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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

JOSE RIOS-DIAZ, ELIGIO DURAN-SANCHEZ, DELFIO MEJIA-OCHOA, and EDUARDO BARRAGAN-NARANJO, on behalf of themselves and all others similarly situated, and MONTANA IMMIGRANT JUSTICE ALLIANCE.

Plaintiffs,

v.

COLONEL TOM BUTLER, in his official capacity as Chief Administrator of the MONTANA HIGHWAY PATROL, ATTORNEY GENERAL TIM FOX, in his official capacity as head of the MONTANA DEPARTMENT OF JUSTICE.

Defendants.

Case No.

CV-13-77-BU-SEH-CSO

COMPLAINT (Class Action)

Plaintiffs Jose Rios-Diaz, Eligio Duran-Sanchez, Delfio Mejia-Ochoa and Eduardo Barragan-Naranjo, on behalf of themselves and all others similarly situated, and the Montana Immigrant Justice Alliance (collectively "Plaintiffs") allege as follows:

INTRODUCTION

1. This is a class action to enforce the Fourth and Fourteenth Amendments to the United States Constitution; Title VI of the Civil Rights Act of 1964; and Article II, §§ 4 and 11 of the Montana Constitution. Plaintiffs seek prospective declaratory and injunctive relief against Defendants Colonel Tom Butler, sued in his official capacity as acting Chief Administrator of the Montana Highway Patrol, and Attorney General Tim Fox, sued in his official capacity as head of the Montana Department of Justice (collectively, “Defendants”).

2. As described below, Defendants have implemented a custom, policy and practice of seizing Latino residents and visitors of Montana and prolonging their detention longer than necessary to resolve the alleged violations of the law that Defendants have authority to enforce. The sole purpose of prolonging these individuals’ detention is to hold them as Defendants contact agencies within the Department of Homeland Security (“DHS”), including Immigration and Customs Enforcement (“ICE”) and U.S. Customs and Border Protection (“CBP”), based on suspicions of civil immigration status violations.

3. Montana Highway Patrol has a custom, pattern, policy, and practice of seizing drivers and passengers it suspects of being in the country without authorization for a prolonged period, often between forty minutes to two hours, while attempting to make contact with DHS to ascertain their immigration status

and determine if an immigration enforcement officer wishes to assume custody of them. These drivers and passengers are seized, at least initially, upon the prerogative of the Montana Highway Patrol and not at the direction of DHS.

4. After Montana Highway Patrol officers detain individuals they suspect of immigration status violations for a prolonged period of time, DHS officers may or may not instruct patrol officers that they wish to assume custody of the individuals. However, Montana Highway Patrol's custom, policy, and practice is to seize an individual *before* DHS officers provide any instructions.

5. The Montana Highway Patrol has no statutory, constitutional, or inherent authority to arrest or detain people for civil violations of federal immigration law.

6. On information and belief, this custom, policy and practice is implemented in a discriminatory manner, as patrol officers use race and ethnicity as a motivating factor in forming a suspicion that a person is in the United States without valid immigration status. This policy disparately impacts Latinos who reside in, or are passing through, Montana.

7. The inferences that the Montana Highway Patrol uses to form a suspicion that a person is here without valid immigration status are based heavily on race. For example, the Montana Highway Patrol has attempted to justify this policy and practice based on observation of "inconsistencies" in vehicle registration or

insurance documents. However, white, non-Latino individuals with vehicle registration inconsistencies are not detained solely to contact DHS to confirm their immigration status, while Latino residents and visitors to Montana are.

8. On information and belief, the Montana Highway Patrol has also attempted to justify this policy and practice based on the pretense of needing a Spanish-speaking interpreter, and detaining Latino residents and visitors to utilize CBP for interpretation services. In the course of providing these “services,” Montana Highway Patrol prolongs the detention of these Latino residents and visitors while CBP attempts to ascertain their immigration status.

9. These activities have been occurring with great frequency for at least three years. As described below, at least two former Chief Administrators of the Montana Highway Patrol with final decision-making control over the Montana Highway Patrol’s customs, policies, and practices have explicitly sanctioned this unlawful activity.

10. Defendants have admitted in a collateral proceeding that the recently-retired Chief Administrator, Colonel Kenton Hickethier, ordered patrol officers “to arrest suspects [they] believed might be illegally in the country regardless of whether the facts supported an offense for which a person could be arrested under Montana law. His instructions were to get them to jail one way or another so Federal authorities could place detainers on them.” [See Complaint and Response,

attached as Exs. A and B.] On information and belief, at least some of these instructions were sent to patrol officers in written form. [*Id.*]

11. Defendants have engaged in a widespread pattern and practice of racial profiling and other racially and ethnically discriminatory treatment in an illegal, improper and unauthorized attempt to “enforce” federal immigration laws against Latino residents and visitors of Montana. In doing so, they have violated the Constitutional rights of numerous Latino residents and visitors to Montana.

12. To curtail Defendants’ illegal conduct, Plaintiffs bring this action as representatives of a class of Latino persons who, as a result of racial profiling and an illegal directive to enforce federal immigration laws, have been or will be stopped, detained, interrogated or searched without consent by Montana Highway Patrol in violation of the law.

13. Plaintiffs seek prospective declaratory and injunctive relief to enjoin Defendants’ unlawful racial profiling and the attendant constitutional injuries that Plaintiffs and the class will otherwise continue to endure.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1343. This Court has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367. This Court has authority to grant declaratory and

injunctive relief pursuant to 28 U.S.C. § 1343, 2201 and 2202, and to award attorneys' fees under 42 U.S.C. §1988(b).

15. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), and in this division pursuant to Local Rules 1.2(c) and 3.2(b). This is a 42 U.S.C. § 1983 suit against Defendants in their official capacity for prospective injunctive relief, and is, in all respects other than name, to be treated as a suit against the State of Montana. *See Ky. v. Graham*, 473 U.S. 159, 165-66 (1985). Under MCA § 25-2-126, venue is proper because at least one Plaintiff resides in this division.

PARTIES

16. Plaintiff Montana Immigrant Justice Alliance ("MIJA") is a non-profit organization registered with the State of Montana, working to advance the civil rights of immigrants throughout the state. Its mission is to provide resources and services to empower migrants in our communities; to combat the mistreatment of immigrants from xenophobia, discrimination, harassment, or racial profiling; to promote policies that welcome and support the growth of immigrant communities in our state; and to combat policies that marginalize migrant communities. MIJA does not maintain a single headquarters. Its community activities are held predominantly in Gallatin County, Montana, where MIJA's community advisory board resides. MIJA's board members reside in Gallatin County, Lewis and Clark County, and Yellowstone County.

17. MIJA has associational standing to represent the interests of its members in pursuing the prospective declaratory and injunctive relief asserted herein, and participates in this suit to lend its expertise and financial support to its members in vindicating their rights.

18. Plaintiff Jose Rios-Diaz is a U.S. citizen and a resident of Belgrade, Montana. He was a member of MIJA at all times relevant hereto. He is Latino by physical appearance and descent. Mr. Rios-Diaz brings this action on behalf of himself and all others similarly situated.

19. Plaintiff Eligio Duran-Sanchez is a Mexican citizen and at the time of his arrest by Montana Highway Patrol was a resident of Culbertson, Montana. Mr. Duran-Sanchez pursues this lawsuit as a member of MIJA. He is Latino by physical appearance and descent. Mr. Duran-Sanchez brings this action on behalf of himself and all others similarly situated.

20. Plaintiff Delfio Mejia-Ochoa is a Guatemalan citizen and a resident of Sidney, Montana. Mr. Mejia-Ochoa pursues this lawsuit as a member of MIJA. He is Latino by physical appearance and descent. Mr. Mejia-Ochoa brings this action on behalf of himself and all others similarly situated.

21. Plaintiff Eduardo Barragan-Naranjo is a Mexican citizen and a resident of Ronan, Montana. Mr. Barragan-Naranjo pursues this lawsuit as a member of

MIJA. He is Latino by physical appearance and descent. Mr. Barragan-Naranjo brings this action on behalf of himself and all others similarly situated.

22. Jose Enriquez-Galicia is not a plaintiff but shares his experiences as a member of the proposed class. He is a Mexican citizen and a resident of Las Vegas, Nevada, who was passing through Montana when detained by Montana Highway Patrol. He is Latino by physical appearance and descent.

23. Defendant Colonel Tom Butler is sued in his official capacity as the Chief Administrator of the Montana Highway Patrol. He is responsible for setting and implementing the policies and practices of the Montana Highway Patrol, including but not limited to: supervising, discharging, demoting, or suspending patrol officers; designating all supervisory personnel; and formulating policies regarding the stops, arrests, and related treatment of individuals in motor vehicles in the State of Montana. The Chief Administrator has direct control and supervision of all patrol officers, subject to the approval of the Attorney General.

24. The Montana Highway Patrol is not a defendant, but answers for the conduct alleged herein through Defendant Colonel Tom Butler, acting in his official capacity. The Montana Highway Patrol is the largest law enforcement agency in the state, with jurisdiction to make arrests under the circumstances outlined in MCA § 44-1-1001, *et. seq.*

25. Defendant Attorney General Tim Fox is sued in his official capacity as the Attorney General of the State of Montana and head of the Montana Department of Justice. He has powers of supervision, approval, direction and appointment over the Montana Highway Patrol, its Chief Administrators, and its patrol officers.

26. The Montana Department of Justice is not a defendant, but answers for the conduct alleged herein through Defendant Attorney General Tim Fox, acting in his official capacity. The Montana Department of Justice has control and supervision of the Montana Highway Patrol, and is directed by statute to provide for the employment and supervision of the Montana Highway Patrol.

GENERAL ALLEGATIONS

27. Montana Highway Patrol does not have the authority to prolong individuals' detention based on suspected civil immigration status violations, even if patrol officers have reasonable suspicion or probable cause to seize or detain individuals for violations of law that the patrol officers are authorized to enforce.

28. Montana Highway Patrol officers have no legal authority to prolong a detention to contact DHS and make inquiries based on suspicion of civil immigration status violations.

29. Montana Highway Patrol has a policy and practice of detaining Latino residents of Montana longer than necessary to resolve the alleged violations of the

law that they have jurisdiction to enforce, solely to inquire with agencies within DHS, including ICE and CBP, about individuals' immigration status.

30. This custom, policy and practice is not implemented in a race-neutral manner, but rather with discriminatory intent. On information and belief, this policy and practice permits the use of race as a motivating factor in formulating a suspicion that an individual lacks valid immigration status. The use of race in forming suspicion of civil immigration status violations disparately impacts Latinos who reside in, or are passing through, Montana.

31. At least two former Chief Administrators of the Montana Highway Patrol have approved of this unlawful custom, policy and practice.

32. Colonel Michael Tooley was Chief Administrator of the Montana Highway Patrol from around January 2009 to December 2012.

33. On April 14, 2011, Colonel Tooley responded to a discrimination complaint by Plaintiff Jose Ramos-Diaz, a U.S. citizen who was aggrieved after being held for at least 47 minutes for a simple speeding infraction because the Montana Highway Patrol officer wrongly suspected that he violated civil immigration laws. [See E-mail from Colonel Michael Tooley, attached as Ex. C.]

34. Colonel Tooley confirmed in writing that a Montana Highway Patrol officer had "called ICE to double check" on Mr. Ramos-Diaz's immigration status.

He further stated that: “This process turned a ten minute stop into a 47 minute stop. I wish it had been faster, but that isn’t how this encounter went. We often have trouble getting immediate calls back from ICE in these situations.” [*Id.*]

35. Colonel Tooley found no wrongdoing in this instance. [*Id.*]

36. Colonel Kenton Hickethier was Chief Administrator of the Montana Highway Patrol from about January 2013 to August 2013.

37. He was employed with Montana Highway Patrol for more than 27 years, 17 of those years spent in administrative capacities ranging from oversight responsibility for several districts, personnel management, policy implementation, budgetary oversight, and training.

38. Prior to August 2011, he had been promoted to Captain. He was promoted to Major on March 8, 2012, and oversaw operations east of the Continental Divide. He was promoted to Colonel and appointed as Chief Administrator of the Montana Highway Patrol by Attorney General Tim Fox around January 2013.

39. On or around July 10, 2013, Patrol Officer Glenn D. Quinnell with the Montana Highway Patrol filed a complaint with the Montana Human Rights Bureau within the Department of Labor and Industry, alleging that he suffered harassment, discrimination, and retaliation at the hands of Chief Hickethier, the Montana Highway Patrol, and the Montana Department of Justice. [*See Complaint*

of Discrimination ¶ 4(c), attached as Ex. A.]

40. Patrol Officer Glenn D. Quinnell alleged in his complaint that the following incident occurred during the week of August 16, 2011:

In one instance Hickethier ordered me to arrest suspects I believed might be illegally in the country regardless of whether the facts supported an offense for which a person could be arrested under Montana law. His instructions were to get them to jail one way or another so Federal authorities could place detainers on them. When others and I said we would not violate a person's civil rights he focused on me and said I would or I would be done. I understood this to be a threat to fire me if I did not make the illegal arrests. The next day, Hickethier pulled me aside and told me to stop being so 'hard headed.'

[*Id.*]

41. The Montana Department of Justice, on behalf of all respondents in that matter, admitted this paragraph of the complaint in its entirety. [*See* Response to Charge of Discrimination, attached as Ex. B.]

42. Patrol Officer Glenn D. Quinnell also reported other inappropriate race and sex-based comments made by Kenton Hickethier, then a Captain with the Montana

Highway Patrol. These were also admitted by the Montana Department of Justice, on behalf of all respondents in that matter. [*See id.*]

43. On August 27, 2011, Patrol Officer Glenn D. Quinnell reported Captain Hickethier instructions to violate the rights of suspected undocumented immigrants, as well as his other inappropriate comments, to Lieutenant Colonel Huseby in a detailed email. [*See Attachment A to Response to Charge of Discrimination, attached as Ex. B.*]

44. Patrol Officer Glenn D. Quinnell provided the following additional details about Captain Hickethier's remarks in his e-mail to Lieutenant Colonel Huseby:

Kelly's [Sergeant Kelly Manthooth's] uncle, whom I believe is named Steve, was telling war stories about his career. He was finishing up one that involved Immigration and Customs Enforcement when Capt. Hick [Hickethier] arrived. We had ordered food but had not eaten yet. I started to tell Steve the difficulties we have with getting ICE to take suspects in our area when Capt Hick interrupted and stated that I was doing it wrong. He said we were to arrest them for whatever offense we stopped them for and hold them for ICE. He stated he had made arrangements with ICE in Helena and had been guaranteed that they would go anywhere in the state to get illegals. He further stated that he had sent out an email regarding that. I told him that certainly if I had

an offense I could arrest for I would, but that I had called the number he had put out and had been declined more than once. I told him I could not arrest someone for a \$20 speed ticket. Case law is clear in Mt on that. He said I had to. I said again that I couldn't. Troy [Patrol Officer Muri] piped in at one point and said the same as me, that we had tried and ICE wouldn't come without more than just suspected illegal status. The exchange went back and forth a couple times and he said "you'll do it or you'll be done doing this!" About that time Steve looked at me and said, "Don't worry, your civil rights case will probably go OK". Everyone, including me, laughed. I wasn't taking it that serious at that point since we were off duty. At that point Captain Hick threw down some money, said "I'm done with Quinnell" and left. Everyone just got quiet.

[*Id.*]

45. Patrol Officer Glenn D. Quinnell made several references to specific emails written by Captain Hickethier about Montana Highway Patrol procedures for prolonging a detention to contact ICE:

I didn't sleep much that night. The next day I could tell that Capt. Hick was still upset but he didn't say anything initially. Kelly pulled me aside and told me that Capt. Hickithier [sp] would be pulling me

aside to talk later and to just let him have his say. During the first speakers session he pulled me out in to the lobby and said we needed to talk. He told me I needed to work on not being so Bullheaded. He also stated that I needed to read the emails I was sent and follow the procedures in them. I told him I believed I had. The night before when I got back to my room I double checked to make sure I had the email. I did. I had been following the procedures ICE had put out with the associated numbers to be called. At no time did he admit to being any way at fault for the incident. After his reaction the night before I just let him talk and went back to the training.

[*Id.*]

46. After an investigation, Captain Hickethier was issued a written warning for “several inappropriate comments . . . [s]pecifically the comments were in regard to the age of Trooper Glenn Quniell’s [sp] spouse, a joke in regard to a female instructor’s weight, and a comment about Trooper Quinell [sp] having dinner with black patrol officers from North Carolina.” [*See* Attachment B to Response to Charge of Discrimination, attached as Ex. B.]

47. Despite the fact that the complaint from Patrol Officer Glenn D. Quinnell provided detailed information about Captain Hickethier’s specific and adamant instructions to pretextually arrest people who “might be illegally in the country”

without probable cause, and to prolong their detention to contact ICE, there was no reprimand or written warning issued in connection with this misconduct. [*Id.*] This important issue was not even mentioned. [*Id.*]

48. After Kenton Hickethier's instructions to violate the rights of suspected undocumented immigrants came to the direct attention of Lieutenant Colonel Huseby, Hickethier was promoted to Major, and then to Colonel, and he was appointed Chief Administrator by Defendant Attorney General Tim Fox.

