

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF NEBRASKA  
2014 ANNUAL REPORT**



**DEBORAH R. GILG  
UNITED STATES ATTORNEY**





## TABLE OF CONTENTS

Message from the United States Attorney	1
Contact Information	3
Mission Statement	4
Welcome to the District of Nebraska	5
United States Attorney's Office	7
CRIMINAL DIVISION	9
Anti-Terrorism	10
Project Safe Neighborhoods	12
Project Safe Childhood	18
Other Criminal Division Priorities	21
Narcotics Enforcement	29
HIDTA	34
CIVIL DIVISION	38
Civil Litigation	40
Collection of Judgments	45
LAW ENFORCEMENT & COMMUNITY COORDINATION	47
Victim / Witness	48
Calendar of 2015 Training Events	50
2014 LECC Awards	51
Websites of Interest	65

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## MESSAGE FROM THE UNITED STATES ATTORNEY

2014 was a productive year within the United States Attorney's Office for the District of Nebraska. The District of Nebraska is fortunate to have one of the most productive criminal federal District Court benches, ranking 7<sup>th</sup> nationally and 2<sup>nd</sup> within the 8<sup>th</sup> Circuit. The United States Attorney's office is responsible for the majority of the judicial caseload. Since we were not burdened with sequestration and furlough issues like we had in 2013, we were actually able to hire new AUSAs and legal support staff to replace AUSAs and support staff that had retired. The quality and experience level of the new AUSAs and legal support staff have greatly enhanced the ability of our office to respond to the criminal and civil caseloads.



For the year 2014, the United States Attorney's office filed 537 criminal cases involving 649 defendants. General criminal cases include child pornography, financial crimes, criminal immigration, identity theft, robbery, Indian Country major crimes, etc. The drug unit cases include drugs, guns, money laundering, structuring and interstate transportation in aid of racketeering. Between the two units, there were a total of fifteen trials and forty-four 8<sup>th</sup> Circuit court appeals. The median time for felony criminal cases from filing to disposition was 8 months.

In cooperation with federal and local law enforcement and prosecutors, Project Safe Neighborhoods continues to be a high priority of this office. In 2014, 761 guns were traced and tracked as part of Project Safe Neighborhoods. The Grand Jury returned numerous indictments which included firearms associated with the delivery or conspiracy to deliver controlled substance. As you will note elsewhere in this report, Project Safe Neighborhoods and the Omaha Police Department sponsored two Gun Amnesty events. 62 firearms and 900 pounds of ammunition as well as 800 pounds of fireworks were surrendered for destruction.

We are especially proud that once again two of our Nebraska task forces received regional awards from the High Intensity Drug Trafficking Association (HIDTA) which recognizes these task forces' top level work in combatting drug trafficking, to-wit: Omaha DEA Drug Task Force for Outstanding Financial Investigative Effort and the Greater Omaha FBI Safe Streets Task Force for Outstanding Investigative Effort.

Project Safe Childhood also remains a high priority for this office. In 2014, we collaborated with the Child Exploitation and Obscenity Division of the Department of Justice to bring a first in the nation case involving pedophiles using the TOR network. The scope of this investigation was global and required coordination not only with multiple other U.S. Attorney districts but also coordination with Interpol and other international law enforcement agencies. The hidden network was dismantled and numerous convictions have been obtained but we are still pending more trials. This collaboration has strengthened our ability to maximize the punishment and deterrence of these crimes.



## MESSAGE FROM THE UNITED STATES ATTORNEY

On the Civil Division side, work on 295 civil cases was completed by the United States Attorney's office. Included in this number are cases in which the validity of federal laws, or the acts of federal agencies and employees were challenged. These agencies include the Internal Revenue Service, Social Security Administration, Department of Agriculture, Department of Education, Department of Labor, Veterans Affairs, Environmental Protection Agency, U.S. Army Corps of Engineers, Small Business Administration, Department of Housing and Urban Development, and a variety of agencies within the Department of Justice. The civil cases included foreclosures, bankruptcy, medical malpractice, personal injuries, employment discrimination, federal employee liability, immigration, program litigation, environmental litigation, and Social Security appeals. Also included, were affirmative cases brought to enforce statutory and regulatory requirements, and to collect debts owed to the United States. The Financial Litigation Unit of the Civil Division collected in excess of \$14.6 million dollars. The collections include \$1.2 million in criminal collections, \$123,000 in bankruptcy collections, \$315,000 in foreclosure recoveries, \$10.5 in post-judgment collections, and more than \$1.8 in civil fraud and environmental enforcement.

In recognition of the sovereignty and importance of Indian Country, we have compiled a separate 2014 Indian Country Annual Report. This report can be found online at: [www.justice.gov/usao/ne](http://www.justice.gov/usao/ne).

We recognize that it is our duty to protect national security and enforce the law for the benefit of all Americans. In order to do our jobs, we conduct outreach efforts with many local groups and individuals, including the Arab American and Muslim American communities as well as the Hispanic communities. This outreach is intended to improve our ability to perform our duties in a manner that is consistent with core American values such as respect for civil liberties, embracing diversity and commitment to religious freedom. These are values that are found in the Constitution and laws of the United States. We have initiated regular and continuing contact with the Mexican Consulate in Omaha. Also, in partnership with the FBI, we have engaged leaders of Arab American and Muslim American organizations to make sure that these groups are being afforded the full rights and responsibilities of U.S. citizens consistent with our American values.

Depriving criminal organizations of the fruits of their crimes continue as a priority. Law enforcement agencies in 2014 administratively forfeited cash, 24 vehicles, 18 firearms and other property with a total value of over \$5.5 million. In addition, the U.S. Attorney's office forfeited cash, 13 vehicles, 4 firearms and other property with a total value of over \$4.1 million.

