

**UTAH ATTORNEY GENERAL'S OFFICE
FINANCIAL CRIMES PROSECUTION UNIT**

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The Financial Crimes Prosecution Unit of the Utah Attorney General's Office has been in place for several years now. The question presented to the Commission on Criminal and Juvenile Justice is to weigh the potential this Office portends with the reality of limited state funding to supplant expiring federal dollars. This report will review the short history of the Unit and look at several other states experiences as a method of assessing the potential for the Financial Crimes Unit and expectations that might be established for the Office in the future.

The ultimate goal of this Office is the development, through the Joint Financial Crimes Task Force, of a state-wide ability to **prosecute** financial fraud. These prosecutions have been slow in developing and an explanation for that delay will best assist decision-makers in determining continued funding of this Office.

First and foremost is the recognition of the complexity of the prosecution. The Utah Attorney General's Office becomes the focal point in a very complicated arena targeting primarily profits from drug racketeering through the "laundering" of those profits by legitimate businesses and financial institutions. In order to accomplish this an expertise had to be developed that did not exist in Utah.

Secondly an organization had to be created that could combine resources from County Attorneys, Local and State law enforcement and investigative agencies and share prosecutorial talent. A structure had been lacking within the state that would allow this process to occur. Several agencies were involved but they lacked coordination, expertise, continuity and investigative function. The simple mechanical structure of case and investigative planning, document repositories, information sharing, and prosecution strategy did not exist prior to the inception of the Task Force.

Thirdly a re-write of the existing statute that broadened the definition of money laundering to include the receipt, acquisition or transportation of illegal proceeds. This was accomplished thus enabling law enforcement to pursue cases with renewed vigor realizing that prosecutions were possible, imminent and likely to succeed.

There are at least four major accomplishments of this Unit.

Kirk Torgerson is now an "expert" on financial crimes. His expertise is directly a result of the funding of this Unit and he has, over the last three years, been training hundreds of law enforcement and financial institution personnel, attorneys, and investigators on the issues related to the investigation, apprehension, and prosecution of those involved in serious drug trafficking and white collar crimes.

Glen Glenn, an individual with 20 years of FBI investigative experience has been hired. He has organized the investigative arm of the Office. Cases are now structured, on-going and not

dependent on individual jurisdictions, personnel turn-over or local agency inadequacies.

The Financial Crimes Task Force is now in operation. It is a by-product of the training. It is the only game in town. No one else is doing it. Local law enforcement was not proceeding on these cases, even with good information regarding the criminal activity due to a lack of resources and expertise. The Task Force now pools those resources, prosecution goes where it can best be pursued, State or Federal Court, and everyone will share the credit and assets that follow successful prosecutions.

Amendment to the statutes, suggested by the Office and the Task Force now put Utah “on the cutting edge” of financial crimes prosecution.

Other states experiences

Pennsylvania reported many of the same “growing pains” that Utah has experienced. Clerks were initially charged with doing the paperwork, and developing the cases. They were not investigators and the cases they prepared, due to the technical nature of the criminal offending, were not adequate for prosecution. Arizona enjoys the reputation of having perhaps the elite Financial Remedies Unit in the Country. In a discussion with Cameron H. Holmes, the Financial Remedies Unit Chief, he indicated that due to the complexity of the cases, the expertise necessary both in investigation and prosecution, that a several year delay between funding of an Office and successful prosecutions should be expected. In other words, the amount of time that it has taken for the Utah Office to begin prosecuting financial crimes is not different than the experience of other states. Even if the state had been able to import someone of Mr. Holmes experience, the organizational issues inherent in changing and molding state and county bureaucracies would demand a considerable delay in the actual development and successful prosecution of financial crimes.

Benefit to Pennsylvania and Arizona

The Unit has been in place in Pennsylvania since 1988. That year the Office had approximately \$330,000 in state seizures and \$1.1 million in Federal seizures. From '91-'93 they indicted 60 people and seized assets totaling \$10.5 million. Currently they are wrapping up a two year investigation and expect to indict 80 people. The unit funds itself, there is an equitable sharing of assets and plans are underway to expand the office.