49. On information and belief, Colonel Hickethier's unlawful instructions and guidance continue to be implemented by Montana Highway Patrol. In addition, the custom, pattern, policy and practice of detaining Latino residents and visitors solely to inquire into their civil immigration status continues to be implemented by Montana Highway Patrol.

Montana Highway Patrol Lacks Authority to Enforce Civil Immigration Laws

50. Mere unauthorized presence in this country, without more, is not a criminal offense. Use of unauthorized methods of entry into this country generally constitutes at least misdemeanor or a petty criminal violation of federal immigration law. *See, e.g.,* 8 U.S.C. § 1325 (2005) (making it a federal misdemeanor to enter or attempt to enter the United States at "any time or place other than as designated by immigration officers."). However, aliens may also

enter the country legally, but become subject to removal either by staying longer than authorized or otherwise acting in excess of their authorization. Although a number of such aliens are here without or in excess of authorization, they have only committed a civil, as opposed to a criminal, violation of federal law.

51. As the Supreme Court recently explained: “As a general rule, it is not a crime for a removable alien to remain present in the United States. If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.” *Arizona v. United States*, 132 S. Ct. 2492, 2505, 183 L. Ed. 2d 351 (2012). State and local law enforcement officers may participate in the enforcement of federal immigration laws only in “specific, limited circumstances” authorized by Congress. *Id.* at 2507. “Detaining individuals solely to verify their immigration status would raise constitutional concerns.” *Id.* at 2509.

52. It is the law in the Ninth Circuit that local law enforcement officers cannot arrest individuals solely based on known or suspected civil immigration violations. *See Melendres v. Arpaio*, 695 F.3d 990, 1001 (9th Cir. 2012); *Melendres v. Arpaio*, No. PHX-CV-07-02513-GMS, 2013 U.S. Dist. LEXIS 73869, 2013 WL 2297173, at *60-63 (D. Ariz. May 24, 2013).

53. The federal statutory structure instructs when it is appropriate to arrest a non-citizen. When an alien is suspected of being removable, a federal immigration

official issues an administrative document called a Notice to Appear. *See* 8 U. S. C. § 1229(a); 8 CFR § 239.1(a) (2012). The form does not authorize an arrest. Instead, it gives the alien information about the proceedings, including the time and date of the removal hearing. *See* 8 U.S.C. § 1229(a)(1).

54. To arrest an alien, federal immigration official typically needs a warrant. Warrants are executed by federal officers who have received training in the enforcement of immigration law. *See* 8 CFR §§ 241.2(b), 287.5(e)(3). If no federal warrant has been issued, those officers have more limited authority. *See* 8 U. S. C. § 1357(a). They may arrest an alien for being “in the United States in violation of any [immigration] law or regulation,” for example, but only where the alien “is likely to escape before a warrant can be obtained.” *Id.* § 1357(a)(2).

55. By detaining individuals based on mere suspicion of civil immigration status violations, the Montana Highway Patrol exceeds the authority Congress has given to trained federal immigration officers to make warrantless arrests of non-citizens based on possible removability. The program put in place by Congress does not allow state or local officers to adopt the warrantless arrest enforcement mechanism unless they enter into a special agreement with DHS.

56. Under Section 287(g) of the Immigration and Nationality Act (“INA”), the U.S. Attorney General is authorized to permit the delegation of certain immigration enforcement functions to state and local officers. Agreements entered pursuant to

Section 287(g) of the INA enable specially trained state or local officers to perform specific functions relating to the investigation, apprehension, or detention of aliens, during a predetermined time frame and under federal supervision. *See* INA § 287(g)(5); 8 U.S.C. §1357(g)(5).

57. The Montana Highway Patrol does not have an agreement under INA § 287(g) to enforce federal immigration laws, and did not have any such agreement at any times relevant to this lawsuit.

58. As a law enforcement agency without INA § 287(g) authority, the Montana Highway Patrol has no statutory, constitutional, or inherent authority to detain people for civil violations of federal immigration law.

59. In the Montana Highway Patrol's operations, there appears to be no practical difference between how it presently acts and how it could act if it had full INA § 287(g) authority.

60. When the Montana Highway Patrol merely suspects a person of being in the country without authorization, it does not, in the absence of additional facts that would make the person guilty of an immigration-related crime, have a basis to arrest or even engage in a brief investigatory detention of such persons.

61. It is the existence of a suspected crime that gives a Montana Highway Patrol officer the right to detain a person for the minimum time necessary to

determine whether a crime is in progress. Possible criminality is key to any investigatory stop or prolonged detention. Absent suspicion that a suspect is engaged in, or is about to engage in, criminal activity, Montana Highway Patrol may not stop, detain, or prolong the detention of an individual.

62. Even actual knowledge that a person is not lawfully in the country does not provide probable cause that the person has, additionally, crossed the border at an unauthorized place, and has thus committed a criminal immigration violation. *Martinez-Medina v. Holder*, 673 F.3d 1029, 1030-31 (9th Cir. 2011).

63. A seizure that is justified for a particular purpose can become unlawful if it is prolonged beyond the time reasonably required to complete that purpose. Any attempts to contact DHS, pass along the information to ICE or CBP, await a response, and/or deliver the arrestees to DHS inevitably takes time in which the subject is not free to leave, and is therefore arrested, regardless of whether the detention is officially termed an arrest.

64. On information and belief, the Montana Highway Patrol has a policy and practice of prolonging investigatory stops of Latino residents and visitors longer than needed to resolve actionable violations of the law. These individuals are seized based on suspicion of being in the country without authorization, even though patrol officers do not have probable cause to believe they are guilty of an immigration-related crime.

65. When the driver of a vehicle is stopped, passengers are legally seized for the same time it takes the officer to resolve the basis for the stop with the driver. Yet, stopping a driver for a traffic violation provides no basis to stop or detain the passengers. Montana Highway Patrol officers cannot substantially prolong a stop to investigate a passenger unless the patrol officer, through his or her observations, obtains particularized reasonable suspicion that the passenger is committing a violation that the deputy is authorized to enforce.

66. On information and belief, Montana Highway Patrol has a policy and practice of detaining Latino passengers in a vehicle to investigate their immigration status absent particularized reasonable suspicion that the passenger is committing a criminal violation. In these instances, the Montana Highway Patrol prolongs the detention of the passenger significantly longer than necessary to resolve the matter for which the driver is seized.

67. Montana Highway Patrol detains both drivers and passengers it suspects of being in the country without authorization for a prolonged period, often between forty minutes to two hours, while attempting to make contact with DHS to ascertain the individual's immigration status and to determine if an immigration enforcement officer wishes to assume custody of an individual. Such persons are investigated and apprehended, at least initially, upon the prerogative of the Montana Highway Patrol and not at the direction of ICE. Such apprehensions

occur despite the lack of any authority on the part of the Montana Highway Patrol to investigate or arrest for civil immigration violations.

68. No written agreement is necessary in order for a state or local officer to report “that a particular alien is not lawfully present in the United States,” or to “cooperate in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.” INA § 287(g)(10), 8 U.S.C. §1357(g)(10). However, this does not authorize Montana Highway Patrol’s unilateral arrests.

69. The U.S. Supreme Court stated that: “There may be some ambiguity as to what constitutes cooperation under the federal law; but no coherent understanding of the term would incorporate the unilateral decision of state officers to arrest an alien for being removable absent any request, approval, or other instruction from the Federal Government.” *Arizona*, 132 S. Ct. at 2507.

70. In addition to unlawfully prolonging a stop to inquire into suspicion of civil immigration status violations, Montana Highway Patrol officers have been further instructed to pretextually arrest suspects they believe might be illegally in the country regardless of whether the facts support an offense for which a person could be arrested under Montana law. By Defendants’ admission, Montana Highway Patrol officers were instructed “to get them to jail one way or another so Federal authorities can place detainees on them.” [See Exhibits A and B, attached.]

71. On information and belief, Montana Highway Patrol is enrolled in the federal Secure Communities program, but this program does not confer any training or authority to enforce immigration laws, or allow an officer to prolong an arrest solely to inquire into an individual's immigration status.

72. Secure Communities is a federal program implemented by Immigration and Customs Enforcement ("ICE") that is used to identify criminal aliens in local law enforcement custody. State or local law enforcement officers enter data and fingerprints from individuals who they arrest and detain in the normal course of their duties. ICE monitors that database to identify aliens who may be removable. *See, e.g.,* U.S. Immigration and Customs Enforcement, Secure Communities: The Basics, available at http://www.ice.gov/secure_communities.

73. The National Crime Information Center ("NCIC") database may include certain civil immigration records, including information on individuals subject to removal orders in civil immigration proceedings. However, inclusion of these civil immigration records in a law enforcement database does not confer independent authority to make independent arrests based on civil immigration violations. *See, e.g., Santos v. Frederick County Bd. of Comm'rs*, 725 F.3d 451, 2013 U.S. App. LEXIS 16335, 2013 WL 4008189 (4th Cir. August 7, 2013)

74. Racial profiling is prohibited under MCA § 44-2-117. In addition to other requirements, this provision of law "prohibits the practice of routinely stopping

members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law.”

75. On information and belief, Montana Highway Patrol officers have used their patrol vehicles to physically transport Latino residents and visitors of Montana to an agency within DHS, including CBP or ICE. By law, upon making an arrest, a Montana Highway Patrol officer must follow the procedures of MCA § 44-1-1101. Montana Highway Patrol officers have no authority to seize, handcuff, and deliver an individual to DHS.

76. In some instances, Montana Highway Patrol’s unlawful custom, policy, and practice results in arrest of undocumented aliens, including some who committed criminal immigration violations. However, whether an arrest was constitutionally valid depends upon whether, at the moment the arrest was made, the officers had probable cause to make that arrest.

CLASS REPRESENTATIVES

Plaintiff Jose Rios-Diaz

77. On April 4, 2011, at approximately 10:00 am, Plaintiff Jose Rios-Diaz was pulled over by Patrol Officer Justin Moran with the Montana Highway Patrol for allegedly speeding while driving on the interstate near Billings, Montana.

78. Patrol Officer Moran asked Mr. Rios-Diaz for his driver’s license, and then almost immediately asked: “Are you here legally?”

79. Mr. Rios-Diaz objected to this line of questioning based on racial profiling, but acquiesced in response to the Montana Highway Patrol officer's show of authority. Mr. Rios-Diaz answered that he is here legally.

80. Mr. Rios-Diaz is a U.S. citizen.

81. Patrol Officer Moran noted that Mr. Rios-Diaz's vehicle was registered to someone else, but was insured by him. Mr. Rios-Diaz explained that he sold his vehicle to an acquaintance, who registered it under his name, but then he took the vehicle back when his friend ultimately did not pay for it.

82. Patrol Officer Moran asked if the person Mr. Rios-Diaz sold his vehicle to had been deported. Mr. Rios-Diaz answered that he did not know.

83. Mr. Rios-Diaz possessed a valid Montana driver's license, which was verified by Patrol Officer Moran.

84. Patrol Officer Moran went back to his vehicle and returned to Mr. Rios-Diaz several times. On each occasion, he resumed his line of questioning regarding Mr. Rios-Diaz's immigration status. He said: "Tell me the truth, are you here legally or not?"

85. Patrol Officer Moran's interrogation included detailed questions about the circumstances under which Mr. Rios-Diaz had originally obtained lawful permanent resident status, including who had petitioned for him.

86. At one point, Patrol Officer Moran said: “You don’t look like you are from around here.”

87. Mr. Rios-Diaz repeatedly confirmed that he has valid immigration status. At one point, Mr. Rios-Diaz asserted that since he has a valid Montana driver’s license, this should be sufficient proof of his lawful immigration status. Patrol Officer Moran answered: “Driver’s licenses can be fake.”

88. Mr. Rios-Diaz was detained while Patrol Officer Moran called ICE to “double check” on his immigration status.

89. Due to inquiries into his immigration status, Mr. Rios-Diaz was detained for longer than necessary to issue a speeding ticket, or to investigate any other actionable violations of the law.

90. This process extended Mr. Rios-Diaz’s detention by at least 37 minutes.

91. Mr. Rios-Diaz was issued a \$40.00 speeding ticket, which he paid.

92. On the same day, Mr. Rios-Diaz complained, through his attorney, to former Chief of the Montana Highway Patrol, Colonel Michael Tooley.

93. On April 14, 2011, Colonel Tooley courteously responded to Mr. Rios-Diaz’s counsel by e-mail, but stated that after reviewing the audio and video of the stop, Montana Highway Patrol found no wrongdoing. [See E-mail from Colonel Michael Tooley, attached as Ex. C.]

94. Colonel Tooley justified the length of the stop and inquiries with ICE by claiming that Patrol Officer Moran found “inconsistencies” in the vehicle registration and insurance documents, which “brought into question other documentation such as the driver’s license.” [*Id.*]

95. However, Colonel Tooley also confirmed that “[t]he license was verified with DMV almost immediately after the stop. It was a valid license and Trooper Moran never stated he thought it was fake on the presence of Mr. Rios-Diaz nor when he was back in the patrol car.” [*Id.*]

96. Colonel Tooley stated: “we have recently encountered driver’s licenses have been secured in Montana and other states (usually Washington) with unverified documentation by individuals from all over the world.”

97. Colonel Tooley stated that Patrol Officer Moran was attempting “to ensure there were no other violations of law outside of the initial stop.”

98. Colonel Tooley did not explain how “double checking” with ICE regarding Mr. Rios-Diaz’s immigration status was related to resolving any “inconsistencies” in the vehicle registration and insurance documents, and did not articulate any facts that could have been relied upon to form reasonable suspicion or probable cause that Plaintiff had an invalid driver’s license, or had committed a civil immigration violation — much less a criminal immigration violation.

99. Colonel Tooley confirmed that inquiries with ICE caused the delay: “This process turned what should have been a ten-minute stop into a 47-minute stop. I wish it had been faster, but that isn’t how this encounter went. We often have trouble getting immediate calls back from ICE in these situations.” [*Id.*]

100. Montana Highway Patrol had no authority to prolong Mr. Rios-Diaz’s detention to inquire with ICE about his immigration status.

101. Montana Highway Patrol can point to no race-neutral criteria that would justify prolonging Mr. Rios-Diaz’s detention to inquire with ICE about his immigration status. On information and belief, this prolonged detention was due to discriminatory racial profiling.

102. On at least one other occasion, a Montana Highway Patrol officer questioned Mr. Rios-Diaz about his immigration status. This occurred on or around April 19, 2009, when Mr. Rios-Diaz needed assistance after crashing his vehicle due to slippery road conditions.

103. Because of Mr. Rios-Diaz’s experiences with the Montana Highway Patrol, he is afraid that he will continue to be detained in the future based on racial profiling and unfounded suspicions regarding his immigration status. He feels like he cannot drive anywhere in the state without getting harassed. Because of this harassment he has even contemplated leaving Montana.

Plaintiff Eligio Duran-Sanchez

104. On August 30, 2013, at approximately 4:00 pm, Mr. Duran-Sanchez was the passenger in a vehicle stopped by a Montana Highway Patrol officer, ostensibly for a missing front license plate, while the vehicle was driving on Highway 2, just outside Culbertson, Montana.

105. The vehicle was driven by a Latino male.

106. The Patrol Officer also asked for a driver's license from Mr. Duran-Sanchez, although he was the passenger in the vehicle.

107. The Patrol Officer lacked reasonable suspicion or probable cause to believe that Mr. Duran-Sanchez had committed a crime, including any immigration-related crime.

108. Mr. Duran-Sanchez presented a form of Mexican identification.

109. The Patrol Officer asked Mr. Duran-Sanchez to additionally present a birth certificate. The vehicle was stopped near Mr. Duran-Sanchez's residence. He was told to get the birth certificate and return to the vehicle.

110. Upon returning to the vehicle, the Patrol Officer indicated that Mr. Duran-Sanchez was not free to leave.

111. On information and belief, the Montana Highway Patrol officer contacted CBP to inquire into the immigration status of Mr. Duran-Sanchez.

112. A second Montana Highway Patrol vehicle arrived at the scene.

113. On information and belief, Mr. Duran-Sanchez and Mr. Manuel-Sanchez were handcuffed and put in separate Montana Highway Patrol vehicles.

114. Up to this point, Montana Highway Patrol officers had detained Mr. Duran-Sanchez, without his consent or ability to leave, for almost two hours.

115. On information and belief, a Montana Highway Patrol officer drove Mr. Duran-Sanchez for over an hour to a CBP station in Plentywood, Montana.

116. CBP then took custody of Mr. Duran-Sanchez.

117. Mr. Duran-Sanchez was never issued any ticket or citation by Montana Highway Patrol in connection with this incident.

118. As a passenger in the vehicle, Montana Highway Patrol had no authority to detain Mr. Duran-Sanchez in the first instance, and had no authority to prolong his detention to inquire with DHS about his immigration status.

119. On information and belief, Montana Highway Patrol seized Mr. Duran-Sanchez without first forming probable cause or reasonable suspicion that Mr. Duran-Sanchez committed a criminal immigration violation.

120. Montana Highway Patrol can point to no race-neutral criteria that would justify prolonging Mr. Duran-Sanchez's detention to inquire with DHS about his immigration status.