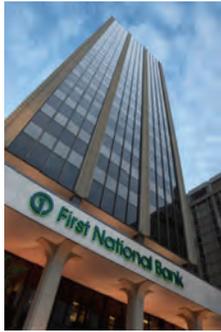
The summaries of case reports contained in this report are snapshots of a small portion of the cases handled by this office.

The accomplishments in this report are the product of enormous hard work of the entire staff of the United States Attorney's Office for the District of Nebraska and to all federal, state and local agencies that are vital to our joint success.



**CONTACT INFORMATION:**

BY MAIL:



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1620 Dodge Street  
Suite 1400  
Omaha, Nebraska 68102-1506



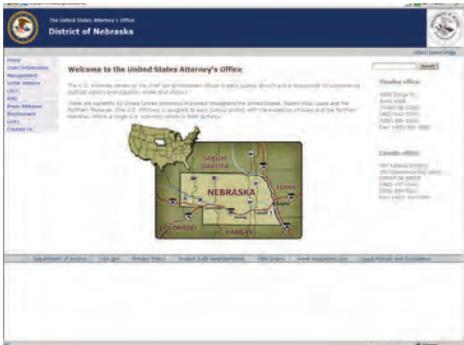
U.S. Attorney's Office  
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100 Centennial Mall North  
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<http://www.usdoj.gov/usao/ne/>



**“[A PROSECUTOR] MAY PROSECUTE WITH EARNESTNESS AND VIGOR - INDEED S/HE SHOULD DO SO. BUT WHILE S/HE MAY STRIKE HARD BLOWS, S/HE IS NOT AT LIBERTY TO STRIKE FOUL ONES. IT IS AS MUCH HIS/HER DUTY TO REFRAIN FROM IMPROPER METHODS CALCULATED TO PRODUCE A WRONGFUL CONVICTION AS IT IS TO USE EVERY LEGITIMATE MEANS TO BRING ABOUT A JUST ONE.”**

(gender references modified)

This is a famous quote regarding the duty of prosecutors. It comes from Justice Sutherland in *Berger v. United States*, 295 U.S. 78, 88 (1935).

**“THE FUNCTION OF THE PROSECUTOR UNDER THE FEDERAL CONSTITUTION IS NOT TO TACK AS MANY SKINS OF VICTIMS AS POSSIBLE AGAINST THE WALL. HIS/HER FUNCTION IS TO VINDICATE THE RIGHTS OF THE PEOPLE AS EXPRESSED IN THE LAWS AND GIVE THOSE ACCUSED OF CRIME A FAIR TRIAL.”**

(gender references modified)

JUSTICE WILLIAM O. DOUGLAS

### **OUR MISSION STATEMENT**

To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.

### **OUR CORE VALUES**

Equal Justice Under the Law  
Honesty and Integrity  
Commitment to Excellence  
Respect for the Worth and Dignity of Each Human Being



## WELCOME TO THE DISTRICT OF NEBRASKA



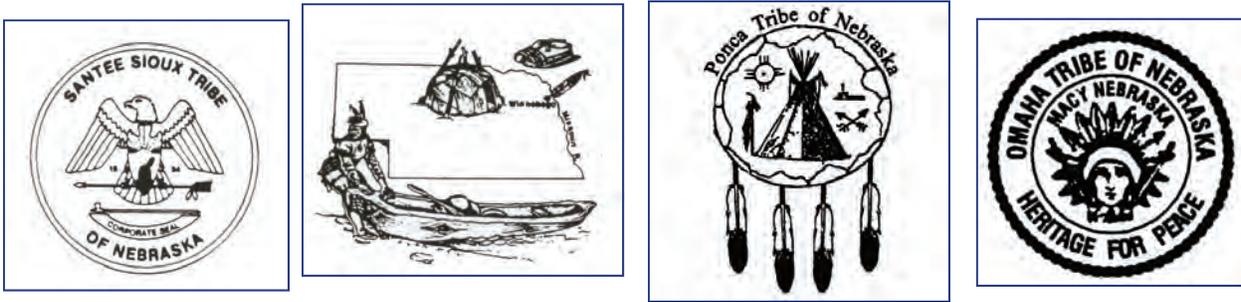
**N**ebbraska, the 16th largest state geographically, became the 37th state to join the Union on March 1, 1867. Its 77,000 square miles encompass 93 counties, and a population of over 1.8 million people. As one of the 26 states with only one federal judicial district, Nebraska boasts a diversity and variety of topography, geography, and economy. Nebraska has more underground water reserves than any other state in the continental U.S. The name Nebraska is from an Oto Indian word that means "flat water" (referring to the Platte River, which means "flat river" in French).

The Omaha and surrounding cities make up a population of over 630,400, which accounts for a large majority of the District's population. Lincoln, the state's capital, is home to over 268,700 residents. Much of the state, however, is rural, with over 90% of Nebraska's cities and towns having fewer than 3,000 people.



The state has a mixed economic base with substantial agricultural and agribusiness sectors, as well as significant manufacturing, technical and service sectors. More than 96% of Nebraska's land is farm and ranch land, and the state is a national leader in production of beef, pork, corn, and soy beans. Other economic sectors include freight transport by rail and truck, manufacturing, telecommunications, information technology, and insurance. Nebraska is also known for its production of ethanol, accounting for an estimated 12 percent of the nation's operating production. Several Fortune 500 companies, including Berkshire Hathaway, ConAgra, Union Pacific, Mutual of Omaha, and Peter Kiewit & Sons, are headquartered in Nebraska, and many others such as TD Ameritrade, Valmont, Woodmen of the World, and Cabela's have substantial operations in the District. In 1974 Lincoln's Kawasaki Motors plant was established. Now manufacturing various all-terrain, utility and recreational vehicles, along with passenger rail cars.

