

**"JUST
THE
FACTS"**



MTIBRS Training & Technical Assistance

Theft, Fraud & Cyberspace

Today's topic is on Theft & Fraud in Montana, how they're alike, how they're different and how our statute here in Montana affects incidents that occur in Cyberspace. No, we're not going to touch on Identity Theft, Common Schemes or Deceptive Practices, as those are a different ballgame. We touched on Identity Theft in the past – see our previous trainings.

Theft 45-6-301

▶ (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

- ▶ (a) has the purpose of depriving the owner of the property;
- ▶ (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
- ▶ (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

▶ (2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

- ▶ (a) has the purpose of depriving the owner of the property;
- ▶ (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
- ▶ (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

- We'll first take a look at our Theft statute & the two subsections that officers deal with the most
- As you can see Montana's Theft statute contains the FRAUD element in subsection 2
- Currently, Montana does not have a statute specific to cyber crime, however many of the incidents that officers encounter fall under what the FBI considers a "wire fraud" or "False Pretenses/Swindle/Confidence Game." However, we currently do not have Theft's subsection 2 mapped to those FBI offenses – but that is a change we intend on making in the future, especially with the rise of internet crimes

Theft & Fraud- What's the difference?

- ▶ Theft:
 - ▶ Crime against Property
 - ▶ Method: Physical taking of something via by force or in secret
 - ▶ FBI Definition: "The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another person."
- ▶ Fraud:
 - ▶ Crime against Property
 - ▶ Method: Taking something via deceit or lying
 - ▶ FBI Definition: "The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right."

- While Fraud and Theft have similarities, they also have distinct differences. Unfortunately, Fraud in Montana falls under our umbrella of our Theft Statute.

Cyberspace Location Allowed:

210 = Extortion/Blackmail	26C = Impersonation
250 = Counterfeiting/Forgery	26D = Welfare Fraud
270 = Embezzlement	26E = Wire Fraud
280 = Stolen Property Offenses	26F = Identity Theft
290 = Destruction/Damage/Vandalism of Property	26G = Hacking/Computer Invasion
510 = Bribery	
26A = False Pretenses/Swindle/Confidence Game	
26B = Credit Card/Automated Teller Machine Fraud	

- Here is a shortened list of NIBRs offenses where cyberspace is allowed as a location - Notice that THEFT is not listed!
- As mentioned before, we're going to coordinate with the FBI so that our Theft's subsection 2 will be connected to their fraud offenses in the future
- In the meantime, when officers encounter a victim that has experienced a scam online, they'll need to indicate the location of the victim at the time of the crime – such as computer at home (residence).
- As it stands, if Cyberspace is selected as a location for Theft, it will error out!

Theft & Fraud Scenarios

- ▶ A victim was notified via email at home that their grandchild was in jail. They then sent \$5,000 to an unknown individual as bail money:
 - ▶ Fraudulent - Utilize Theft 45-6-301(2)
 - ▶ Suspected of Using - "Using Computer Equipment"
 - ▶ Location - Residence
 - ▶ Enter money as stolen property
- ▶ A victim, while at home, purchased an item from an individual online but received an empty box:
 - ▶ Fraudulent - Utilize Theft 45-6-301(2)
 - ▶ Suspected of Using - "Using Computer Equipment"
 - ▶ Location - Residence
 - ▶ Enter money as stolen property

Now here are two scenarios that hopefully, will assist you in the future -Both scenarios are what the FBI calls "False Pretenses/Swindle/Confidence Games"

2020 FBI Internet Crime Report:

Select a state: Montana			
Crime Type by Victim Count			
Crime Type	Victim Count	Crime Type	Victim Count
Advanced Fee	37	Identity Theft	105
BEC/EAC	53	Investment	7
Charity	0	Lottery/Sweepstakes/Inheritance	30
Civil Matter	1	Malware/Scareware/Virus	5
Confidence Fraud/Romance	68	Misrepresentation	0
Corporate Data Breach	5	No Lead Value	117
Credit Card Fraud	32	Non-payment/Non-Delivery	260
Crimes Against Children	9	Other	26
Criminal Forums	0	Overpayment	27
Denial of Service/TDoS	5	Personal Data Breach	91
Employment	31	Phishing/Vishing/Smishing/Pharming	75
Extortion	186	Ransomware	6
Gambling	0	Re-shipping	0
Government Impersonation	48	Real Estate/Rental	47
Hacktivist	0	Spoofing	69
Harassment/Threats of Violence	60	Tech Support	45
Health Care Related	2	Terrorism	0
IPR/Copyright and Counterfeit	4		
Descriptors*			
Social Media	92	Virtual Currency	80

- This is the 2020 FBI Internet Crime Report on cyber crime – since it is so detailed, we're thinking that they compiled their data from other organizations, such as the Federal Trade Commission, as our data is not this specified.
- <https://www.fbi.gov/news/press-releases/fbi-releases-the-internet-crime-complaint-center-2020-internet-crime-report-including-covid-19-scam-statistics>
- Per the FBI, Victims lost the most money to business email compromise scams, romance and confidence schemes, and investment fraud
- As you can see, these numbers are via the victim count, not incident count. And I think we all can agree that these numbers are too modest to be completely accurate.

Online Resources:

- ▶ DCI Computer Crime Unit:
 - ▶ <https://dojmt.gov/enforcement/investigations-bureau/computer-crime/>
- ▶ Other Ways to Report Fraud:
 - ▶ <https://reportfraud.ftc.gov/> - Encourage your officers to distribute this link!
 - ▶ <https://www.ic3.gov/Home/ComplaintChoice>
 - ▶ <https://leg.mt.gov/lad/fraud-hotline/>
 - ▶ <https://www.consumerfinance.gov/consumer-tools/fraud/>

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What's
coming
up?

Check out our website for the 2023 topics
<https://mbcc.mt.gov/Data/MTIBRS-Training>

- Go to <https://mbcc.mt.gov/Data/MTIBRS-Training> to register for all 2022 sessions. Make sure to bookmark this page.
- Future Just the Facts Training:



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