Plaintiff Delfio Mejia-Ochoa

121. On September 21, 2013, around midnight, Plaintiff Delfio Mejia-Ochoa was the driver in a vehicle stopped by the Dawson County Sherriff's Department for allegedly speeding while driving on Highway 16, about 10 miles outside of Glendive, Montana.

122. After Mr. Mejia-Ochoa was pulled over, a Montana Highway Patrol vehicle arrived at the scene and jointly took part in his arrest and detention.

123. Mr. Mejia-Ochoa presented a valid Utah driver's license, but was informed that a technical problem prevented it from being verified.

124. Mr. Mejia-Ochoa was informed that he was being detained while one or both of the law enforcement officers called an agency within DHS to attempt to verify Mr. Mejia-Ochoa's immigration status.

125. A Patrol Officer with the Montana Highway Patrol demanded to see identification from the passenger in the vehicle, Mr. Mejia-Ochoa's fiancée, Kariann Sprankle.

126. One or both of the law enforcement officers handed Mr. Mejia-Ochoa a phone and demanded that he speak to an unknown immigration officer.

127. On information and belief, this immigration officer was with CBP in Plentywood, Montana.

128. Mr. Mejia-Ochoa did not consent to questioning into his immigration status, or to his prolonged detention to check his immigration status with DHS, but acquiesced in response to the law enforcement officers' show of authority.

129. Mr. Mejia-Ochoa truthfully answered all of the questions that were asked of him. Then, he was asked to wait while the law enforcement officers spoke amongst themselves.

130. By this point, the law enforcement officers had detained Mr. Mejia-Ochoa for approximately an hour and a half.

131. At one point, Mr. Mejia-Ochoa was informed: "It doesn't seem like they want you." He was told that if DHS didn't call back within five minutes, he would be released.

132. One or both of the law enforcement officers subsequently made another phone call to an immigration officer with DHS, and Mr. Mejia-Ochoa was informed: "They want to take you."

133. Mr. Mejia-Ochoa was placed under arrest, handcuffed, and put into the Dawson County Sherriff's patrol vehicle. He was driven approximately one hour and delivered to a CBP station in Plentywood, Montana.

134. A \$65.00 speeding ticket was issued by the Dawson County Sherriff's Department, which he paid in full.

135. Montana Highway Patrol jointly participated in this arrest, and had no authority to participate in prolonging Mr. Mejia-Ochoa's detention to inquire with DHS about his immigration status.

136. Montana Highway Patrol seized Mr. Mejia-Ochoa without first forming probable cause or reasonable suspicion that he had committed a criminal immigration violation.

137. Montana Highway Patrol can point to no race-neutral criteria that would justify its participation in prolonging Mr. Mejia-Ochoa's detention to inquire with DHS about his immigration status.

Plaintiff Eduardo Barragan-Naranjo

138. On April 21, 2011 at about 12:00 pm, Mr. Barragan-Naranjo was the passenger in a vehicle stopped by Montana Highway Patrol Officer Matt Cartwright, allegedly for speeding on Interstate 94 in Custer County, Montana.

139. Patrol Officer Cartwright asked the driver of the vehicle for his driver's license, which he provided.

140. Patrol Officer Cartwright also asked Mr. Barragan-Naranjo for his identification. He provided a valid driver's license.

141. Patrol Officer Cartwright asked if Mr. Barragan-Naranjo had any drugs. He answered that he did not.

142. Patrol Officer Cartwright requested assistance from Agent Dan Baker with the Montana Department of Justice because he suspected drug activity.

143. At some point, Patrol Officer Mike Rhodes also arrived at the scene.

144. One of the law enforcement officers asked Mr. Barragan-Naranjo for permission to search the vehicle. Mr. Barragan-Naranjo answered that he could not give permission to search the vehicle, since he did not own it, but that they could search his personal belongings.

145. Agent Baker questioned Mr. Barragan-Naranjo. A Montana Department of Justice report of the incident states:

Agent Baker asked Barragan if he was in the country legally or illegally and Barragan replied something to the effect that he was working on it. Agent Baker questioned him further and asked Barragan directly if he was here illegally. Barragan advised Agent Baker that he was in fact an illegal alien, living in the United States for 13 years. Agent Baker advised Troopers Cartwright and Rhodes that Barragan had admitted to being in the country illegally. Trooper Cartwright contacted U.S. Immigration and Customs Enforcement (ICE) regarding Barragan[.]

146. An ICE report of the incident states:

MHP Trooper [Cartwright] initiated a vehicle stop on I-94 West Bound near Miles City, Montana. Trooper [Cartwright] encountered two male subjects in the vehicle. One of the two occupants readily admitted to being a citizen of Mexico and supplied a foreign document to the trooper when he asked for identification. Trooper [Cartwright] then contacted ICE Special Agent [Redacted] in regards to the subject. SA [Redacted] interviewed Eduardo BARRAGAN-NARANJO and determined that the subject is illegally present in the United States.

147. Mr. Barragan-Naranjo Plaintiff did not consent to this line of questioning into his immigration status, or to his prolonged detention to check his immigration status with DHS, but acquiesced in response to the Montana Highway Patrol officer's show of authority.

148. Patrol Officer Cartwright searched Mr. Barragan-Naranjo's belongings and saw that he had approximately \$5,000.00 in cash.

149. Mr. Barragan-Naranjo explained that he had just sold a vehicle, and that this was the money he earned from that transaction. He stated that he was planning to buy a new vehicle with that money.

150. The law enforcement officers asserted that Mr. Barragan-Naranjo and

the driver of the vehicle were involved in the sale of methamphetamines.

151. The law enforcement officers seized Mr. Barragan-Naranjo's money, and placed him under arrest.

152. On September 1, 2011, the charges against Mr. Barragan-Naranjo were dismissed with prejudice.

153. After being released from state custody, Mr. Barragan-Naranjo was taken into ICE custody pursuant to a detainer.

154. After being taken into custody and put into Immigration Court proceedings, ICE exercised prosecutorial discretion and asked the Immigration Court to terminate the removal proceedings against Mr. Barragan-Naranjo. On October 15, 2012, the removal proceedings against him were terminated.

155. On information and belief, the Montana Department of Justice and Montana Highway Patrol officers who arrested Mr. Barragan-Naranjo lacked probable cause to believe that Mr. Barragan-Naranjo had committed a crime, including any immigration-related crime.

156. On information and belief, Mr. Barragan-Naranjo's arrest in this instance was in accordance with general instructions by then-Captain Kenton Hickethier "to arrest suspects [patrol officers] believed might be illegally in the country regardless of whether the facts supported an offense for which a person

could be arrested under Montana law. His instructions were to get them to jail one way or another so Federal authorities could place detainers on them.” [See Complaint and Response, attached as Exhibits A and B.]

Proposed Class Member Jose Enriquez-Galicia

157. On or about September 26, 2013, at approximately 7:00 pm, Mr. Enriquez-Galicia was the passenger in a vehicle stopped by a Montana Highway Patrol officer, ostensibly because the vehicle had a lighted license plate that was tinted blue, allegedly in violation of the law.

158. There were three Latino men in the vehicle. The driver was a U.S. citizen who presented a valid driver’s license.

159. The Patrol Officer also demanded identification from the passengers in the vehicle, Mr. Enriquez-Galicia and another unknown Latino male.

160. The Patrol Officer lacked reasonable suspicion or probable cause to believe that Mr. Enriquez-Galicia had committed a crime, including any immigration-related crime.

161. Mr. Enriquez-Galicia presented a form of Mexican identification.

162. The Montana Highway Patrol officer seized Mr. Enriquez-Galicia, preventing his freedom to leave, while the Patrol officer contacted CBP to verify his immigration status.

163. Montana Highway Patrol officers detained Mr. Enriquez-Galicia, without his ability to leave, for over an hour, until CBP officers arrived and took him into custody.

164. On information and belief, the other Latino male was also detained by Montana Highway Patrol until CBP officers arrived and took him into custody.

165. Mr. Enriquez-Galicia was never issued any ticket or citation by Montana Highway Patrol in connection with this incident.

166. As a passenger in the vehicle, Montana Highway Patrol had no authority to substantially prolong Mr. Enriquez-Galicia's detention without probable cause that he had committed a crime, and had no authority to prolong his detention to inquire with DHS about his immigration status.

167. Montana Highway Patrol can point to no race-neutral criteria that would justify prolonging Mr. Enriquez-Galicia's detention to inquire with DHS about his immigration status.

CLASS ALLEGATIONS

168. This is a class action seeking declaratory and injunctive relief under Federal Rule of Civil Procedure 23(b)(2) on behalf of Plaintiffs and all other similarly situated individuals.

169. The appropriate statute of limitations for a civil rights claim under 42

U.S.C. 1983 is the time-period applicable to personal injury actions. *See, e.g., Wilson v. Garcia*, 471 U.S. 261 (1985). Montana has a three-year statute of limitations for general personal injury actions. MCA § 27-2-204(1).

170. The class that Plaintiffs seek to represent consists of:

All Latino persons who, since October 7, 2010, have been or will be in the future, stopped, detained, questioned or searched by Montana Highway Patrol officers while driving or sitting in a vehicle on a public roadway or parking area in the State of Montana.

171. This class is so numerous that joinder of all members is impracticable.

172. To generally support the numerosity of the class, several articles and press releases, going back to at least September 5, 2000, describe Montana Highway Patrol officers' involvement in detaining Latinos residing and passing through Montana based on suspected immigration status violations. [See Collected Articles and Press Releases, attached as Ex. D.] On information and belief, this publically-available information constitutes only a small segment of the class members affected. Because these articles and press releases are skewed toward reporting arrests of individuals who lacked valid immigration status, they are not fully representative of class members, like Plaintiff Jose Rios-Diaz, who never faced any charges as a result of the violation of their constitutional rights.

173. There are questions of law and fact common to all members of the class and all class members have been directly affected by the challenged actions of Defendants. Although the factual circumstances of the individual stops involving the named Plaintiffs and class members may differ, they claim generally that Montana Highway Patrol has a policy of racial profiling, in violation of the Fourteenth Amendment, which leads officers to detain individuals without reasonable suspicion or probable cause that they committed a crime, in violation of the Fourth Amendment. Each putative class member has been or will be subjected to discriminatory stops, impermissibly using race as a factor in questioning, detentions, arrests and/or searches conducted by Defendants without consent. Each putative class member has been or will be subjected to stops, detentions, interrogations and/or searches, pretextually and/or without any reasonable, articulable suspicion or probable cause that such class member had committed a crime, and in a manner to which Caucasian drivers and passengers in vehicles in the State of Montana are generally not subjected.

174. The claims and defenses of the representative Plaintiffs are typical of the claims and defenses of the class.

175. The representative Plaintiffs have no conflicts of interest with other class members, and will fairly and adequately protect the interests of the class.

176. The representative Plaintiffs complain of a pattern or practice that is

generally applicable to the class as a whole. Defendants in this case have taken actions in violation of the class members' constitutional rights, which are grounds generally applicable to the class, and the requested injunctions and declaratory judgments would provide relief to each member of the class from these constitutional violations.

177. Plaintiffs' counsel is competent and experienced in class action litigation of the type brought here.

REQUISITES FOR RELIEF

178. As a result of the conduct of Defendants described above, Plaintiffs have been denied their constitutional and civil rights. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue to result in irreparable injury to Plaintiffs, including but not limited to further violations of their constitutional and civil rights.

179. Plaintiffs have no plain, adequate or complete remedy at law to address the wrongs described herein. Plaintiffs therefore seek prospective injunctive and declaratory relief restraining Defendants from continuing to engage in and enforce the unlawful and unconstitutional policies, practices, conduct and acts described herein.

180. The provisions of MCA § 2-9-301, requiring certain "claims" against

the state to be first presented to the Department of Administration are not applicable here, because the prospective declaratory and injunctive relief sought herein is not a “claim” under MCA § 2-9-101.

CLAIMS FOR RELIEF

COUNT I: EQUAL PROTECTION

(Fourteenth Amendment)

181. Plaintiff hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

182. As Latino persons, Plaintiffs are members of a protected class.

183. As Latino persons, those individuals stopped, detained, questioned or searched by Montana Highway Patrol officers during the class period are members of a protected class.

184. Defendants, acting under color of law and in concert with one another, engaged, and continue to engage, in profiling and discriminatory treatment of Plaintiffs and other Latino individuals based on their race, color and/or ethnicity.

185. Defendants have acted pretextually and impermissibly used race as a factor in forming reasonable suspicion or probable cause to prolong a stop, detention, search and/or to arrest of Plaintiffs or any of the other Latino individuals referred to above based on suspicion of immigration status violations.

186. By purposefully stopping, detaining, questioning, searching and/or arresting Plaintiffs and subjecting them to different, burdensome and injurious treatment because of their race, color and/or ethnicity, Defendants deprived Plaintiffs and members of the plaintiff class of the equal protection of the law within the meaning of the Fourteenth Amendment to the U.S. Constitution.

187. These actions violated Plaintiffs' and class members' Fourteenth Amendment rights and 42 U.S.C. § 1983.

188. Defendants, acting under color of law and in concert with one another, exceeded and/or abused the authority granted to them under state and federal law.

189. By their conduct described above, Defendants have devised and implemented a policy, custom and practice of illegally prolonging a stop, and detaining, questioning or searching Latino individuals because of their race, color and/or ethnicity.

190. Defendants' actions have caused and will continue to cause Plaintiffs and other similarly situated individuals to suffer public humiliation and additional harms, and be subjected to unlawful discrimination unless these actions are stopped.

191. As a direct, proximate result of Defendants' wrongful conduct, Plaintiffs and class members have suffered and will continue to suffer significant

and substantial injuries.

COUNT II: UNREASONABLE SEARCH AND SEIZURE
(Fourth and Fourteenth Amendments)

192. Plaintiff hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

193. Pursuant to the Fourth and Fourteenth Amendments to the U.S. Constitution, state and local governments are prohibited from conducting unreasonable searches and seizures.

194. Defendants, acting under color of law and in concert with one another, stopped, seized, searched, arrested and/or impermissibly extended stops of Plaintiffs, pretextually, for racially motivated reasons and without probable cause or reasonable suspicion that they had violated the law. Such conduct violated the Fourth Amendment guarantee against unreasonable searches and seizures, the Fourteenth Amendment, and 42 U.S.C. § 1983.

195. Defendants violate 42 U.S.C. § 1983 because the unconstitutional policy, practice, and custom was specifically instructed by final policymakers, actions of subordinates were approved and authorized by the final policymakers, and there was a deliberate indifference to an obvious need for patrol officer training, such that this lack of training would inevitably result in a patrol officer violating individuals' rights.

196. Upon information and belief, the Defendants, acting under color of law and in concert with one another, have engaged in a custom, practice and policy of stopping, seizing, searching, arresting and/or impermissibly extending stops of other Latino individuals in Montana, pretextually, for racially motivated reasons and without probable cause or reasonable suspicion that they had committed any crime under their jurisdiction or authority.

197. Defendants, acting under color of law and in concert with one another, exceeded and/or abused the authority granted to them under state and federal law.

198. Defendants' actions have caused and will continue to cause Plaintiffs and other similarly situated individuals to suffer public humiliation and additional harms, and be subjected to unlawful discrimination unless these actions are stopped.

**COUNTS III AND IV: VIOLATIONS OF
MONTANA CONSTITUTION ARTICLE II §§ 4, 11**

199. Plaintiff hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

200. Article II, § 4 of the Montana Constitution provides: "The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall

discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.”

201. Article II, § 11 of the Montana Constitution provides: “The people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures.”

202. By their wrongful conduct described above, Defendants, acting under color of law and in concert with one another, have violated the rights guaranteed to Plaintiffs and other similarly situated individuals under Article II, §§ 4 and 11 of the Montana Constitution.

203. Defendants’ have caused and will continue to cause Plaintiffs and other similarly situated individuals to be subjected to unlawful discrimination, suffer public humiliation, and additional harms unless these actions are stopped.

COUNT V: RACE DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS

204. Plaintiff hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

205. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, provides: “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial

assistance.”

206. On information and belief, the Montana Highway Patrol and Montana Department of Justice receive federal funding and other financial assistance from the U.S. Department of Justice and other federal agencies. As a recipient of federal financial assistance, they are required to conduct their activities in a racially non-discriminatory manner pursuant to Title VI of the Civil Rights Act of 1964.

207. Federal regulations implementing Title VI further provide that no program receiving financial assistance through the DOJ shall utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color and/or ethnicity, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color and/or ethnicity.

208. The methods employed by Defendants discriminate against individuals based on their race, color and/or ethnicity as described herein.