The United States Strategic Command is headquartered at Offutt Air Force Base, located just south of Omaha in Bellevue. Various other federal enclaves, including the Niobrara Scenic River, the Missouri National Recreational River, several national monuments, historic sites, National Wildlife Refuges, and U.S. Army Corp of Engineers recreational sites are located throughout Nebraska. The U.S. Department of Agriculture operates several facilities in the District, including research national forests, and a national grassland. Omaha's Henry Doorly Zoo & Aquarium is home to the world's largest indoor desert, the largest indoor rainforest in the United States, and the largest zoo aquarium in the country.



In addition to the Veterans Affairs Hospital in Omaha, the Department of Veterans Affairs operates outpatient clinics in Lincoln and Grand Island, and the Indian Health Service operates a hospital in Winnebago.

The Omaha, Winnebago, and Santee Sioux tribes have reservations located in northeast Nebraska, and federal criminal jurisdiction has been retroceded to the United States for each. As a result, the United States Attorney's Office works closely with those tribes to address crime occurring on the reservations. It should be noted that the Ponca Tribe, although it does not have a reservation in Nebraska, is federally recognized.

Numerous federal law enforcement agencies maintain offices in Nebraska and work extensively with the United States Attorney's Office. These agencies include the Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Marshals Service, Secret Service, Internal Revenue Service, Postal Service, Department of Agriculture, Department of Defense, Department of Homeland Security, National Park Service, Social Security Administration, Department of Veterans Affairs, and others. The United States Attorney's Office also works with federal agencies located outside of Nebraska, such as the Department of Education, Environmental Protection Agency, Social Security Administration, and the Department of Health and Human Services.

In addition to its work with federal agencies, the U.S. Attorney's Office works very closely with state and local law enforcement agencies, addressing the needs of the District. For many years, the citizens of Nebraska have benefitted from the very cooperative relationships between federal, state, and local law enforcement agencies throughout the District. A number of multi-agency joint law enforcement task forces have been created to facilitate effective investigation and prosecution of criminal offenses, especially those involving drugs and violent crime, as well as civil enforcement in the areas of health care fraud and environmental enforcement. Some of the accomplishments of those groups are described in this report.



## UNITED STATES ATTORNEY'S OFFICE DISTRICT OF NEBRASKA



The United States Attorney serves as the chief federal law enforcement officer in the District of Nebraska, and is responsible for coordinating multiple agency investigations within the District. The United States Attorney and her Assistants represent the federal government in virtually all litigation involving the United States in the District of Nebraska, including all criminal prosecutions for violations of federal law, civil lawsuits in which the United States is a party, and actions to collect judgments and restitution on behalf of victims and taxpayers.

Deborah R. Gilg was sworn in as the 32nd United States Attorney for the District of Nebraska on October 1, 2009. She is the first female United States Attorney for the District of Nebraska and a native of Omaha. Ms. Gilg serves on Attorney General Holder's Subcommittees on National Security, Civil Rights Enforcement, and Indian Country issues. She chairs both the Attorney General's Task Force on Domestic Violence Against Native-American Women and the Attorney General's Subcommittee on Child Exploitation and Obscenity Working Group. Ms. Gilg is the U.S. Attorney representative on the fiscal planning committee of the High Intensity Drug Trafficking Area (HIDTA) initiative. Previously, Ms. Gilg served as the Keith County Attorney from 1987-2002. After relocating to the Omaha area, she worked in the Saunders County Attorney's Office as the chief felony prosecutor until 2009. Ms. Gilg has also served as a Special Prosecutor, Special Deputy County Attorney and/or County Attorney in 21 Nebraska counties as well as maintained a private civil practice. Ms. Gilg taught criminal law and procedure, employment law, and wills and trusts at Metropolitan Community College as adjunct faculty from 2004-2009. During several of her years as a county prosecutor, she was on the Board of Directors of the Nebraska County Attorney Association and served as President. She is the recipient of several public service awards including the Nebraska Women's Bar Association Outstanding Contributor to Women in the Law; Nebraska Bar Foundation Award for Outstanding Public Service; the Nebraska State Patrol Award for Exceptional Public Service and the Nebraska County Officials Association Award for Outstanding Public Service. Ms. Gilg received her Juris Doctorate degree in 1977 from the University of Nebraska College of Law, and her Bachelor of Arts degree (major in Latin-American Studies) from the University of Nebraska-Lincoln in 1974.

As United States Attorney for the District of Nebraska, Ms. Gilg oversees a staff of 25 Assistant U.S. Attorneys (AUSAs) and more than 34 support staff working in offices located in Omaha and Lincoln. Three attorneys from the County Attorney's offices, in Douglas and Hall Counties have offices in the U.S. Attorney's Office, one Tribal Special Assistant Attorney and 31 attorneys from the Northern District of Iowa, Nebraska Attorney General's Office, Internal Revenue Service, Social Security Administration, Small Business Administration and Judge Advocate General's Office also serve as Special Assistant U.S. Attorneys (SAUSAs) to assist with criminal and civil litigation in the District.

In the fall of 2012, a Tribal Special Assistant U.S. Attorney was hired pursuant to a pilot project grant awarded to the Winnebago Tribe. The Tribal SAUSA prosecutes domestic violence cases in tribal courts, including the Omaha Tribe and Santee Sioux, as well as in federal court.

