Tribal College in Cass Lake, Minnesota, on May 19, 2008. The training is free, but for security reasons, registration is required ahead of time. For more information, or to register, call the Tribal College, at (218) 335-4245.

[www.usdoj.gov/usao/mn](http://www.usdoj.gov/usao/mn)

**U.S. Attorney's Office  
District of Minnesota  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415**

**Phone: 612-664-5600  
Fax: 612-664-5787**

**Watch the website for  
upcoming training  
announcements and  
current press releases.**

#### ***THE EAGLE***

Frank Magill, Acting U.S. Attorney

Jeanne F. Cooney, External Relations Coordinator; Editor, Researcher, and Writer

David Anderson, Public Information Officer, Case Information

Please convey your comments or suggestions to Jeanne Cooney, at (612) 664-5611.

### ***THE EAGLE***

U.S. Attorney's Office  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

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