The Financial Remedies Unit (FRU) in Arizona “utilizes civil economic remedies to reduce the profit incentive of drug trafficking, to disrupt trafficking networks and to deprive the traffickers of the use of equipment, assets, and properties used to carry on their illegal activities. It provides legal, investigative, property management and appellate support to prosecutors statewide and pursues cases focused on money laundering and other facilitators of drug trafficking enterprises. FRU also maintains the State’s financial transaction records, as required by law. These records are collected, analyzed and disseminated to law enforcement to aid in investigative and prosecutive efforts.” (Summary of FRU provided to Russ Van Vleet by Cameron Holes, Arizona FRU Chief.)

A summary of the Arizona litigation suggests the possibility for the Utah Financial Crimes Unit. "Litigation in this fiscal year (96) included the elimination of several of the most significant drug enterprises in Arizona. The civil litigation of the major drug importation enterprise that had imported over \$127 million in drugs during an eight-month period." (Fiscal year 1996 Annual Report, Grant Woods, Attorney General).

The FRU obtained judgements of \$20 million against each of the key participants of a local drug dealing enterprise.

Numerous FRU cases are prosecuted civilly in conjunction with criminal prosecutions.

Benefits to Utah

The 1992 National Drug Control Strategy recommended that "States should enact tough anti-money laundering legislation and enforce this legislation by investigating and prosecuting money launderers within their jurisdiction." 1992 NDCS, p. 95. Utah is very close to accomplishing this recommendation. Already, with the leadership of the Financial Crimes Prosecution Unit a revised Controlled Substance Act was passed. This included harsher penalties for drug "King Pins". If Drug King Pins could be identified and prosecuted then their financial organization could be disrupted and perhaps rendered inoperable. In addition, white collar crime, which by all accounts has been flourishing in Utah, will become the object of an intensive and professional prosecutorial effort. There is a recognition that white collar criminals do not always receive prison sentences similar to other offenders and a method of introducing some equity in this sentencing disparity may be through the forfeiture of the illegal proceeds of these criminal transactions and some of this money going directly to the victims, without the delay usually accompanying such transactions.

Summary

Utah is on the cutting edge of money laundering prosecution. Financial Transaction prosecution is relatively new, 5 to 7 years of national experience with most offices. The necessary statutory legislation was not in place in Utah when this Office was created. The organizational structure was not established and operational procedures between the Department of Public Safety, The Attorney General's Office, and other state and local partners had to be developed. The investigation of financial crimes is a new discipline, there is little expertise or experience and only time would allow for that to develop. In the best of worlds cases would normally take 1 to 2 years to prosecute so given that scenario this Office is not more than 1 year behind optimal functioning capability.

Financial Crimes Unit Potential

This Unit should prosecute at least three or four cases per year. These prosecutions may be shared as part of the Financial Crimes Task Force. In the next 12 months there are three cases in the pipeline that include tax fraud, money laundering, workmen's compensation fraud, racketeering, and time-share fraud. Some of these cases are expected to go to trial within 60 days.

It is expected that with the advantages of training, re-organization, sharing of resources, and investigation expertise most or all of these prosecutions will be successful and result in substantial money going to victims of these crimes and/or returning to the coffers of the state of Utah.

What needs to be emphasized is that this Office is pursuing white collar criminal activity. It is likely that revenue from tax fraud prosecution alone would sustain the operation budget of this Unit. Criminal prosecution of drug dealers and money launderers association with drugs or other financial crime will add to the potential success of this Office.

Recommendation

The Financial Crimes Unit should be continued for one additional year. Within that one year time frame the Office should be able to demonstrate its ability to successfully prosecute individuals associated with financial crimes and those prosecutions result in sufficient money recovery to at least sustain the operation of the Unit. If the Unit has the same success that Pennsylvania and Arizona have had it would result in major amounts of money being returned from criminal activity to the state. If the Unit cannot successfully prosecute during that year then its continued operation should be considered at that time.