The Criminal Division of the office, which includes the General Crimes Unit and the Drug Prosecution Unit, prosecutes violations of federal criminal law. The attorneys in the General Crimes Unit are supervised by Jan Sharp, Criminal Chief, while John Higgins, Organized Crime Drug Enforcement Task Force (OCDETF) Chief, supervises the Drug Unit and Asset Forfeitures. Assistant United States Attorney Michael Norris is the Appellate Coordinator/Senior Litigation Counsel. The Civil Division is headed by Robert Homan, and Joseph Jeanette coordinates the Law Enforcement and Community Coordination (LECC) Unit, which maintains partnerships between law enforcement agencies, provides services to crime victims and witnesses, and coordinates training conferences. The Administrative Unit, which supports the operations of all components of the office, is supervised by Denise Smith, Administrative Officer. Robert C. Stuart, serves as First Assistant United States Attorney.

## **STRATEGIC GOALS**

### **I. Prevent Terrorism and Promote the Nation’s Security Consistent with the Rule of Law**

Strengthen Partnerships to Prevent, Deter and Respond to Terrorist Incidents

### **II. Combat Crime, Protect the Rights of the American People and Enforce Federal Law**

Combat the Threat, Incidents and Prevalence of Violent Crime

Prevent, Suppress and Intervene in Crimes Against Native Americans and Improve Services to Crime Victims

Combat the Threat, Trafficking, and Use of Illicit Drugs and the Diversion of Licit Drugs

Combat Corruption, Economic Crimes, Fraud and International Organized Crime

Promote and Protect American’s Civil Rights

Protect the Federal Monies and Defend the Interests of the United States

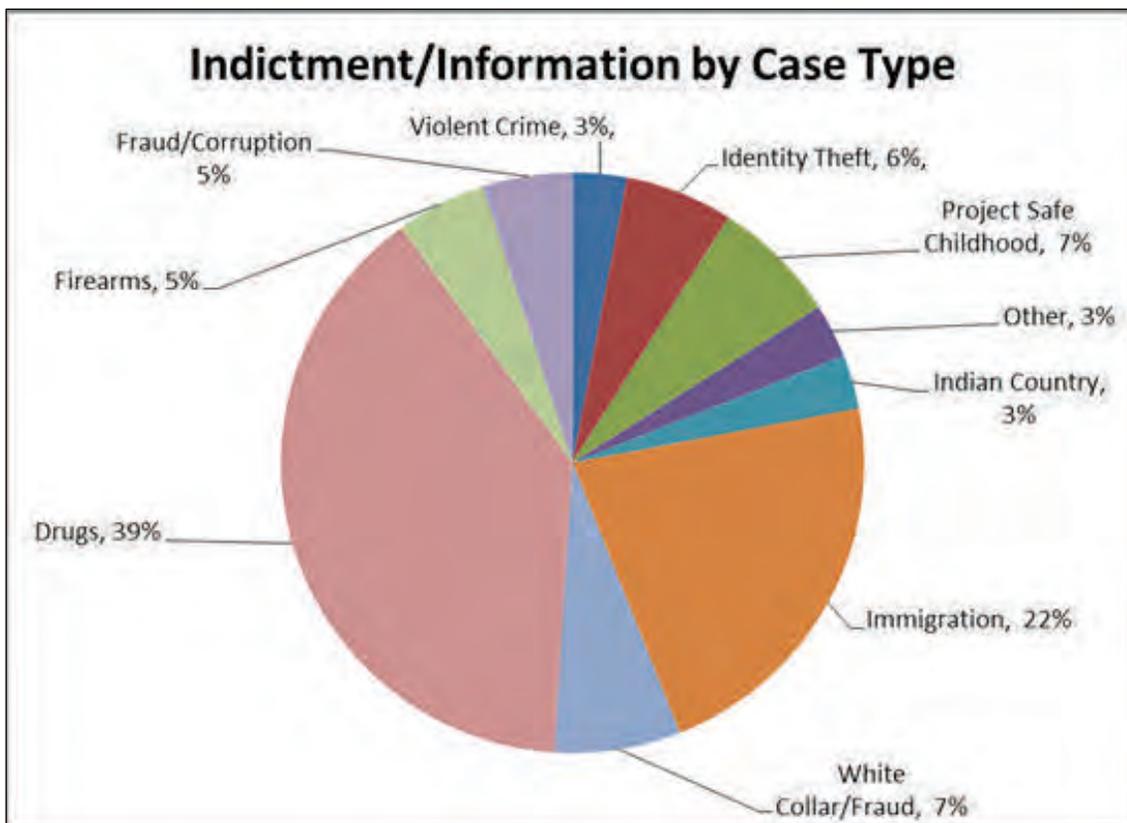
### **III. Ensure and Support the Fair, Impartial, Efficient and Transparent Administration of Justice at the Federal, State, Local Tribal and International Levels**

# CRIMINAL DIVISION



The Criminal Division in 2014 continued to focus its efforts on areas identified as national priorities by the Department of Justice; anti-terrorism, assuring the safety of our communities, and drug enforcement. Working closely with federal, state, tribal, and local law enforcement agencies, the 19 Assistant United States Attorneys and four Special Assistant United States Attorneys in the office’s general criminal and drug units prosecuted violations of federal criminal statutes in federal district courts in Omaha, Lincoln, and North Platte.

The number of defendants who faced federal charges in 2014 totaled 649 with the majority of these cases related to illegal drugs; however, firearms cases, immigration cases, and offenses involving identity theft and fraud comprised a significant portion of the criminal cases filed.