209. Defendants’ violations of 42 U.S.C. §2000d and its implementing regulations have caused and will continue to cause Plaintiffs and other similarly situated individuals public humiliation and additional harms in that they will continue to be subjected to unlawful discrimination unless it is stopped.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of a class of all those similarly situated, respectfully demand judgment against Defendants awarding the following:

- A. A declaratory judgment pursuant to 28 U.S.C. § 2201 and 2202 that Defendants have engaged in discrimination based on race, color and/or ethnicity and denied Plaintiffs and plaintiff class equal protection of the laws in violation of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. §1983;
- B. A declaratory judgment pursuant to 28 U.S.C. § 2201 and 2202 that Defendants' stops, interrogations, detentions, searches and/or arrests of Plaintiffs and other similarly situated individuals without probable cause or reasonable, articulable suspicion to believe that they had committed a crime violated the Fourth Amendment guarantee against unreasonable searches and seizures, the Fourteenth Amendment and 42 U.S.C. § 1983;
- C. Declaratory judgments pursuant to 28 U.S.C. § 2201 and 2202 that Defendants' actions are unconstitutional because they violate the rights of Plaintiffs and other similarly situated individuals provided by Article II §§ 4 and 11 of the Montana Constitution;

- D. A declaratory judgment pursuant to 28 U.S.C. § 2201 and 2202 that Defendants engaged in race discrimination in violation of Title VI of the Civil Rights Act of 1964 and 42 C.F.R. §101 *et. seq.*;
- E. A preliminary and permanent injunction prohibiting Defendants from continuing to engage in race, color and/or ethnicity-based discrimination as described herein and to put into place safeguards sufficient to ensure that such discrimination does not continue in the future;
- F. A preliminary and permanent injunction prohibiting Defendants from exceeding the limits of their authority under state and federal law;
- G. An award of attorneys' fees and costs of suit, plus interest, pursuant to 42 U.S.C. §1988; and
- H. Any other and further relief that this Court deems just and proper.

Respectfully submitted this 7th day of October 2013.

By: /s/ Shahid Haque-Hausrath
Shahid Haque-Hausrath
BORDER CROSSING LAW FIRM, P.C.
312 N. Ewing St., 2nd Floor
Helena, MT 59601
(406) 594-2004 (direct)
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Shahid@bordercrossinglaw.com

EXHIBIT A

RECEIVED

JUL 10 2013

HUMAN RIGHTS BUREAU

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Attorney for the Charging Party

MONTANA DEPARTMENT OF LABOR & INDUSTRY

Human Rights Bureau

P O Box 1728

Helena MT 59624

(406) 444-2798 (fax)

Glenn D. Quinnell,
c/o Best Law Offices, P.C.
425 Third Ave. No.
P.O. Box 2114
Great Falls, MT 59403,

Charging Party,

HR Case No. 0131016372

vs.

State of Montana,
~~Kenton B. Hicketier~~
Montana Highway Patrol, and
Montana Department of Justice,
2550 Prospect Ave.
P.O. Box 201419
Helena, MT 59620-1419,

Respondents.

COMPLAINT OF DISCRIMINATION

The undersigned, Glenn D. Quinnell, states as follows:

1. My name is Glenn Quinnell. I am the charging Party. I am a Trooper in the Montana Highway Patrol (MHP) based in Glendive. The MHP is a part of the State of Montana Department of Justice (DOJ). I have worked for the MHP for 8 years. I can be reached through my lawyer, Elizabeth Best, BEST LAW OFFICES P.C., (406) 452.2933.
2. Respondents are Kenton Hickethier, the State of Montana, the Montana DOJ, and the Montana Highway Patrol. Respondent Hickethier is a supervisor with the title of Chief Administrator of the MHP ("Chief").
3. Respondents harassed me based upon gender, and retaliated against me for engaging in protected activity, i.e., objecting to gender, race, and ethnicity based harassment and discrimination.
4. The following facts support my claim:
 - a. During the Summer of 2011, I reported discriminatory conduct by Respondent Hickethier, who was then an MHP Captain. I witnessed Hickethier committing what I understood, based on MHP training, to be sexual harassment of women while attending a law enforcement conference in Phoenix.
 - b. During the same conference, Hickethier made offensive sex-based insults about my wife, and my sexual relationship with my wife. During a seminar at the conference, Hickethier made offensive gender-based comments about a female speaker, the Attorney General for the State of Arizona.
 - c. During the same conference, Hickethier made race, national origin and ethnic based offensive comments. In one instance Hickethier ordered me to arrest suspects I believed might be illegally in the country regardless of whether the facts supported an offense for which a person could be arrested under Montana law. His instructions were to get them to jail one way or another so Federal authorities could place detainers on them. When others and I said we would not violate a person's civil rights he focused on me and said I would or I would be done. I understood this to be a threat to fire me if I did not make the illegal arrests. The next day, Hickethier pulled me aside and told me to stop being so "hard headed." In another incident Hickethier asked me what I had done the previous evening, since I had not been out socializing with his group. I told him I had dinner with some troopers from another state. He said, "Yeah. I saw. Guess once you go black you never go back." One of the individuals I had been with was black. Hickethier knows I have black relatives.

- d. I reported the above conduct to my Sergeant, who reported it to my Captain, Captain Hilbert. Captain Hilbert reported this conduct to LTC Huseby, who asked me for a report, which I provided to him.
- e. Despite being told this conduct would be investigated, I am unaware of the results of the investigation. I am aware that Lt. Colonel Huseby made comments questioning my truthfulness and integrity relating to my report.
- f. During the period in which I understood the matter was being investigated, Hickethier called me at home and asked me to "forgive and forget."
- g. Since the time of my report, Hickethier has been promoted twice, and now heads the MHP.
- h. I have tested for promotion twice since Hickethier was promoted to Chief of MHP in January 2013. Each time, I was passed over. The promotion process, which used to be transparent, is not transparent any more.
- i. I am well qualified for a promotion. My training and experience before and during my tenure with the MHP has been recognized by MHP leadership on many occasions. I have been appointed Acting Sergeant in the absence of my detachment Commander. I have been named MHP Trooper of the year, Montana Narcotics Officers Association Narcotics Officer of the Year and DOJ Narcotics Officer of the Year. I have never been disciplined. I always score very well on the evaluation scale. I have been a field training officer for 4 years and have often been assigned trainees in all 3 phases of the field training process. I also served as a Camp Commander for the MHP Academy. I am a firearms and taser instructor. I was told I scored in the top 5 candidates on both occasions after the Commanders' evaluation. To date, Respondents have provided me no feedback about how I scored on other segments of the process. Eleven sergeants have been promoted during the period in which I was passed over.
- j. The first time I was passed over occurred on January 16, 2013. The second time I was passed over was on June 15, 2013. Since Hickethier was promoted to Chief, the criteria for promotions was changed several times. It now includes a test with a result classified as "sociability." I have been told that my scores on "sociability" have been interpreted to mean I scored low in this area, which might make "networking" difficult. "Networking" is the term used by Hickethier to describe whether the applicant is willing to go out and drink with Hickethier and others during out-of-town conferences and trainings. The baseline for comparison on this test was established by testing four persons who were recently promoted or offered promotions to Captain and who were hand picked by MHP command staff, including Hickethier. Three of those four were persons who, as part of their duties, regularly accompanied Hickethier to conferences and trainings.

- k. In addition to the retaliation by refusing to consider me for promotion, Hickethier has engaged in a continuing practice and routine of attempting to embarrass me and humiliate me in public because I am not willing to participate in his partying and carousing, and a continuing practice of ostracizing me at MHP related events. While I have not been to any out of state conferences since the one in Phoenix, I have been told that the behavior I have reported continues.
 - l. I attempted to file a grievance about the above-described conduct with my union under the Collective Bargaining Agreement (CBA), but my union representative has advised me that this is not covered by the CBA.
 - m. Respondents have continued to tolerate, ratify, and encourage Hickethier's discriminatory conduct, which led to his retaliation against me.
 - n. Respondents have refused to stop Hickethier's conduct, and instead have ratified it, participated, and encouraged it. They have created adverse job conditions for me.
5. This is to request that the HRB investigate the discrimination and retaliation I have described above. I request that the HRB issue an injunction to stop the retaliation and harassment.
6. Each of the Respondents violated my rights under the Montana Human Rights Act and Governmental Code of Fair Practices, specifically Sections 49-2-303 and 49-2-308 and 49-3-201 and 49-3-209.
7. I hereby request fair and just compensation for my mental and emotional distress, humiliation, embarrassment, and lost compensation caused by Respondents' unlawful conduct. I request compensation for reasonable attorneys' fees and costs necessitated by Respondents' unlawful conduct.

DATED this 8 day of July, 2013.


Glenn D. Quinnell

///


///

VERIFICATION

State of Montana)
)ss:
Dawson County)

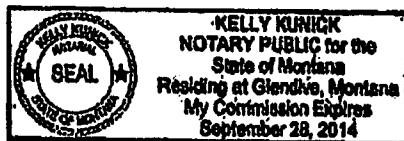
The undersigned, Glenn D. Quinnell, states that the facts alleged in the foregoing Complaint of Discrimination are true and accurate to the best of my knowledge and belief.

Signed this 8 day of July, 2013.


Glenn D. Quinnell

Subscribed and sworn to before me this 8th day of July, 2013.

(SEAL)





Printed Name: Kelly Kunick
Notary Public for the State of Montana
Residing at: Glendive, MT
My commission expires: 9-28-2014

EXHIBIT B

STATE OF MONTANA

DEPARTMENT OF JUSTICE

CENTRAL SERVICES DIVISION - HUMAN RESOURCE SERVICES

Scott-Hart Building, 302 North Roberts, Helena, Montana 59620-1404
PO Box 201404 Helena, Montana 59620-1404



Tim Fox
Attorney General

Telephone: (406) 444-1910
FAX: (406) 444-1887

July 18, 2013

Montana Department of Labor and Industry
Employment Relations Division
Attn: Kim Cobos, Data Manager
PO Box 1728
Helena MT 59624-1728

RECEIVED

JUL 29 2013

HUMAN RIGHTS BUREAU

RE: Response to Charge of Discrimination, Charge Number 0131016372
0131016371

Following is the Montana Department of Justice's (Respondent) response to the charge of discrimination, charge number 0131016372, filed by the petitioner, Glenn D. Quinell.
0131016371

The Montana Department of Justice is a public entity under the direction of the publicly elected Montana Attorney General. There are no organization owners.

PARTICULARS OF THE CHARGE (AND RESPONSE)

- A. During the summer of 2011, I reported discriminatory conduct by Respondent Hickethier, who was then an MHP Captain. I witnessed Hickethier committing what I understood, based on MHP training, to be sexual harassment of women while attending a law enforcement conference in Phoenix.

ANSWER: Conditional Admit. Mr. Quinell reported "unprofessional behavior" by Respondent Hickethier, but did not allege that Hickethier discriminated against or sexually harassed him. (ATTACHMENT A)

- B. During the same conference, Hickethier made offensive sex-based insults about my wife, and my sexual relationship with my wife. During a seminar at the conference, Hickethier made offensive gender-based comments about a female speaker, the Attorney General for the State of Arizona.

ANSWER: Admit.

- C. During the same conference, Hickethier made race, national origin and ethnic based offensive comments. In one instance Hickethier ordered me to arrest suspects I believed might be illegally in the country regardless of whether the facts supported an offense for which a person could be arrested under Montana Law. ... In another incident Hickethier asked me what I had done the previous evening, since I had not been out socializing with his group. I told him I had dinner with some troopers from another state. He said, "Yeah, I saw. Guess once you go black you never go back." One of the individuals I had been with was black. Hickethier knows I have black relatives.

ANSWER: Admit.

- D. I reported the above conduct to my Sergeant, who reported it to my Captain, Captain Hilbert. Captain Hilbert reported this conduct to LTC Huseby, who asked me for a report, which I provided to him.

ANSWER: Admit.

- E. Despite being told this conduct would be investigated, I am unaware of the results of the investigation. I am aware that Lt. Colonel Huseby made comments questioning my truthfulness and integrity relating to my report.

ANSWER: Deny. An impartial investigation was conducted by Lt. Colonel Huseby, of the Montana Highway Patrol, resulting in formal discipline of Hickethier. (ATTACHMENT B)

- F. During the period in which I understood the matter was being investigated, Hickethier called me at home and asked me to "forgive and forget".

ANSWER: The Montana Department of Justice can neither admit nor deny this charge.

- G. Since the time of my report, Hickethier has been promoted twice, and now heads the MHP.

ANSWER: Admit.

- H. I have tested for promotion twice since Hickethier was promoted to Chief of MHP in January 2013. Each time I was passed over. The promotion process, which used to be transparent, is not transparent any more.

ANSWER: Deny. Mr. Quinnell has tested for promotion once under Colonel Tooley in December 2012 and once under Colonel Hickethier in May 2013. In neither instance was Mr. Quinnell "passed over" for promotion. During the December 2012 scored selection process, Mr. Quinnell placed 17th. There were 5 positions filled with this selection process (ATTACHMENT C). During the May 2013 scored selection process, Mr. Quinnell placed 11th. There were 6 positions filled with this selection process (ATTACHMENT D).

The promotion process consists of an employment validated Profile XT assessment overall match score weighted 25%; Peer Evaluations weighted 15%; Commanders Evaluations weighted 25%; and a panel Behavioral Based Interview weighted 35%. See ATTACHMENT E for Mr. Quinnell's scores in each phase for the December 2012 selection process and ATTACHMENT F for his scores in each phase of the May 2013 selection process.

Included in the Sergeants promotional process vacancy announcement was the selection process criteria to be used. (ATTACHMENT G and H) Since spring of 2013 it has been the practice of the Montana Department of Justice, Human Resource Services Bureau to offer to meet with applicants for internal postings to review their performance, provide feedback, and additional training as requested for the selection process. On June 19, 2013 all applicants for the May 2013 Sergeants promotional process were notified via email by the HR Business Partner to MHP that she and Lt. Colonel Watson were available for the feedback meetings at the request of the applicants. Mr. Quinnell responded that same day, requesting a meeting which will be scheduled. (ATTACHMENT I)

- I. I am well qualified for promotion. ... I have never been disciplined. ... I was told I scored in the top 5 candidates on both occasions after the Commanders' evaluation. To date, Respondents have provided me no feedback about how I scored on other segments of the process. Eleven sergeants have been promoted during the period in which I was passed over.

ANSWER: Conditional Admit. Mr. Quinnell has the qualifications necessary to meet the minimum qualifications for promotion to a Sergeant. His personnel file is free of formal discipline. Mr. Quinnell was tied for 5th on the Commanders' Evaluation phase of the December 2012 selection process and tied for 6th in the Commanders' Evaluation phase of the May 2013 selection process. There were 11 Troopers promoted to Sergeant during the two selection processes in which Mr. Quinnell participated and alleges retaliation.

- J. The first time I was passed over occurred on January 16, 2013. The second time I was passed over was on June 15, 2013. Since Hickethier was promoted to Chief, the criteria for promotions was changed several times. It now includes a test with a result classified as "sociability". I have been told that my scores on "sociability" have been interpreted to mean I scored low in this area, which might make "networking" difficult. "Networking" is the term used by Hickethier to describe whether the applicant is willing to go out and drink with Hickethier and others during out-of-town conferences and trainings. The baseline for comparison on this test was established by testing four persons who were recently promoted or offered promotions to Captain and who were hand-picked by MHP command staff, including Hickethier. Three of those four were persons who, as part of their duties, regularly accompanied Hickethier to conferences and trainings.

ANSWER: Deny. Mr. Quinnell was not "passed over" for promotion. He was not promoted because he was not among the most qualified and highest scoring applicants for the vacant positions.

The selection process for Sergeants was developed by Lt. Colonel Huseby and Majors Butler and Watson in consultation with the Montana Department of Justice's Human Resource Services Bureau the fall of 2012, under Colonel Tooley, and did not change during the time of these two selection processes (December 2012 – May 2013).

On the Profile XT, an Employment Validated Assessment for Job Matching (ATTACHMENT J), Mr. Quinnell had an "Overall Job Match" of 81%, which includes both the Thinking Style match (74%) and Behavioral Traits match (95%). The only Behavioral Trait that Mr. Quinnell was outside the designated performance model (by one scale point) was Sociability. Sociability measures the tendency to be outgoing, people-oriented, and participate with others. The behavioral considerations for Mr. Quinnell's score indicate that he "may be slow to promote the benefits of teamwork and to involve the team in the discussions about how things will be done." Additional considerations indicate that "his willingness to work within a team environment is low. Discussions with him should explore the possibility that for Mr. Quinnell, the challenge of a cooperative climate may lead to frustration." (ATTACHMENT K)

The Performance Model was developed using candidates selected by Colonel Tooley and newly promoted Lt. Colonel Watson. Then Major Hickethier was not involved in the selection of the individuals to base the Performance Model or on the development of the selection process.

- K. In addition to the retaliation by refusing to consider me for promotion, Hickethier has engaged in a continuing practice and routine of attempting to embarrass me and humiliate me in public because I am not willing to participate in his partying and carousing, and a continuing practice of ostracizing me at MHP related events. While I have not been to any out of state conferences since the one in Phoenix, I have been told that the behavior I have reported continues.

ANSWER: Deny. Mr. Quinnell was fully considered as a candidate for promotion to Sergeant in both the December 2012 and May 2013 selection process.

- L. I attempted to file a grievance about the above-described conduct with my union under the Collective Bargaining Agreement (CBA), but my union representative has advised me that this is not covered by the CBA.

ANSWER: The Montana Department of Justice can neither admit nor deny this charge.

- M. Respondents have continued to tolerate, ratify, and encourage Hickethier's discriminatory conduct, which led to his retaliation against me.