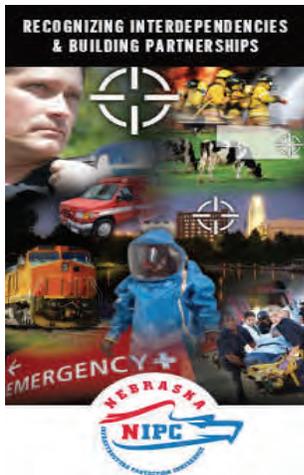


## ANTI-TERRORISM

The fight against terrorism, both international and domestic, continues to be the first priority of the Department of Justice. The United States Attorney's Office Criminal Division, in the District of Nebraska, has committed significant resources to this effort. Working closely with the FBI and other federal, state, and local law enforcement agencies, office personnel continue their active membership in the Joint Terrorism Task Force (JTTF) and the Nebraska Information Analysis Center (NIAC) to detect indications or warnings of terrorist activities, identify and protect potential targets of terrorist activities within the District, disrupt activities that support terrorism, and prevent, through aggressive prosecution, any crimes that may in some way contribute to terrorism. Other particularly notable efforts include: sponsorship of the United States Attorney's Anti-Terrorism Advisory Council (ATAC), co-hosting the annual Lt. Governor's Nebraska Infrastructure Protection Conference, chairing the multi-agency Suspicious Activity Report Review Team, and providing training to industry and Law Enforcement agencies across Nebraska.



The United States Attorney's Anti-Terrorism Advisory Council (ATAC), composed of nearly 70 government, industry and community partners, continues to foster information sharing and networking between various sectors through training presentations and open-source intelligence updates.



The Nebraska Infrastructure Protection Conference (NIPC) is in its 10th year of providing a networking and educational resource to the private, non-profit and public sectors in Nebraska. The NIPC is co-hosted by Nebraska's Homeland Security Director - the Lieutenant Governor of Nebraska and the United States Attorney for the District of Nebraska, Deborah Gilg. This conference was designed to assist in information sharing, collaboration and networking with those protecting critical infrastructure assets. It fosters participation in Homeland Security initiatives and programs by partnering industry representatives with government personnel to share knowledge and expertise. It identifies mutual needs in the areas of joint response procedures, key asset surveillance, collaboration, information sharing regarding threats, contact lists and relationships and participation in response exercises. The conference attracts a wide variety of community members who focus on infrastructure protection and represent many sectors.

The District of Nebraska continues to chair the Suspicious Activity Report (SAR) Review Team. The difference between criminals and terrorists is that criminals' activities are motivated by acquisition of money, whereas, terrorists must have money to further their destructive ideologies. The SAR Review Team is comprised of members from over a dozen different federal, state, and local law enforcement agencies. Monthly, each member reviews the previous month's SAR(s) through their respective organizational filters and shares information that arises from their investigative efforts. This has been successful in bringing investigative and prosecutorial resources to bear on individuals and entities engaging violations of the Bank Secrecy Act and de-confliction with ongoing investigations.

We continue to develop relationships through Counter Proliferation Task Force (CPTF). This effort combines the resources of the United States Attorney's Office, U.S. Dept. of Commerce, U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), and Defense Criminal Investigative Service (DCIS) to prevent sensitive weapons of mass destruction and other dual-use technology from falling into the hands of those who wish to harm America. An important aspect of the CPTF is assisting and participating in established outreach programs of our other federal law enforcement partners to assist industry to identify and mitigate attempts to inappropriately obtain such technology.

The United States Attorney's Office also serves as a member of the U.S. Strategic Command Threat Working Group, whose mission is to identify and mitigate threats to the command and it's supporting Department of Defense elements, including innumerable private contractors. Attenuation of these threats requires a concerted effort which includes information-sharing and networking among law enforcement personnel at every level. Elimination of a threat for this important partner only serves to protect the entire community.





Project Safe Neighborhoods (PSN) is a nationwide commitment to reduce gun and gang crime in America by networking existing local programs that target gun and gun crime and providing these programs with additional tools necessary to be successful. Since its inception in 2001, over \$2 billion has been committed to this initiative. This funding is being used to hire new federal and state prosecutors, support investigators, provide training, distribute gun lock safety kits, deter juvenile gun crime, and develop and promote community outreach efforts as well as to support other gun and gang violence reduction strategies. (BJA– Overview)

## DOJ PROJECT SAFE NEIGHBORHOOD PARTNERS

**U.S. Department of Justice** The mission of the U.S. Department of Justice is to enforce the law and defend the nation's interests according to the law, ensure public safety against both foreign and domestic threats, provide leadership in preventing and controlling crime, seek just punishment for those found guilty of breaking the law, enforce drug and immigration laws, and ensure fair and impartial administration of justice for all Americans.



**Bureau of Alcohol, Tobacco, Firearms and Explosives** The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a law enforcement agency within the U.S. Department of Justice, enforces the federal laws and regulations relating to alcohol, tobacco products, firearms, explosives, and arson. ATF's Office of Training and Professional Development provides enforcement training courses and specially designed classes tailored to meet the needs of jurisdictions that request training.



**Criminal Division** The Criminal Division of the U.S. Department of Justice develops, enforces, and supervises the application of all federal criminal laws except those specifically assigned to other divisions. The Division and the 93 U.S. Attorneys are responsible for overseeing criminal matters under the more than 900 statutes and certain civil litigation. In addition to direct litigation responsibilities, the Division formulates and implements criminal enforcement policy and provides advice and assistance.

**Executive Office for U.S. Attorneys** The Executive Office for United States Attorneys (EOUSA) is the liaison between the U.S. Department of Justice (DOJ) and the 93 U.S. Attorneys in the 50 states, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands. EOUSA provides U.S. Attorneys with general executive assistance and direction, policy development, administrative management direction and oversight, operational support, and coordination with other DOJ components and federal agencies.

**Office of Justice Programs** Founded in 1984, the Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, improve the criminal and juvenile justice systems, increase knowledge about crime and related issues, and assist crime victims. OJP's numerous bureaus and offices include the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics, the National Institute of Justice (NIJ), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). It is with the developmental and financial assistance of these organizations that OJP is able to successfully form partnerships among federal, state, and local government officials to address numerous criminal justice issues, including drug abuse and trafficking, neighborhood rehabilitation, gang violence, prison crowding, juvenile crime, and white-collar crime.

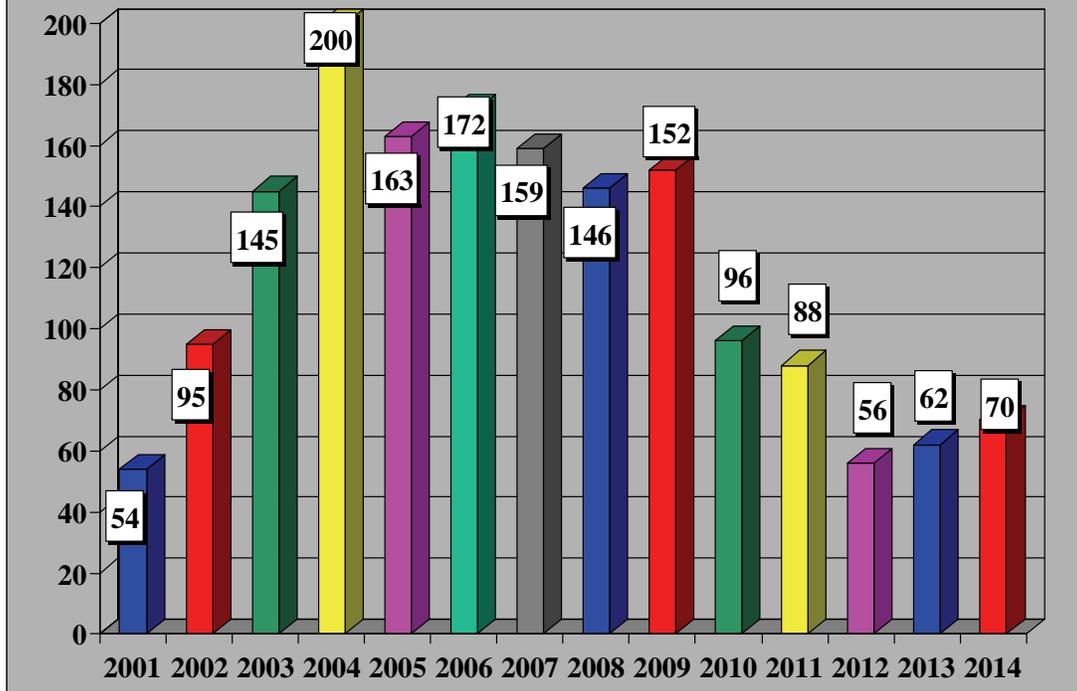
In addition to the normal prosecution of Federal gun violation cases, Project Safe Neighborhoods Nebraska has asked the citizens of Omaha to participate in our Omaha Police and Project Safe Neighborhood sponsored Gun Amnesty Day community events throughout the year. The Omaha Police Department and Project Safe Neighborhood hosted two Amnesty events during 2014 at various locations in Omaha. As a result, 62 firearms; nine five-gallon buckets of ammunition; 900 pounds of ammo, 800 pounds of fireworks and seven pipe bombs were surrendered for destruction.

Project Type	Date	Location	Firearms Seized	Ammunition Seized
Gun Amnesty	03/15/2014	3333 South 24th Street	21	9 five-gallon buckets
Fireworks & Gun Amnesty	07/12/2014	5505 North 103rd Street & 6598 Harrison Street	41	900 lbs. of Ammo; 800 lbs. of fireworks; 7 pipe bombs



Some of the weapons surrendered at the Gun and Fireworks Amnesty events in 2014.