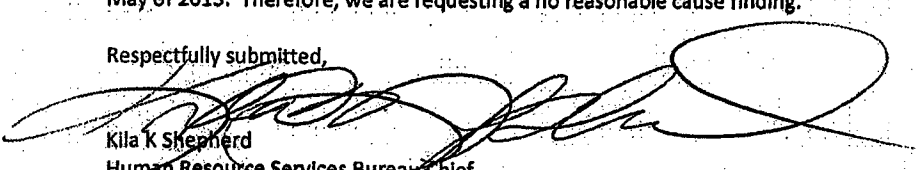
ANSWER: Deny. Then Major Hickethier was formally disciplined for his unprofessional behavior in September 2011 (ATTACHMENT L).

- N. Respondents have refused to stop Hickethier's conduct, and instead have ratified it, participated, and encouraged it. They have created adverse job conditions for me.

ANSWER: Deny. Then Major Hickethier was formally disciplined for his unprofessional behavior in September 2011 (ATTACHMENT L). There have been no further complaints about Colonel Hickethier's professionalism or allegations of discrimination or harassment.

The Montana Department of Justice maintains that Mr. Quinnell did not file a discrimination or harassment complaint against Respondent Hickethier in 2011, but rather a complaint of unprofessionalism. In addition Mr. Quinnell has failed to demonstrate a nexus between the complaint of unprofessionalism and retaliatory acts during the selection processes in December 2012 and May of 2013. Therefore, we are requesting a no reasonable cause finding.

Respectfully submitted,



Kila K. Shepherd
Human Resource Services Bureau Chief
Central Services Division

Attachments

Cc: Tim Fox, Montana Attorney General
Scott Darkenwald, MT Attorney General's Chief of Staff
Peter Funk, Department of Justice Attorney

Huseby, Butch

From: Quinnell, Glenn
Sent: Saturday, August 27, 2011 2:53 PM
To: Huseby, Butch
Subject: RE: Arizona

Lt Colonel. I will do my best to give the details accurately. I would first like to say I have a good deal of respect for what Captain Hickethier has done for the interdiction program and for the Patrol. That being said, I am disappointed with what I have observed and been exposed to during the recent trips I have made with the Captain.

My discomfort with the trip and being around Captain Hickethier started at the airport in Phoenix. As soon as he picked Trooper Muri and myself up the "Antics" started. He would see women on the sidewalks and roll down our respective windows and suggest we ask them if they knew where to find the "Marriot" or some other location in an obvious attempt to get an introduction. I found this in poor taste. He told us that the night life was good in Phoenix. I knew then and there I would be avoiding going out with the group. Not that I have anything against a drink or a meal, but I have found it to be bad policy to party with my superiors. We had lunch and I went to my room and fell asleep, as I had begun my day at 0230 driving to the airport in Dickinson. After several calls I finally went over to the building that was hosting the training and had one beer with the group before returning to the hotel we were staying in.

The next day we all met and went to the training. The morning speakers were giving their presentation, Capt. Hickithier was sitting next to me at a large table. He turned to me and asked how much younger than me my wife was. I said 20 years. He looked at me and said "I'll bet she fucks you sideways". I was so taken aback I don't even remember my reply. I was upset but decided not to say anything about it at the time. After the training for the day ended we returned to the motel. Sergeant Mantooth, Troopers Muri and Fetterhoff, Captain Hickithier and myself. Sergeant Mantooth's uncle, an FBI special agent was in town and Kelly had plans for dinner with him. I told them I would just be going out for a bite then staying in to watch TV. About a half hour later Kelly called and said he and his uncle were having dinner in a steak house near where the shuttle dropped us for training and asked us to join them. I said I would. I then called Muri, Fetterhof and Capt. Hick. Muri and Fetterhof answered and said they would go along. Capt. Hick said he was busy so I told him where we were going and the rest of us left.

Kelly's uncle, whom I believe is named Steve, was telling war stories about his career. He was finishing up one that involved Immigration and Customs Enforcement when Capt. Hick arrived. We had ordered food but had not eaten yet. I started to tell Steve the difficulties we have with getting ICE to take suspects in our area when Capt Hick interrupted and stated that I was doing it wrong. He said we were to arrest them for whatever offense we stopped them for and hold them for ICE. He stated he had made arrangements with ICE in Helena and had been guaranteed that they would go anywhere in the state to get illegals. He further stated that he had sent out an email regarding that. I told him that certainly if I had an offense I could arrest for I would, but that I had called the number he had put out and had been declined more than once. I told him I could not arrest someone for a \$20 speed ticket. Case law is clear in Mt on that. He said I had to. I said again that I couldn't. Troy piped in at one point and said the same as me, that we had tried and ICE wouldn't come without more than just suspected illegal status. The exchange went back and forth a couple times and he said "you'll do it or you'll be done doing this". About that time Steve looked at me and said, "Don't worry, your civil rights case will probably go OK". Everyone, including me, laughed. I wasn't taking it that serious at that point since we were off duty. At that point Captain Hick threw down some money, said "I'm done with Quinnell" and left. Everyone just got quiet. I told Kelly, "This is why I don't socialize with co-workers, especially superiors." I excused myself and went back to my room. It was probably about 8 PM.

I didn't sleep much that night. The next day I could tell that Capt. Hick was still upset but he didn't say anything initially. Kelly pulled me aside and told me that Capt. Hickithier would be pulling me aside to talk later and to just let him have his say. During the first speakers session he pulled me out in to the lobby and said we needed to talk. He told me I needed to work on not being so Bullheaded. He also stated that I needed to read the emails I was sent and follow the procedures in them. I told him I believed I had. The night before when I got back to my room I double checked to make

sure I had the email. I did. I had been following the procedures ICE had put out with the associated numbers to be called. At no time did he admit to being any way at fault for the incident. After his reaction the night before I just let him talk and went back to the training.

That night I declined to go out and stayed at the hotel. Captain Hickthler asked me if I enjoyed being at these functions since I didn't go out. I told him point blank that I really wasn't much of a partier. I told him I was there for training. My vacations are spent with my family. I then went my own way. I had dinner with 3 South Carolina Troopers, one of whom happened to be Black. The next day Captain Hick badgered me about not going out, telling me I missed the "fun". He asked me what I did. I said, "I had dinner with some South Carolina guys." He said "Ya, we saw. I guess once you go black you never go back." I had no idea how to reply. And didn't. I couldn't tell if he was questioning my sexual orientation or was just being racist. Either way I found it to be a totally offensive and inappropriate comment.

That same morning during training a female Attorney from the Arizona AG's office was speaking to the group. She was obviously struggling with her weight. Captain Hickethier turned to me and said, "She is really good at her job. Won a ton of money in a lawsuit against the City of Phoenix for building the sidewalks to close to her ass." I don't know if anyone else heard the comment but he didn't say it very quietly. I didn't laugh or even smile. He said "cmon, ya gotta admit that's funny." He had used the line the day before in a more private setting and I really didn't find it that funny then. I told him so.

I know some of the other troops on the trip had experiences that they found amazing if not shocking regarding the Captains behavior. I will let them speak for themselves if they choose, but I know they told me of him being denied access to at least one club for his behavior.

There was an incident on a prior trip that I probably better mention as well. Two years ago I went to a HIDTA conference in Las Vegas. Again I went out for dinner the first night, had a couple drinks and went home. The next couple nights I stayed in. The last night I finally gave in and went along to a country night club called Stoneys that I had been wanting to visit. I was single at the time and figured what the heck. Things initially went well. It was Sergeant Moody, Trooper Fetterhof, myself and Captain Hickethier. I had a couple drinks then switched to straight coke. We found a table and I started dancing with a young lady I met at the bar. Eventually we all walked away and kind of did our own thing. A bit later Captain Hick grabbed me and said "Come on. We've got some business to handle." I followed him toward the table we had been at. It was occupied by several couples I did not know. Capt Hick said, "I told them they don't know who they are messing with. I told them we are Montana Troopers and they have our table." Long story short, Moody and Fetterhof got the Captain out of the area and I made peace with the people, apologizing for the incident. They made it very clear they were less than impressed with the incident and the agency as a whole if that was the way we conducted ourselves.

Sir. I am not a tattletale. I initially spoke of these incidents to Captain Hilbert and Sergeant Martin because they are leaders whom I trust and respect and it was eating me up. I do not crave attention and certainly wish that I was not in this situation. I try to treat those around me with respect and expect the same. I would prefer the image that other agencies have of us be one of professionalism.

Respectfully,

Trooper Glenn Quinnell
MHP 206
Montana Highway Patrol
Detachment 511
Office: 406-377-5238
Cell: 406-939-3996
"Service, Integrity, Respect"

From: Huseby, Butch
Sent: Friday, August 26, 2011 8:18 AM

To: Quinell, Glenn
Subject: Arizona

Glenn,

Captain Hilbert notified me that you observed some behaviors in Captain Hicketier recently in Arizona that were not becoming of his position as a Captain. Please forward me an email with the particulars and I will look into the matter.

Thanks,

Lieutenant Colonel Butch Huseby
Deputy Chief
Montana Highway Patrol
(406) 444-3956 Office
(406) 461-4115 Cell
"Service, Integrity, Respect"

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6412 (20110826)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6419 (20110829)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

**MONTANA HIGHWAY PATROL****MEMO**

TO: Captain Kenton Hickethier

FROM: Lieutenant Colonel Butch Huseby *BH*

DATE: September 15, 2011

SUBJECT: Written Warning, violation of policy GR-1 (B-1., f.)

On August 27, 2011, I received a complaint on you from a subordinate in regard to several inappropriate comments you made to him while at the HIDTA Nationwide Domestic Highway Enforcement Meeting in Phoenix, Arizona, the week of August 16th, 2011. Specifically the comments were in regard to the age of Trooper Glenn Quiniell's spouse, a joke in regard to a female instructor's weight, and a comment about Trooper Quiniell having dinner with black troopers from North Carolina. On August 29th, 2011, I presented the complaint to you in your office and asked you to respond. On August 30, 2011, you responded to the complaint and took responsibility for the comments.

The comments you made are in violation of MHP policy GR-1 (B-1., f.). The policy specifically identifies that officers will treat supervisors, subordinates, and associates with respect and courtesy. Although this policy addresses all uniformed members of the Division it has an even higher level of meaning for command staff. Along with the responsibilities of a District Commander your position mandates that you project a professional image at all times. Your position demands that you demonstrate an example of courtesy and professionalism in your behavior and communications at all times. This situation revealed that you have not done so.

For these reasons, you are hereby warned that further violations of this policy may result in further disciplinary action, and could include termination of your employment with this agency. A copy of this letter will be placed in your personnel file.

You may provide a written response to this warning. If you choose to do so, your response will be included with this warning in your personnel file. You may also file a grievance in accordance with 3-0125 Montana Operations Manual

(Your signature acknowledges you have had the opportunity to review this notice, not that you necessarily agree with it.)

Kenton Hickethier
Captain Kenton Hickethier

9/15/2011
DATE

ATTACHMENT C

Shepherd, Kila

From: Hickethier, Kent
Sent: Wednesday, June 12, 2013 7:40 PM
To: Butler, Tom; Watson, Greg; Moody, James; Grimes, Shane; Kitchin, James; Armstrong, Robert; Becker, Gary; Edgell, Keith; Hilbert, Edward; Lavin, Steve; Collins, Art; Bowers, Duane
Cc: Laakso, Karen; Skaalure, Kristi; Shepherd, Kila; Henderson, June; Bowser, Natalia
Subject: Sergeant Promotions

Sergeant Promotions:



Connor Smith: Training
Tony Beehler: Columbus
Eric Gilbert: Livingston
Joe Kinsey: Lewistown
Sean Finley: Libby
Troy Muri: Bakken

Larry Adorni and Jason Grover turned down the offered positions.....

LTC Butler and I will make the calls in the morning to the unsuccessful candidates.

Karen will put a message out to the field congratulating the new sergeants once we have completed our phone calls.

Thanks again to everyone with all the recent promotion cycles and raising the bar in how we promote our people.

Respectfully,
Hick

Colonel Kenton E. Hickethier
Montana Highway Patrol
Chief Administrator
2550 Prospect Avenue
Helena, MT 59620
406/444-3780 Fax 406/444-4169
Cell: 406/403-1649
Service, Integrity, Respect

Attachment D

Shepherd, Kila

From: Hickethier, Kent
Sent: Wednesday, January 23, 2013 8:25 PM
To: Shepherd, Kila; Henderson, June
Subject: FW: Sergeant Promotions

Ladies,
FYI.....thanks for everything you do!

Colonel Kenton E. Hickethier
Montana Highway Patrol
Chief Administrator
2550 Prospect Avenue
Helena, MT 59620
406/444-3780 Fax 406/444-4169
Cell: 406/403-1649
Service, Integrity, Respect

From: Hickethier, Kent
Sent: Wednesday, January 23, 2013 8:23 PM
To: Becker, Gary; Butler, Tom; Edgell, Keith; Grimes, Shane; Hilbert, Edward; Hildenstab, Jason; Kitchin, James; Moody, James; Sangray, Brad; Watson, Greg
Subject: Sergeant Promotions

Captain's,
Here are your new sergeants:

Helena	James Sanderson
Havre	Jason Wickum
Livingston	Derek Brown
Columbus	Ben Havron
Billings	Jon O'Neill

Traffic Safety Resource Supervisor (Reclassification)
Kurt Sager

Please have the selected troopers close out their chapter as a trooper and prepare them to take on their new roles. I would ask each of you to give them the next work cycle to do so.

This was a very competitive process with many others worthy of being a supervisor. Please encourage the unsuccessful applicants to continue with the next process.

We will be using the current promotion list for the next three sergeants after the three new captains are selected.

Lieutenant Colonel Watson and Major Butler will be notifying the rest of the troopers in the morning.

Please wait for the formal announcement from Karen Norris to the field before you visit with your troops. Additionally, I need to take the list to the Attorney General's Office for final approval.

Thanks for everything you do!

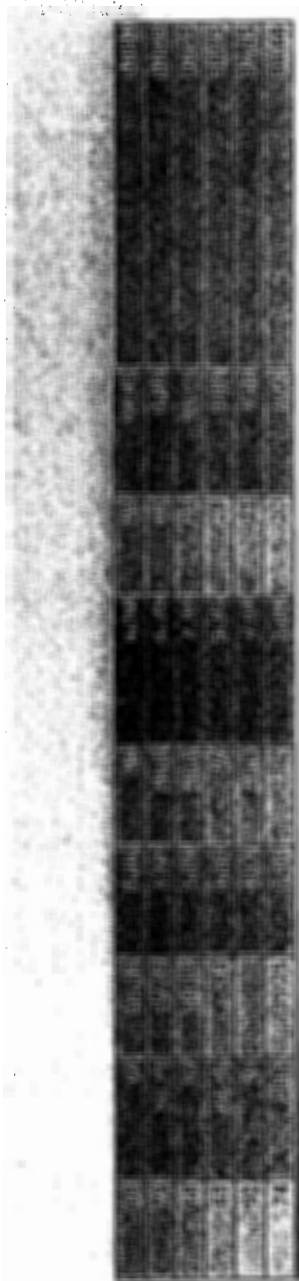
Hick

Colonel Kenton E. Hickethler
Montana Highway Patrol
Chief Administrator
2550 Prospect Avenue
Helena, MT 59620
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ATTACHMENT E