# Federal Gun Indictments



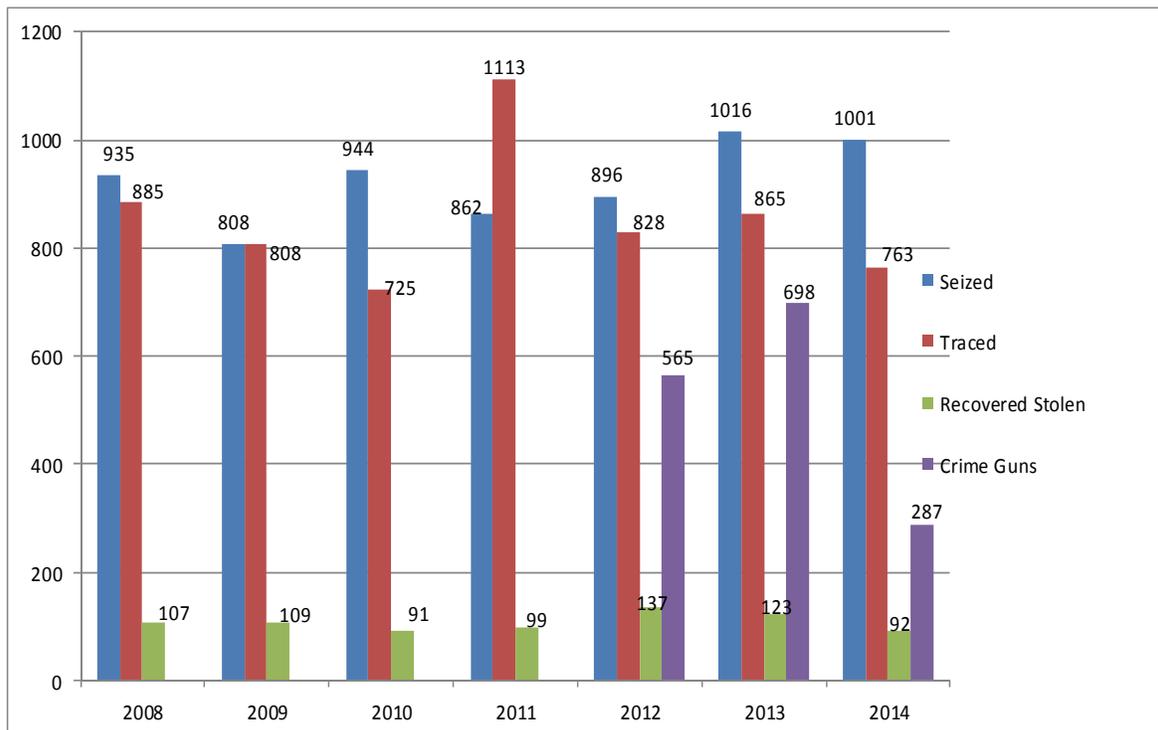
## PSN Federal Gun Indictments 2014

	Omaha PSN Cases	State PSN Cases	Alien with Gun Cases	PSN Cases 2005	PSN Cases 2006	PSN Cases 2007	PSN Cases 2008	PSN Cases 2009	PSN Cases 2010	PSN Cases 2011	PSN Cases 2012	PSN Cases 2013	PSN Cases 2014
JAN	4	1	0	16	16	8	8	13	8	5	2	1	5
FEB	1	1	0	18	23	23	13	13	11	6	4	7	2
MAR	3	0	0	13	8	19	5	20	6	5	8	5	3
APR	3	1	0	22	23	12	16	24	12	7	7	9	4
MAY	1	4	0	11	6	20	13	23	3	4	3	6	5
JUN	0	2	0	13	20	8	10	16	8	4	3	3	2
JUL	7	0	0	12	18	14	11	15	3	27	4	3	7
AUG	1	1	0	10	13	13	19	3	8	7	4	1	2
SEP	5	3	0	9	11	4	17	4	13	6	6	16	8
OCT	10	2	0	7	10	12	9	13	9	2	4	11	12
NOV	10	3	0	15	10	18	8	7	11	5	4	0	13
DEC	2	5	0	17	14	8	17	1	2	10	7	0	7
<b>Totals</b>	<b>47</b>	<b>23</b>	<b>0</b>	<b>163</b>	<b>172</b>	<b>159</b>	<b>146</b>	<b>152</b>	<b>94</b>	<b>88</b>	<b>56</b>	<b>62</b>	<b>70</b>

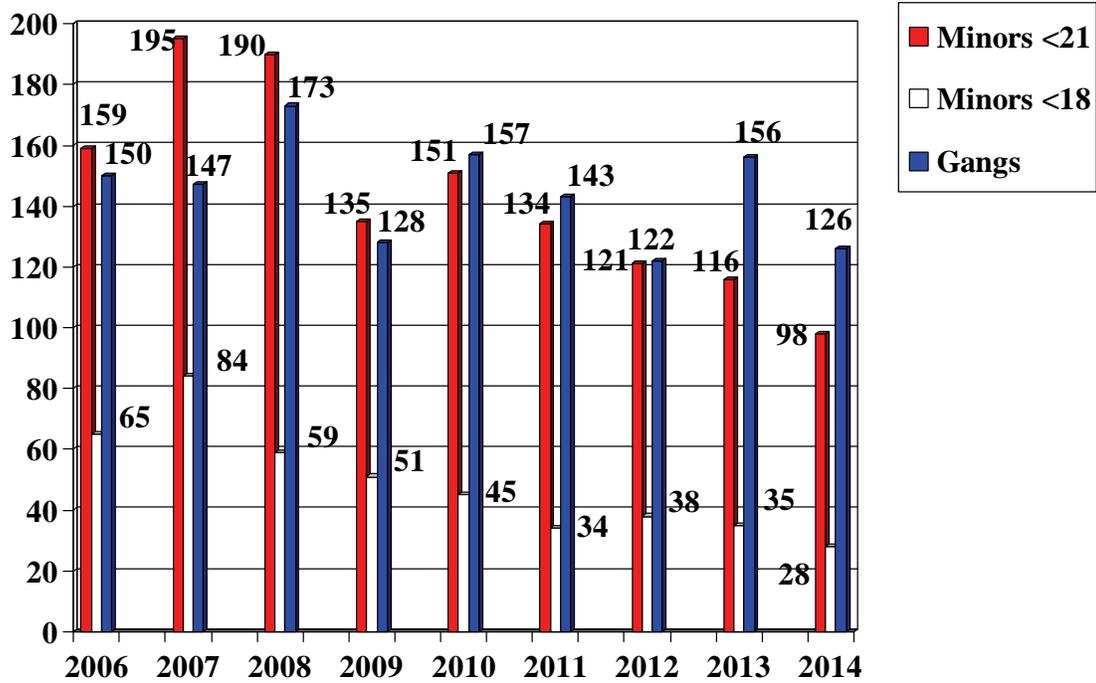
## Project Safe Neighborhoods Firearms Tracing and Tracking Project 2014

Subject	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Totals
Gun Cases Reviewed	38	28	41	11	11	23	12	18	38	61	56	45	<b>382</b>
Cases Presented to USAO	5	3	4	4	6	2	4	6	2	5	2	5	<b>48</b>
Cases Presented to USAO w/other Units	2	2	1	0	0	1	0	1	3	2	0	0	<b>12</b>
Cases Presented to DCAO	17	12	28	4	2	14	5	4	23	27	25	22	<b>183</b>
Cases Presented to OCPO	9	9	4	2	1	6	3	6	11	19	21	14	<b>105</b>
Juvenile Cases	5	2	5	1	2	0	0	1	1	8	8	4	<b>37</b>
Guns Sent to ATF for Trace	72	75	95	38	17	72	59	30	65	84	69	85	<b>761</b>