DOUBLE CHECK INTERVIEW W/ DATA ENTRY SCORES	Last	First	<u>Behavioral</u>	<u>Behavioral</u>	<u>Peer</u>	<u>Peer</u>	<u>Commanders'</u>	<u>Commanders'</u>	<u>Panel Interview</u>	<u>Panel</u>	<u>Total Points</u>	<u>Total points</u>	Comments	
			<u>Assessment</u>	<u>Assessment</u>	<u>Evaluation</u>	<u>Evaluation</u>	<u>Committee</u>	<u>Committee</u>	<u>and Letter of</u>		<u>Interview.*</u>	<u>out of 56.55</u>		<u>converted to</u>
			<u>Points (100</u> <u>points</u> <u>possible)</u>	<u>Points x</u> <u>Percentage</u>	<u>Points (60</u> <u>points</u> <u>possible)</u>	<u>Points x</u> <u>Percentage</u>	<u>Evaluation</u> <u>Points (30</u> <u>points possible)</u>	<u>Evaluation x</u> <u>Percentage</u>	<u>Interest/Resume</u> <u>Points (43 points</u> <u>possible)</u>		<u>Percentage</u>	<u>points possible</u>		<u>a percentage</u>
			91	22.75	59.75	8.96	29.60	7.40	36	12.60	51.71	91.4%		
			88	22.00	59.66	8.95	28.20	7.05	35	12.25	50.25	88.9%		
			93	23.25	53.20	7.98	25.60	6.40	35	12.25	49.88	88.2%		
			87	21.75	47.00	7.05	27.20	6.80	36	12.60	48.20	85.2%		
			78	19.50	57.60	8.64	27.60	6.90	34	11.90	46.94	83.0%		
			81	20.25	50.00	7.50	27.60	6.90	34	11.90	46.55	82.3%		
			87	21.75	49.00	7.35	25.80	6.45	31	10.85	46.40	82.1%		
			87	21.75	47.33	7.10	28.60	7.15	28	9.80	45.80	81.0%		
			89	22.25	54.67	8.20	26.60	6.65	21	7.35	44.45	78.6%		
			74	18.50	50.00	7.50	27.60	6.90	33	11.55	44.45	78.6%		
			76	19.00	56.67	8.50	27.80	6.95	26	9.10	43.55	77.0%		
			90	22.50	40.50	6.08	28.80	7.20	22	7.70	43.48	76.9%		
			91	22.75	48.80	7.32	25.40	6.35	20	7.00	43.42	76.8%		
			87	21.75	44.83	6.72	26.20	6.55	22	7.70	42.72	75.6%		
			85	21.25	42.25	6.34	28.20	7.05	23	8.05	42.69	75.5%		
			69	17.25	55.25	8.29	28.80	7.20	28	9.80	42.54	75.2%		
Quinnell	Glenn		81	20.25	44.75	6.71	28.60	7.15	24	8.40	42.51	75.2%		
			91	22.75	45.00	6.75	23.40	5.85	20	7.00	42.35	74.9%		
			81	20.25	48.40	7.26	25.60	6.40	24	8.40	42.31	74.8%		
			63	15.75	43.00	6.45	27.00	6.75	38	13.30	42.25	74.7%		
			84	21.00	48.40	7.26	23.20	5.80	21	7.35	41.41	73.2%		
			87	21.75	42.25	6.34	27.60	6.90	18	6.30	41.29	73.0%		
			78	19.50	49.67	7.45	26.00	6.50	20	7.00	40.45	71.5%		
			81	20.25	41.50	6.23	26.40	6.60	21	7.35	40.43	71.5%		
			87	21.75	39.40	5.91	26.20	6.55	14	4.90	39.11	69.2%		
			82	20.50	44.25	6.64	25.00	6.25	16	5.60	38.99	68.9%		
			85	21.25	40.50	6.08	25.20	6.30	15	5.25	38.88	68.7%		
			67	16.75	51.00	7.65	25.00	6.25	23	8.05	38.70	68.4%		

[illegible]



Attachment G



MONTANA HIGHWAY PATROL

MEMO

TO: Lt. Col. Watson
Major Tom Butler
Major Kenton Hickethier
District Commanders
Troopers participating in the Promotional Process

FROM: Colonel Michael T. Tooley

DATE: November 24, 2012

SUBJECT: Promotional Process – Highway Patrol Detachment Commanders

From the promotional announcement closing on November 23, 2012, the following candidates have applied for the Detachment Commander positions:

District I

Scott Bennett
Stephen Gaston
Richard Hader
Andrew Novak
Jeremiah Snider
Robert Strauch

District II

Jason Grover
Josef Kinsey

District III

Benjamin Hayron
Brian Inman
Jeremy Rice
Conner Smith

District IV

Toman Baukema
Anton Beehler
Bill Bullock
Eric Gilbert
Joseph Hensley
Jason Hoppert
David Munson
John O'Neill
Brian Sampson

Lt. Col. Watson
Major Tom Butler
Major Kenton Hicketier
District Commanders
Troopers participating in the Promotional Process
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November 26, 2012

District V

Troy Muri
Glenn Quinell

District VI

James Hawkins
Robert Hensley
David Mills
Jerril Ren
James Sanderson

District VII

Derek Brown
Joshua Brown
Shawn Fowler
Cherie Lofton
Brandon Moore

District VIII

Joel Knutsen
Daniel Ohl
Jason Wickum

Headquarters

Larry Adorni
Kurt Sager

Listed below are the elements for this promotional process with the weight:

1. Behavioral Assessment – 25 percent
2. Peer Evaluation – 15 percent
3. Commanders' Committee Evaluation – 25 percent
4. Panel Interview and Letter of Interest/Resume – 35 percent

Please see the information below regarding special information, time frames, etc. associated with each phase.

Behavioral Assessment

Dates: Link to be received by candidates on or before Thursday, November 29, 2012.
Due Date: Candidates must complete this assessment on or before noon on Tuesday, December 4, 2012.
Note: This link will be sent to you via e-mail and will come from either June Henderson OR Joe Schopfer.

The instructions for this assessment will be contained in the link. You are allowed to utilize a calculator when you take this test.

Lt. Col. Watson
Major Tom Butler
Major Kenton Hickethier
District Commanders
Troopers participating in the Promotional Process
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Peer Evaluation

Peers will be completing a peer evaluation on each candidate participating in the testing.

Dates: Link to be received by peers on November 27, 2012.

Due Date: Peers of each candidate must complete this assessment on or before noon on Tuesday, December 4, 2012.

Note: This link will be sent to peers via e-mail and will come from June Henderson.

Commanders' Committee Evaluation

Dates: Wednesday – Thursday, December 5 – 6, 2012 (begins 0900 hours on December 5)

Location: Headquarters

Involved: All District Commanders, Major Butler, Major Hickethier, and Lt. Col. Watson.

Note: As a District Commander, you will need to complete the Commanders' Committee Evaluation and narrative for Troopers under your command who are competing in the promotional process. These forms must be submitted electronically to Kristi by noon on **December 4, 2012**. The templates will be forwarded to Kristi for your completion.

Special note: A candidate's final Commanders' Committee Evaluation score must be **above 23 points** in order to continue in the process. Candidate scores of 23 points or below, will not be eligible to participate in the remaining phases of the promotional process.

Panel Interview AND Letter of Interest/Resume

Dates: Monday – Friday, December 10 – 14, 2012

Location: Headquarters

Note: The interview schedule will NOT be published until Friday, December 7, 2012. This will be sent via e-mail to those eligible for the interview.

Interviews will be scheduled on an hourly basis AND the candidates will be given a 15-minute preparation time to review the questions.

If you should have any questions or concerns regarding this process, please contact Lt. Col. Watson. Good luck to you as you continue in the selection process.

MTT/kms

cc June Henderson
Kila Shepherd

Attachment A



Human Resource Services
Memorandum

DATE: April 3, 2013
TO: MHP Troopers
FROM: June Henderson, HR Generalist to MHP
SUBJECT: Sergeant Promotions

Montana Highway Patrol Division is currently recruiting internally for three vacant Sergeant's positions, locations to be announced at a later date. If you participated in the Sergeant testing pool at the end of 2012, we will be using the scores from the Letter of Interest, Resume, and Profile XT. The Peer Evaluations will also be used, unless you notify me to the changes in your detachment.

Individuals who are currently eligible but not in the December 2012 pool are being allowed to enter the selection process. For those individuals who are interested, please submit your Letter of Interest and Resume via email to jhenderson@mt.gov to the attention of Lieutenant Colonel Watson. Closing date for the submission of the letters of interest is midnight, Wednesday, April 17, 2013. New individuals will be given the Profile XT and both Peer and Commander's Evaluations will take place.

Every candidate testing will interview and feedback will be provided to the unsuccessful candidates requesting it, after the testing is completed.

If a Sergeant position opens up in the next six months, this testing pool and newly eligible Troopers will be considered for that position. That process will not allow everyone that tests to participate in the interview process.

If you have any questions, please feel free to contact me at the email above or by phone at 444.2039.

Attachment I

Shepherd, Kila

From: Henderson, June
Sent: Monday, July 22, 2013 11:17 AM
To: Shepherd, Kila
Subject: FW: Sgt. Promotion Process Feedback

From: Quinnell, Glenn
Sent: Wednesday, June 19, 2013 1:02 PM
To: Henderson, June
Subject: RE: Sgt. Promotion Process Feedback

I would like an appointment.

From: Henderson, June
Sent: Wednesday, June 19, 2013 1:00 PM
To: Adorni, Lawrence; Brown, Joshua; Ohi, Daniel; Quinnell, Glenn; Downs, Stephen; Bullock, Bill; Gaston, Stephen; Smalley, Shawn; Sampson, Brian; Schnelder, James; Strauch, Robert; Inman, Brian; Snider, Jeremiah; Fowler, Shawn; Lofton, Cherie; Bennett, Scott; Hensley, Robert; Novak, Andrew; Hensley, Joseph; Salois, Richard; Ren, Jerril; Knutsen, Joel; Munson, David; Oliverson, Dave; Moore, Brandon
Cc: Watson, Greg
Subject: Sgt. Promotion Process Feedback

Good Afternoon-

LTC Watson and myself are curious as to who would like feedback from the promotion process so we can get those on the schedule. Please respond to me via email if you are interested in setting up a time. Thanks.

June Henderson

Human Resources Generalist
Human Resource Services
Central Services Division
303 N Roberts, Helena MT, 59602
jhenderson@mt.gov Work: 406-444-7005/2039



EXHIBIT C

From: Tooley, Mike mitooley@mt.gov
Subject: RE: Highway Patrol Incident
Date: April 14, 2011 at 4:56 PM
To: Shahid Haque-Hausrath shahid@bordercrossinglaw.com

Shahid,

I have the information back on the contact between our Trooper Moran and Mr. Rios-Diaz.

Trooper Moran's Sergeant reviewed the video of the traffic stop. He also reviewed traffic stops made by Trooper Moran for the past year to see if there was a disproportionate number of stops of minority individuals as compared to the overall population of the area he works in. Finally, the Sergeant checked the computer aided dispatch records to review any other contacts that the MHP might have had with Jose Rios-Diaz.

I will address Katie Gray's complaint in order and answer the issues that I see in it with the information forwarded to me by the district.

- 1) Mr. Rios-Diaz was pulled over and detained for over an hour.
 - a. He was pulled over and detained for 47 minutes. This is not over an hour but is still longer than most traffic stops. I will explain that later in my reply.
- 2) Jose was stopped for a violation of 83MPH in a 65MPH zone, but that is debatable.
 - a. The GPS location on the citation indicates that the traffic stop took place 1.6 miles inside the restricted zone. The officer cannot change that information after the citation has been issued.
- 3) The Trooper thought that the license was fake and that Mr. Rios-Diaz was in the country illegally.
 - a. The license was verified with DMV almost immediately after the stop. It was a valid license and Trooper Moran never stated he thought it was fake on the presence of Mr. Rios-Diaz nor when he was back in the patrol car. However, questions did arise based upon inconsistent answers to other questions about the vehicle registration, the registered owner, and insurance.

The vehicle was recently registered to another individual not residing in Montana but insured by Jose. That is very unusual, and in this instance the traffic stop was made by a trooper trained in criminal interdiction. Those troopers ask a lot more questions when something is not "normal". This of course led to nervousness on the part of Jose which led to more inconsistencies to sort through. This line of questioning was not based upon race, but eventually the totality of the situation led to the question in question, which was "are you here legally?"

Unfortunately, we have recently encountered driver's licenses have been secured in Montana and other states (usually Washington) with unverified documentation by individuals from all over the world.

Knowing this, Trooper Moran called ICE to double check. He had a vehicle with odd documentation, which brought into question other documentation such as the driver's license. He informed Mr. Rios-Diaz of what he was doing and went back several times to get clarifying information. This process turned a ten minute stop into a 47 minute

stop. I wish it had been faster, but that isn't how this encounter went. We often have trouble getting immediate calls back from ICE in these situations.

At no point in the conversation was Mr. Rios-Diaz threatened with deportation, accused of stealing or buying a driver's license or treated rudely by Trooper Moran. In fact, the video shows Trooper Moran explaining what he was doing at each step in his investigation, for what reason, and even being apologetic for taking so much of his time. At the end, Trooper Moran thanks Mr. Rios-Diaz for his patience and cooperation. Mr. Rios-Diaz' response was "yeah, sure.... No problem".

Mr. Rios-Diaz was stopped for a valid reason, speeding. Trooper Moran became suspicious upon review of the documentation attached to the vehicle and conducted an investigation to ensure there were no other violations of law outside of the initial stop. Once that was completed, he released Mr. Rios-Diaz.

While the complaint of racial profiling is unsubstantiated in my opinion, I do understand why Mr. Rios-Diaz is upset. Imagining myself behind the wheel in this situation and being questioned in this way would upset me too. It is intensely personal at a time when life in Montana is not easy for Latinos and Latinas. You and I are both aware of that having seen the attitudes up on the hill the last two sessions. My wife and I watch the news in shock many nights. She is a naturalized former Mexican citizen herself.

Then I put on the trooper hat and see what Trooper Moran was looking at (12 inconsistencies) and understand the need to reconcile some of the major questions before releasing the driver. Troopers not trained the way Moran has been would probably not perform as in depth of an investigation, and apparently that was the case in the other two contacts that MHP has had with Mr. Rios-Diaz in the past year.

If you have any further questions, which you probably will, I will be happy to answer them to the best of my ability. If I don't hear from you, have a great weekend!

Colonel Michael Tooley
Chief Administrator
Montana Highway Patrol
mitooley@mt.gov
Service, Integrity, Respect



From: Shahid Haque-Hausrath [mailto:shahid@bordercrossinglaw.com]
Sent: Wednesday, April 06, 2011 4:45 PM
To: Tooley, Mike
Subject: Fwd: Highway Patrol Incident
Importance: High

Colonel Tooley,

How are you? I hope the legislative session has slowed down since the last time I saw you. I haven't been back to the Capitol for a few weeks because I've been busy with our four month old son.

When we spoke a few years ago about the role of the Montana Highway Patrol in enforcing immigration laws, you asked me to keep you informed of any complaints about potential misconduct by your patrol officers. While I sometimes hear about problems with city or county police, I have almost never heard of any problems with highway patrol officers. Unfortunately, I recently became aware of an incident that I believe should be investigated.

I have forwarded an e-mail that I received from Katie Gray, a community organizer and colleague of mine who lives in Bozeman. As you will see below, her boyfriend was recently stopped and detained by a highway patrol officer under questionable circumstances. It appears that during a routine traffic stop, his immigration status was repeatedly questioned without any reasonable suspicion or legal basis. It also appears that valid identification was rejected, and identity theft was suspected, without any good cause.

As I am sure you understand, these facts make it appear as if race or nationality may have played into the officer's suspicions of wrongdoing. I hope you can look into this matter, try to determine what happened, and make corrections if any mistakes were made.

To help you locate relevant records, I have collected some more information:

Full Name: Jose Alejandro Rios Diaz
DOB: 02/19/1986

If you there is any other information you need, please do not hesitate to contact me. You may also contact Katie Gray, the author of the message below, at: (406) 580-7298. Thank you very much for your attention to these important issues.

Take care,

Shahid Haque-Hausrath
Border Crossing Law Firm, P.C.
312 N. Ewing Street, 2nd Floor
Helena, Montana 59601
(406) 594-2004
(888) 594-2179 (Fax)
Shahid@bordercrossinglaw.com
www.bordercrossinglaw.com

Begin forwarded message:

From: Katie Gray <katiemgray@gmail.com>
Date: April 4, 2011 2:18:10 PM MDT
To: Shahid Haque-Hausrath <shahid@bordercrossinglaw.com>
Cc: Katie Gray <katiemgray@gmail.com>
Subject: Highway Patrol Incident

Hi Shahid,

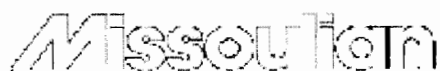
Hope things are going well!

I wanted to let you know about a racial profiling case with the Highway Patrol over in Billings.

My boyfriend Jose, who is a citizen, was pulled over today on the interstate outside of Billings at 10:04am and detained for at least an hour by Justin Moran with the Highway Patrol. He was pulled over for speeding, 83 in a 65 but he was outside of Billings city limits so whether it was a 65 limit or 75 is still up for debate. The highway patrol thought he had a false license and was illegal and when Jose gave the cop his license to check the cop came back and said it was a fake (he has a MT license) When the cop asked if Jose was legal Jose said the only people who can ask that are INS to which the cop said that he could ask him and started to get upset. Then after Jose tried again to tell him that it was a real one, the cop went back and checked it again and then after seeing that it was a real license, accused Jose of using someone elses identity to get it. Then the cop checked it again and told Jose to tell the truth or he could take him to jail where he would stay for months and then be deported. Then after Jose tried again to tell him the truth the cop said he didn't believe that Jose had lived in soo many different places and to tell him the truth or he could be sent to Mexico. Justin accused him of buying the license in another state, etc. Jose was on his way to work and with being detained was going to be an hour late so he showed him his SS# at which point Justin finally believed him. Jose did end up with a \$40 speeding ticket. Jose said the ticket is not an issue but it's how he was treated that disturbs him. He feels like he can't drive anywhere without getting harrassed! I have had it with him getting pulled over and harrassed due to racial profiling-this is like th 5th time! It's no wonder he wants to return to Mexico! I would like to file a complaint and get the ticket revoked or off his record and for this police officer to get reprimanded. How do I go about doing that? Thanks for any input!

Sincerely,
Katie Gray

EXHIBIT D



Vanload of suspected illegal aliens detained, released, finally arrested

SEPTEMBER 05, 2000 12:00 AM

Associated Press BILLINGS - Twelve suspected illegal aliens from Mexico were in jail in Billings on Sunday, but it took at least six law officers and three traffic stops to make that happen.

Two Montana Highway Patrol officers weren't sure what to do with the dozen suspected illegal aliens they found in a van after a Sunday morning traffic stop on Interstate 90 west of Columbus.

"There was no way to transport all these people," a Highway Patrol spokeswoman said. The closest Border Patrol agent was in Laurel, "But he was in church so we couldn't get ahold of him."

The next closest agent was in Great Falls.

The agent in Laurel soon contacted the patrol and advised officers to let the van go and ask law enforcement in the Billings area to ready a paddy wagon and catch the van on the interstate, the patrol said.

The 1986 GMC Astro pulled back onto Interstate 90 and headed east, bound for Minneapolis.

The van made it as far as Columbus, where two police officers spotted it at a grocery store. Eight occupants were arrested, but four others escaped to the van and sped away on I-90. The Border Patrol agent from Laurel helped detain the eight.

Three hours later, one of MHP's newest officers spotted the van on I-90 north of Hardin. Officer Mark Olson pulled over the van and arrested the four occupants, MHP said.

Eleven of the 12 illegal aliens were in the Yellowstone County Jail on Sunday night. The 12th person, a 16-year-old, is in custody at a juvenile home.

**BILLINGS GAZETTE**

Routine stop nets drug bust

MAY 03, 2002 11:00 PM • BECKY SHAY OF THE GAZETTE STAFF

Four illegal aliens were taken into custody near Forsyth Thursday. About 20 pounds of ingredients for making methamphetamine along with nearly \$3,000 was seized from their belongings.

Montana Highway Patrol and Rosebud County officers were "following their instincts" when they started an investigation that yielded the bust, said Rosebud County Sheriff Tim Fulton.

The men, who were not identified, are all in their 20s and of Latin American descent, Fulton said. They are being held without bond on immigration charges in Rosebud County Jail. Drug charges are pending, Fulton said.

Officers seized about 20 pounds of ephedrine, a stimulant found in decongestants and weight-loss products, that can be "cooked down" and converted into methamphetamine. It is illegal in Montana to possess drug precursors, including ephedrine. Fulton said depending on who cooks the precursor, the ephedrine could have been made into 15 to 30 pounds of methamphetamine giving it a "ballpark" value of \$400,000 on the street.

Montana Highway Patrol Officer Jim Hunter saw a Nissan passenger car stopped with its hood up along Interstate 94 near Forsyth at about 10:10 a.m. Thursday

"He was going to be a good Samaritan and see if he could bring some help to some people," Fulton said.

The two men were nervous and said they had help coming. Hunter was on another assignment and left, but didn't feel comfortable about the men and notified Officer Tim Lytle.

Lytle was in Forsyth and had spotted two men in a maroon Jeep at the Town Pump who seemed suspicious. When Lytle received the call from Hunter he was torn between which suspicious vehicle to look into, Fulton said. Lytle got a chance to "get two birds with one stone," when the Jeep headed east on Interstate 94, the direction of the broken down Nissan, Fulton said.

Lytle called Rosebud County for assistance. At that time, Fulton was in a meeting but listening to the radio transmissions and he decided to interrupt the meeting and follow Sheriff's Capt. Gerald McComb out to the Interstate.

As Lytle continued to follow the Jeep, the driver cut across the median, which is illegal, and pulled up behind the Nissan. Both vehicles had Minnesota license plates. Lytle turned on his traffic lights and stopped the driver of the Jeep for the traffic violation. Lytle learned through his dispatch center that the two men with the Nissan were illegal aliens and he detained them in

his car.

"As luck would have it, the Border Patrol was picking someone up in Colstrip, which is also in (Rosebud) County," Fulton said. "They heard all this on the radio and headed that way."

By the time Fulton and McComb arrived, Lytle was talking to the two men in the Jeep. Lytle asked the driver for permission to search the vehicle, and after the man asked a few questions and looked at the Spanish translation on the permission form, he signed the document and the officers started the search.

Meanwhile, the Border Patrol notified Lytle that the two men in the Jeep were also illegal aliens. Fulton said part of the investigation will look into why the men had Social Security cards and driver's licenses, which were probably forged.

The three officers began searching the Jeep. Fulton found what appeared to be drugs, but was later determined to be ephedrine.

The Montana Crime Lab will analyze the powdery substance to confirm the field test for ephedrine.

The cars were towed to the Rosebud County impound lot in Forsyth and agents from the Eastern Montana Drug Task Force were called. A Rosebud County District Court judge allowed search warrants for the vehicles.

When the men were taken to jail, they were carrying almost \$3,000, most of which the driver of the Jeep was holding. Officers seized a total of eight cell phones, seven of which were turned on, Fulton said. Five of the phones were in the center console of the Jeep.

**BILLINGS GAZETTE**

Deported aliens charged with illegal re-entry

MAY 07, 2002 11:00 PM • CLAIR JOHNSON OF THE GAZETTE STAFF

Two citizens of Mexico who previously had been deported face charges of illegally re-entering the United States.

Law enforcement officers arrested Alberto Hernandez-Sanchez, 26, and Jose Maria Sosa-Sanchez, 34, May 2 on Interstate 94 near Forsyth after an investigation by the Montana Highway Patrol and Rosebud County sheriff's officers turned up about 20 pounds of ingredients for making methamphetamine, almost \$3,000 in cash and eight cellular telephones. The defendants and two other illegal aliens were occupants of two vehicles.

During appearances in U.S. District Court in Billings Tuesday, Hernandez-Sanchez pleaded not guilty to a criminal complaint, while Sosa-Sanchez did not enter a plea. The case filed Tuesday did not address any of the drug offenses.

U.S. Magistrate Richard Anderson set a consolidated preliminary hearing for both defendants for Wednesday.

According to the complaint, Hernandez-Sanchez, who gave his address as Lexington, Ore., had been deported in March 1998, and had not obtained permission to re-enter the country. Sosa-Sanchez, who gave an address of Boardman, Ore., had been deported in May 1999, and also had not received permission to return.

David Walker, a special agent with the U.S. Border Patrol, said in affidavits that on May 2, officers with the Rosebud County Sheriff's Department and MHP responded to the scene of two vehicles on I-94 near Forsyth. MHP requested help from the Border Patrol.

A highway patrol officer initially stopped to check on one of the vehicles, a Nissan, because it was stopped along the interstate and had its hood up, Rosebud County Sheriff Tim Fulton said earlier. The two male occupants were nervous and told the officer they had help coming.

Meanwhile, another highway patrol officer spotted two men in a Jeep in Forsyth who seemed suspicious. The officer followed the Jeep, which was traveling in the direction of the broken down vehicle. The driver of the Jeep cut across the median, which is illegal, and pulled up behind the Nissan. Both vehicles had Minnesota license plates.

By the time Border Patrol agents arrived, Highway Patrol officers had received consent to search the vehicles. They found 23 pounds of a substance that tested positive for amphetamine, Walker said.

Fulton said that the four were carrying almost \$3,000 and that officers seized eight cell phones, seven of which were turned on.

After being advised of their rights, the defendants said they were U.S. citizens but later admitted to being illegal aliens from Mexico, Walker said in his affidavit. Fingerprint examinations found that the INS has encountered both men previously and that they each have criminal and immigration records.

**BILLINGS GAZETTE**

Local Digest

FEBRUARY 11, 2003 11:00 PM

Gazette Staff

News briefs

Stepped-up patrols stop 121 motorists Montana Highway Patrol officers stopped 121 drivers in an intensified weekend patrol south of Laurel.

Last Friday through Monday, five officers patrolled highways 310 and 212. The extra patrols are part of an effort to reduce the number of wrecks on those highways. Among the tickets officers wrote were 28 for speeding, 12 for no registration, nine for no seat belt, five for no insurance and three for no driver's license. Officers issued 135 warnings, including 39 for moving violations, 35 for no registration and 33 for mechanical problems.

The officers arrested one habitual traffic offender and one illegal alien. They evaluated one person for driving under the influence. Although officers didn't write any tickets for DUI, one person was charged with having drugs. There was one crash during the patrols. Officers said the weekend conditions included snow, ice, wind and cold temperatures.

Roundup super gets state post Superintendent of Public Instruction Linda McCulloch has named Jay Erdie, superintendent of Roundup Public Schools, the new Montana deputy superintendent.

McCulloch made the announcement Tuesday.

In addition to his work as superintendent, Erdie is president of the School Administrators of Montana. He began teaching in Hobson in 1963, and after completing a master's degree in education, Erdie served as the Wolf Point High School guidance counselor through June of 1971.

In fall 1971, Erdie was hired as junior-senior high school principal for the Roundup Public Schools. After completing his doctorate in school administration and a minor in curriculum at Montana State University, Erdie became the Roundup superintendent in 1987.

Erdie succeeds acting Office of Public Instruction Deputy Superintendent Spence Sartorius and Deputy Superintendent Bill Cooper, who retired in January. Erdie will complete his duties with the Roundup Public Schools and begin full time work at OPI in July.

Police pursue robbery leads Billings police on Tuesday spoke with suspects in a West End robbery.

Police Lt. Joe Bryce said police detectives have also recovered some items taken during the

robbery at Golden Meadows Mobile Home Park, 3200 King Ave. The victim said three men, who claimed to be selling magazines, forced their way into his mobile home and robbed him at gunpoint Monday afternoon.

"The suspects may have claimed to be selling magazines, however it has been determined that they were not affiliated with any of the groups who do legitimately conduct similar activities in Billings," Bryce said. "The Police Department has received a significant number of calls from citizens who have had salespersons at their homes. We certainly thank everyone for their attention, concern and willingness to call in."

Detectives have talked to suspects who know they may be further investigated, Bryce said. Arrests are expected, he said.

U.S. Department of Justice
Drug Enforcement Administration



www.dea.gov

Microgram

Bulletin

Published by:

The Drug Enforcement Administration
Office of Forensic Sciences
Washington, DC 20537

The U.S. Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by the Department of Justice. Information, instructions, and disclaimers are published in the January issues.

VOL. XXXVII, NO. 9

SEPTEMBER 2004

- INTELLIGENCE ALERT -

**COCAINE BRICKS SEALED IN A POLYMERIC COATING
IN A CAR BATTERY IN BROWNSVILLE, TEXAS**

The DEA South Central Laboratory (Dallas, Texas) recently received a submission of six bricks containing a compressed white powder, some with mushy, discolored regions, suspected cocaine. The exhibits had been secreted in the battery of a 2004 Nissan Maxima, and were seized by the U.S. Customs at the Brownsville, Texas Port of Entry. Each brick was about half the size of typical kilogram brick of cocaine, and was imperfectly sealed in a polymeric coating (see Photo 1). The coating was very hard and had to be removed using a hammer and chisel; when broken, it



Photo 1

Hmong are a tribe from mountainous regions in Laos.) The opium poppies, growing between rows of vegetables, were 24 to 30 inches high with bulbs ranging from 1½ to 2 inches in diameter. Many of the bulbs had been scored with three to four cuts per bulb to let the opium seep out for subsequent collection. None of the defendants had prior drug arrests; however, they did admit that they knew that growing opium poppies was illegal. They stated that they were growing the opium poppies for medicinal purposes.

NDIC Comment: Opium poppies typically are not grown in the United States. Most opium poppies are cultivated in four foreign source areas--Mexico, South America, Southeast Asia and Southwest Asia. The last significant opium poppy seizure in the United States occurred in June 2003 in the Sierra National Forest in California. This seizure is the first of its kind encountered in the Pella-Marion County area, according to the Marion County Sheriff's Office.

* * * * *

- INTELLIGENCE ALERT -

COCAINE IN AN AUTOMOBILE BATTERY IN HILL COUNTY, MONTANA

[From the NDIC *Narcotics Digest Weekly* 2004;3(32):3
Unclassified, Reprinted with Permission;
Some Details Withheld in Accordance with *Microgram* Policy.]

On July 17, 2004, a Montana Highway Patrol (MHP) trooper arrested a 46-year-old male and seized 7.2 pounds of powdered cocaine from a vehicle traveling east on U.S. Highway 2 in Hill County. The trooper initially had stopped the vehicle for speeding. The driver produced a California driver's license and a vehicle registration showing that he owned the vehicle; however, since the driver spoke little English, the trooper requested the assistance of a U.S. Border Patrol (USBP) agent to serve as an interpreter. Through the USBP interpreter, the driver advised that he was traveling from California to Chicago. The driver posted bond at the scene for speeding and was released. However, [due to the use of an unusual procedure to start the vehicle,] the MHP trooper and USBP agents became suspicious and requested and received consent to search the vehicle. The search revealed a false battery with vent caps that were [modified]. A USBP agent [investigated] and recovered a white powder that field-tested positive for cocaine. The Tri-County Drug Task Force was notified and responded to the scene. The vehicle was impounded, and a continued search revealed that the battery case contained 7.2 pounds of cocaine and a small motorcycle battery that allowed the electrical system to function but was not powerful enough to start the vehicle. The suspect was charged with possession of a controlled substance.

NDIC Comment: Law enforcement officials in the Northwest and Midwest increasingly report the use of modified vehicle batteries to conceal illicit drugs. In November 2003 Ada County (ID) Metro Narcotics Unit authorities seized 4 pounds of methamphetamine, 0.25 pound of cocaine, and \$20,000 concealed inside a modified 12-volt automobile battery. In December 2003 Utah Highway Patrol troopers in Beaver County seized 10.5 pounds of methamphetamine, 3 pounds of which were concealed in a modified 12-volt automobile battery.

**BILLINGS GAZETTE**

Vehicle registration sting catches illegal immigrants at refinery

FEBRUARY 11, 2008 11:00 PM • GREG TUTTLE OF THE GAZETTE STAFF

An effort to crack down on refinery workers in Laurel accused of ignoring state vehicle registration requirements also netted several allegedly illegal immigrants.

Nine people were arrested for immigration violations Monday evening as they were leaving work at the CHS refinery, a spokesman for the federal Immigration and Customs Enforcement agency said. The nine workers remained in custody at the Jefferson County jail and the Yellowstone County jail on Tuesday and could eventually face deportation.

At least nine citations also were issued to workers who had not registered their vehicles in Montana, said a Montana Highway Patrol officer involved in the unusual sting operation.

State law requires anyone working in Montana to register his or her vehicle, said Patrol Sgt. Scott Ayers. The "gainful registration" requirement has no grace period and applies to anyone who works in the state, he said.

The sting operation was conducted between 5 and 8 p.m. Monday evening and included six Highway Patrol troopers and several Yellowstone County sheriff's deputies stationed at the exit of an employee parking lot. A federal agent was also at the scene to take custody of immigration detainees.

Messages left Tuesday at the Sheriff's Office were not returned.

Ayers said the operation was conducted after numerous complaints were made to local law enforcement about the large number of out-of-state licenses on vehicles coming and going from the CHS refinery. The refinery has been involved in several multimillion-dollar upgrades in recent years.

Ayers said the refinery management was contacted about two weeks ago and was asked to remind workers of the vehicle registration laws. The sting operation was then conducted.

"We asked for compliance several times before we went out there," he said.

MHP officers stopped 21 vehicles exiting the parking lot with out-of-state license plates. Nine gainful-registration citations were issued and 12 warnings were issued for the same offense, Ayers said. One citation was issued for a driver with no insurance, and one warning was issued for a light violation, he said.

County deputies also issued a number of citations and warnings.

Workers who could not provide proper immigration documents were turned over to the federal agent.

Pat Kimmett, manager of the CHS refinery, said the company informed workers about the vehicle registration requirements and issued a subsequent warning after being contacted recently by law enforcement. He said the workers, which have ranged in number from several hundred to 2,400, are employed by dozens of contractors who are involved in various stages of a construction project at the site.

"We do not check all the paperwork," Kimmett said. "It's the responsibility of the contractor."

The building contractors are required by contract to adhere to all government rules and regulations, Kimmett said.

Contractors whose employees were arrested Monday on immigration violations have since reported that the workers had filed proper documents before they were hired, Kimmett said. CHS has also asked all of the contractors to check the employment records of their employees, he said.

Ayers said that during the operation, several refinery employees told officers that numerous workers appeared to be fleeing the refinery grounds by scaling a fence on the south side of the property and running into fields. Ayers drove through the area in the dark but could not locate anyone, he said.

"I have to surmise they were undocumented workers," he said.

It was unclear Tuesday what fate awaits those refinery workers taken into custody and held in the county jails.

Jessica Fehr, a spokeswoman for the U.S. Attorney's Office in Billings, said she could neither confirm nor deny that an investigation was being conducted as a result of the law enforcement activity at the refinery.

Carl Rusnok, a spokesman in Dallas, for Immigration and Customs Enforcement, an agency within Homeland Security, confirmed Tuesday that nine illegal immigrants were arrested at the refinery. Six of the those arrested are being held in the Jefferson County jail and three are held at the Yellowstone County jail. The federal agency contracts with numerous local jail facilities across the country to hold immigration detainees, he said.

If any of those arrested at CHS are from Mexico and have no criminal record, they may be given the opportunity to voluntarily return to that country, Rusnok said. Deportation steps would begin for those who come from a country other than Mexico or who have a criminal record, he said. Anyone slated for deportation can appear before a federal judge to make a case for staying in the country.

It was unclear Tuesday how often such immigration cases involving numerous arrests at one company happen in Montana, but Rusnok said the case highlights the need for enforcement across the country.

"The problem of illegal immigration is a problem in all 50 states," he said.



BILLINGS GAZETTE

Car license crackdown yields aliens

FEBRUARY 12, 2008 11:00 PM • GREG TUTTLE OF THE GAZETTE STAFF

An effort to crack down on refinery workers in Laurel accused of ignoring state vehicle registration requirements also netted several allegedly illegal immigrants.

Nine people were arrested for immigration violations Monday evening as they were leaving work at the CHS refinery, a spokesman for the federal Immigration and Customs Enforcement agency said. The nine workers remained in custody at the Jefferson County jail and the Yellowstone County jail on Tuesday and could eventually face deportation.

At least nine citations also were issued to workers who had not registered their vehicles in Montana, said a Montana Highway Patrol officer involved in the unusual sting operation.

'Gainful registration' requirement

State law requires anyone working in Montana to register his or her vehicle, said Patrol Sgt. Scott Ayers. The "gainful registration" requirement has no grace period and applies to anyone who works in the state, he said.

The sting operation was conducted between 5 and 8 p.m. Monday evening and included six Highway Patrol troopers and several Yellowstone County sheriff's deputies stationed at the exit of an employee parking lot. A federal agent was also at the scene to take custody of immigration detainees.

Messages left Tuesday at the Sheriff's Office were not returned.

Ayers said the operation was conducted after numerous complaints were made to local law enforcement about the large number of out-of-state licenses on vehicles coming and going from the CHS refinery. The refinery has been involved in several multimillion-dollar upgrades in recent years.

Ayers said the refinery management was contacted about two weeks ago and was asked to remind workers of the vehicle registration laws. The sting operation was then conducted.

"We asked for compliance several times before we went out there," he said.

MHP officers stopped 21 vehicles exiting the parking lot with out-of-state license plates. Nine gainful-registration citations were issued and 12 warnings were issued for the same offense, Ayers said. One citation was issued for a driver with no insurance, and one warning was issued for a light violation, he said.

County deputies also issued a number of citations and warnings.

Workers who could not provide proper immigration documents were turned over to the federal agent.

Warning issued

Pat Kimmitt, manager of the CHS refinery, said the company informed workers about the vehicle registration requirements and issued a subsequent warning after being contacted recently by law enforcement. He said the workers, which have ranged in number from several hundred to 2,400, are employed by dozens of contractors who are involved in various stages of a construction project at the site.

"We do not check all the paperwork," Kimmitt said. "It's the responsibility of the contractor."

The building contractors are required by contract to adhere to all government rules and regulations, Kimmitt said.

Contractors whose employees were arrested Monday on immigration violations have since reported that the workers had filed proper documents before they were hired, Kimmitt said. CHS has also asked all of the contractors to check the employment records of their employees, he said.

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**BILLINGS GAZETTE**

Refinery sting continues; immigrants head to detention

MHP officers have cited 12 drivers for not having Montana license plates

FEBRUARY 13, 2008 11:00 PM • JAN FALSTAD AND ZACH BENOIT OF THE GAZETTE STAFF

LAUREL - A sting operation to crack down on CHS refinery workers for vehicle registration requirements continued Wednesday, and nine illegal immigrants arrested at the refinery Monday were on their way to a detention facility in Arizona.

State law requires anyone working in Montana to register his or her vehicle.

On Monday, members of the Montana Highway Patrol and Yellowstone County Sheriff's Office stationed at the exit to an employee parking lot began pulling over employees with out-of-state license plates as they left.

Through Tuesday, MHP officers had pulled over at least 31 drivers, issued 12 gainful-registration citations and given out 19 warnings. County deputies also issued citations and warnings beginning on Monday.

Patrol Sgt. Scott Ayers said numbers for Wednesday's operation - which included four MHP officers and several county deputies - won't be available until later today. There was a significant reduction in violations, he said.

"Progressively, we're getting compliance," Ayers said. "Monday, probably 50 percent of the vehicles were from out of state. The second day, it was about 20 percent, and today it was only about 5 percent."

He said the decrease is likely because of "more (workers) who just went out and got their plates."

Trooper Seth Cavalea said that whether a driver is issued a citation or a warning is up to the officer's discretion. He said that if the driver was cited in the past year or had recently moved to Montana, it could be the difference between a citation and a warning.

The operation began after law enforcement officials received a number of complaints about out-of-state license plates at the refinery.

Illegal immigrants

Monday's sting also resulted in the arrest of nine illegal immigrants. During the operation, refinery employees informed officers of several people attempting to escape by scaling a refinery fence and running into the adjacent fields.

Ayers said that, to his knowledge, no illegal immigrants were arrested in the sting Tuesday and Wednesday.

Tim Counts, Minneapolis spokesman for the federal Immigration and Customs Enforcement agency, said the nine illegal immigrants arrested Monday were driven from Helena to Twin Falls, Idaho, on Wednesday. Today they will be flown on a Justice Prisoner and Alien Transport System jet to a processing facility in Arizona. They will end up at a detention facility in Eloy, Ariz.

"We expect most, if not all, of them will be deported," he said. "We've determined most of them were illegal aliens."

If the workers voluntarily sign off on deportation, they could be back in their home country in a couple of days, Counts said. If they fight deportation, the legal process can drag out for months or years.

With more than 400 federal statutes governing immigration and customs laws, Counts said his department has to set priorities on enforcement, with the top being national security and the second community safety.

When asked about the priority of suspected illegal aliens working at a refinery on the outskirts of a city like Laurel, Counts said critical infrastructure facilities such as airports and water treatment plants are high on the list.

"And it is a good argument that a refinery would be higher on the list than a fast-food outlet," he said.

However, ICE takes more than one factor into account when ranking enforcement actions, including quality of the information received, he said.

Out-of-state workers

Bob Papin, business manager for the Plumbers & Pipefitters Local 30, said that when Turner Industries Group out of Baton Rouge, La., was hired to construct the CHS refinery coker last spring, skilled labor in the Billings area was scarce.

The locals were busy doing the spring turnaround or annual maintenance work at the same refinery in Laurel, Papin said, so most of the workers Turner brought in for the coker project were from out of state. At the height of the work, as many as 2,400 people were working at CHS, he said.

Workers reporting to him have been complaining for almost a year, he said, that the parking lot was full of vehicles with out-of-state plates and asking why state and local laws were not being enforced.

That some workers may have been jumping the refinery fence Monday evening and escaping the sting operation concerns him.

"You're working in a facility that is highly dangerous, and if you have people in there who are not skilled or trained to be in there, you're creating some situation that could be detrimental to the health and lives of everybody," Papin said.

While there may have been a labor shortage of local skilled workers last spring, there isn't now, said Rion Miles, business agent for the Operating Engineers Local 400. Miles also serves as president of the Southeastern Montana Building and Construction Trades Council, which represents more than a dozen unions.

"I can tell you right now all the union trades have people sitting on their out-of-work lists now," he said.

Due to the lapse in government funding, the websites and social media channels for the United States Attorneys' offices will not be updated until appropriations are enacted. Please refer to the Department of Justice's [contingency plan](#) for more information.

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NEWS

Isidro Hernandez-Casas Pleads Guilty In U.S. Federal Cour

FOR IMMEDIATE RELEASE

Tuesday, January 06, 2009

Bill Mercer, United States Attorney for the District of Montana, announced today that during a federal court session in Missoula on January 6, 2009, before U.S. Magistrate Judge Jeremiah C. Lynch, ISIDRO HERNANDEZ-CASAS, a 55-year-old citizen of Mexico, pled guilty to illegal re-entry of a previously deported alien. Sentencing is set for March 20, 2009. He is currently detained.

In an Offer of Proof filed by the United States, the government stated it would have proved at trial the following:

On October 4, 2008, a Montana Highway Patrol officer stopped near Alberton to assist some individuals fixing a flat tire on a minivan. HERNANDEZ-CASAS was the driver and there were three passengers. Because the van was not properly registered, the officer cited HERNANDEZ-CASAS and impounded the vehicle. He told HERNANDEZ-CASAS that the van would be released if proof of ownership was provided to Mineral County by October 6, 2008.

The officer suspected that the four occupants of the van might be illegal aliens, so after his encounter with them he contacted the U.S. Immigration and Customs Enforcement (ICE). An ICE agent determined that all four occupants of the van were likely illegal aliens and that HERNANDEZ-CASAS had been previously deported from the United States.

On October 6, 2008, HERNANDEZ-CASAS was arrested when he went to the Mineral County Courthouse to provide proof of ownership for the van. His fingerprints were then analyzed which revealed that he had previously been deported from the United States on July 17, 1999, through McAllen, Texas. His removal followed a conviction in 1995 for a felony in Gwinnett County, Georgia, for purchasing and/or possessing cocaine. There is no evidence in HERNANDEZ-CASAS' immigration file that he had applied for or received permission to reenter the United States with either the Secretary of the Department of Homeland Security or the Attorney General.

ISIDRO HERNANDEZ-CASAS faces possible penalties of 20 years in prison, a \$250,000 fine and 3 years supervised release.

Assistant U.S. Attorney Timothy J. Racicot prosecuted the case for the United States.

The investigation was a cooperative effort between the U.S. Immigration and Customs Enforcement and the Montana Highway Patrol.

A copy of the Offer of Proof can be obtained by contacting Sally Frank at (406) 247-4638.

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NEWS

**Lucio Madrigal-Placido Sentenced In U.S. District Cour**

FOR IMMEDIATE RELEASE

Monday, January 12, 2009

Bill Mercer, United States Attorney for the District of Montana, announced today that during a federal court session in Missoula, on January 9, 2009, before U.S. District Judge Donald W. Molloy, LUCIO MADRIGAL-PLACIDO, a 53-year-old citizen of Mexico, appeared for sentencing. MADRIGAL-PLACIDO was sentenced to a term of:

- Prison: 225 days (time served)
- Special Assessment: \$100

MADRIGAL-PLACIDO was sentenced in connection with his guilty plea to illegal re-entry of a previously deported alien.

In an Offer of Proof filed by the United States, the government stated it would have proved at trial the following:

On May 30, 2008, a Montana Highway Patrol officer and an agent with the U.S. Immigration and Customs Enforcement stopped a van in which MADRIGAL-PLACIDO was a passenger. The van contained five Hispanic individuals, four of whom are illegal aliens.

MADRIGAL-PLACIDO'S immigration records reflected that he was deported from the United States on May 29, 2004, at the Port of San Ysidro, California. There is no evidence in MADRIGAL-PLACIDO'S immigration file that he applied for permission to reenter the United States with either the Secretary of the Department of Homeland Security or the Attorney General.

Because there is no parole in the federal system, the "truth in sentencing" guidelines mandate that MADRIGAL-PLACIDO will likely serve all of the time imposed by the court. In the federal system, MADRIGAL-PLACIDO does have the opportunity to earn a sentence reduction for "good behavior." However, this reduction will not exceed 15% of the overall sentence.

Assistant U.S. Attorney Timothy J. Racicot prosecuted the case for the United States.

The investigation was a cooperative effort between the Montana Highway Patrol and the U.S. Immigration and Customs Enforcement.

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October 2nd, 2013

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20 aliens charged in area

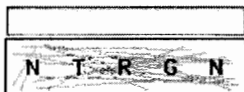
Tim Leeds Havre Daily News
tleds@havredailynews.com

Published: Friday, April 2nd, 2010

U.S. Border Patrol agents charged 20 illegal aliens in three arrests in northern Montana in the last two weeks, including a couple accused of stealing more than \$80,000 worth of camera equipment and transporting it on Amtrak's Empire Builder. The aliens detained in Havre March 15 were two Polish citizens, found during an immigration check of Amtrak passengers in Havre. Camera equipment found in their possession was discovered to be reported stolen in Seattle. The equipment and the two suspects were taken to the Hill County Detention Center pending extradition to Washington. Two Iraqi citizens were arrested Monday after they illegally drove around the Sweetgrass Port of Entry north of Shelby to enter Montana. An investigation revealed no connection to terrorism organizations, and the couple, a husband and wife, are under pending proceedings to remove them from the United States. Another investigation at Froid, north of Culbertson near the North Dakota border, resulted in the arrest of 16 illegal aliens. The arrests began when a Montana Highway Patrol officer stopped a vehicle for speeding Monday. The officer called for assistance from the Border Patrol because none of the five people in the vehicle spoke English. The Border Patrol agents determined that the subjects were illegally in the United States and took them into custody. The agents drove the five Subjects to their residence to gather their belongings and encountered 11 additional subjects who were also illegal aliens. The aliens, who were taken to the Plentywood Border Patrol station for processing, were nine Hondurans, two El Salvadorans and five Mexicans. Havre Sector Deputy Chief Patrol Agent Christopher Richards said in a press release that the arrests are part of the agency's mission to prevent terrorism, enforce immigration laws and prevent illegal crossborder traffic.

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MINERAL COUNTY COVERAGE

Illegal aliens arrested after crash on I-90

Posted: Mar 9, 2011 1:43 PM by Irina Cates (KPAX News)

Updated: Mar 9, 2011 1:51 PM



ALBERTON - Five illegal aliens were taken to jail on Wednesday morning after they crashed on Interstate 90 near Alberton.

The wreck happened just after 5 a.m. at mile marker 79 when the driver lost control and rolled the car over.

The Montana Highway Patrol reports that one passenger went to the hospital with minor injuries and was later released.

Troopers say at least four of the people admitted to being in the U.S. illegally between four and 10 years. They were on their way to New Jersey for work when the crash happened.

Immigration and Customs Enforcement (ICE) asked for them to be taken into custody.

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NEWS

Fernando Gallegos-Barreto Sentenced In U.S. District Cour

FOR IMMEDIATE RELEASE

Thursday, October 20, 2011

The United States Attorney's Office announced that during a federal court session in Missoula, on October 19, 2011, before U.S. District Judge Donald W. Molloy, FERNANDO GALLEGOS-BARRETO, a 28-year-old citizen of Mexico, appeared for sentencing. GALLEGOS-BARRETO was sentenced to a term of:

- Prison: 45 months
- Special Assessment: \$100
- Supervised Release: 2 years

GALLEGOS-BARRETO was sentenced in connection with his guilty plea to illegal re-entry.

In an Offer of Proof filed by Assistant U.S. Attorney Timothy J. Racicot, the government stated it would have proved at trial the following:

On April 11, 2011, a Montana Highway Patrol officer stopped a vehicle on Interstate 90 after observing that the right rear tire of the vehicle was bouncing. It appeared to the trooper that the tire was out of balance or about to come off. GALLEGOS-BARRETO was the driver and the only occupant of the vehicle. GALLEGOS-BARRETO presented an "International Driver's License" bearing the name Carlos Almanzia Arcigo. He informed the trooper that he did not have a Mexican driver's license but that he did have a Mexican Consulate Card. He did not have a passport. A criminal history check performed by the Montana Highway Patrol Dispatch showed the driver's true name to be FERNANDO GALLEGOS-BARRETO.

The trooper contacted an agent from Homeland Security Investigations who conducted immigration queries through electronic databases that revealed a possible match for GALLEGOS-BARRETO as having been previously deported. As a result, GALLEGOS-BARRETO was transported to Missoula County Detention Center and placed on an immigration detainer.

During an interview on April 12, 2011, GALLEGOS-BARRETO admitted that he was a citizen and national of Mexico and that he was present in the United States without immigration documents. He also admitted that he last entered the United States on July 1, 2002, near San Ysidro, California. He admitted entering illegally on foot without being inspected or admitted by an immigration officer and without obtaining permission from the United States Attorney General, his designee, or his successor, the Secretary of the Department of Homeland Security. He also admitted he had been twice removed from the United States to Mexico.

A fingerprint analysis of GALLEGOS-BARRETO revealed that he had been deported from the United States on August 14, 1998, following an arrest in Seattle for possession of cocaine and being an alien in possession of a firearm. He was also deported on May 23, 2003, following a 2001 conviction for possession of cocaine and methamphetamine with intent to distribute.

There was no evidence in GALLEGOS-BARRETO's immigration file that he had applied for or received

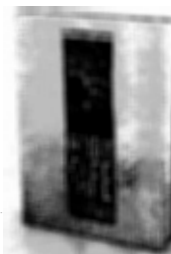
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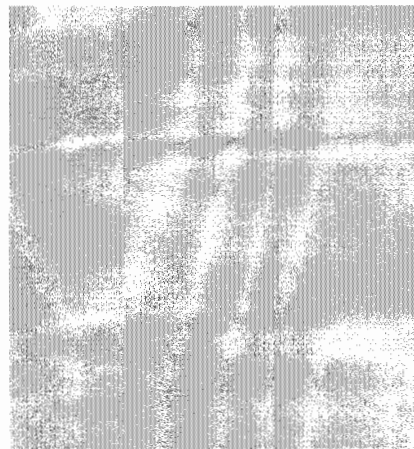
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permission to enter or reside in the United States from either the Secretary of the Department of Homeland Security or the Attorney General.

Because there is no parole in the federal system, the "truth in sentencing" guidelines mandate that GALLEGOS-BARRETO will likely serve all of the time imposed by the court. In the federal system, GALLEGOS-BARRETO does have the opportunity to earn a sentence reduction for "good behavior." However, this reduction will not exceed 15% of the overall sentence.

The investigation was a cooperative effort between the U.S. Customs and Border Protection, U.S. Homeland Security Investigations, and the Montana Highway Patrol.

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