## Firearms Seized by OPD for Tracking



## Seized Firearms Tied to Minors and Gang Members/Associates



## PROJECT SAFE NEIGHBORHOOD CASES

### **Operation Wipe It Down**

ATF's investigation resulted in the prosecution of 28 defendants in Operation Wipe It Down. The investigation began with every known gang member or associate in the Omaha area, who was arrested with a firearm, being interviewed by Omaha Police and ATF investigators. There were numerous undercover purchases of firearms and narcotics from active gang members and their associates. As a result of this investigation, 62 firearms, approximately 1.5 pounds of marijuana and 310 grams of crack cocaine have been purchased or seized from gang members and their associates. All of the defendants have pled and only two are still awaiting sentencing. Sentences have ranged from 10 months to 30 years.

### **Ashley Gerbig**

In 2012, ATF Agents commenced an investigation after receiving information that Ashley Gerbig may have been selling firearms illegally out of his father's residence in Lincoln, Nebraska. During the investigation, Gerbig sold multiple firearms and ammunition to a convicted felon working as a law enforcement cooperating witness during 2012 and 2013. The investigation involved the use of cooperating witnesses, undercover agents and video recording devices. Gerbig was ultimately indicted and pled guilty to transferring a firearm to a prohibited person. Gerbig was sentenced to 46 months of incarceration in 2014. The investigation resulted in the seizure and forfeiture of over 600 firearms.



## PROJECT SAFE CHILDHOOD

Project Safe Childhood is a nationwide initiative to combat the growing epidemic of child sexual exploitation and abuse launched in May of 2006 by the United States Department of Justice. Led by United States Attorneys' Offices and the Criminal Division's Child Exploitation and Obscenity Section (CEOS), Project Safe Childhood marshals federal, state and local resources to better locate, apprehend and prosecute individuals who exploit children via the Internet, as well as to identify and rescue victims.

In calendar year 2014, 38 individuals were indicted in the District of Nebraska for crimes involving the exploitation of children via the Internet. Those indictments included charges for the receipt and distribution of child pornography, the enticement and manufacture of child pornography, and interstate travel to engage in a sexual act with a juvenile.

### **CHILD PORNOGRAPHY**

**Zachary Austin** was sentenced to 192 months in prison to be followed by 10 years of supervised release following his conviction for Conspiring to Distribute Child Pornography. Austin had been previously convicted in Nevada of Receipt and Distribution of Child Pornography in connection with his possession of more than 2,000 videos depicting child pornography. Before his sentencing for that crime, he joined, accessed, and viewed a website hosted in Nebraska dedicated to child pornography. As a member, he posted child pornography to the site.

**Wesley Cameron** was sentenced to 15 years in prison and 10 years of supervised release for Conspiracy to Advertise Child Pornography. Cameron was a member of a website dedicated to child pornography. The website itself was hosted on the Tor network and hosted in Nebraska. While a member of the website, Cameron actively sought

out images of child pornography and advised others that his wife was expecting a baby girl whom he would abuse and post images to the website for the enjoyment of others. Cameron was arrested in Lafayette, Louisiana. At the time of his arrest, he was in possession of a substantial amount of child pornography.

**Bobby Gene Clark, Jr.**, was sentenced to 23 years in prison and required to serve a 20-year term of supervised release following his conviction for production of child pornography. In May of 2013, the York Police Department received information regarding a report of a sexual assault on a minor. The minor was able to describe the residence where the assault occurred, and investigators obtained and executed a search warrant at the location. Seized during the search was a laptop computer which contained a video file of the sexual assault of the child.

**Timothy DeFoggi** was sentenced to 25 years in prison for Engaging in a Child Exploitation Enterprise. DeFoggi, the former acting director of cyber security at the U.S. Department of Health and Human Services, registered as a member of a Tor-network-based child pornography website on March 2, 2012, and maintained his membership and activity until December 8, 2012, when the website was taken down by the FBI. The website's users utilized advanced technological means in order to undermine law enforcement's attempts to identify them. The website was accessible only through Tor, an internet application specifically designed to facilitate anonymous communication. Acting under the cloak of anonymity, users advised others on best practices to prevent detection by law enforcement, including advice about the proper use of encryption software, techniques to hide or password-protect child pornography collections, and programs to remove data from a user's computer. Through the website, DeFoggi accessed child pornography, solicited child pornography from other members, and exchanged private messages with other members in which he expressed an interest in the violent rape and murder of children. DeFoggi suggested meeting one member in person to fulfill their mutual fantasies to violently rape and murder children.

**Jason Flanary** was sentenced to 20 years in prison and 15 years of supervised release for Engaging in a Child Exploitation Enterprise. Flanary was living in the Philippines and posting images of child pornography to a child pornography website hosted in Nebraska. He was also providing advice on how to molest children

without being caught. The site was run by Aaron McGrath who was also sentenced to 20 years imprisonment in December of 2013. Flanary stated that he had produced many of the images and sexually abused the prepubescent children he posted to the website. He was arrested in Guam and brought back to Nebraska where he was prosecuted.

**James B. Haugh** was sentenced to seven and one-half years in prison and ordered to serve a five-year term of supervised release following his conviction for receipt and distribution of child pornography. Haugh came to the attention of investigators through a proactive investigation into the receipt and distribution of child pornography through file sharing software. Investigators used automated software to determine that a computer owned by Haugh was sharing child pornography over the internet. Examination of a thumb drive found in Haugh's residence revealed over 70 videos of child pornography.

**Charles MacMillan** was sentenced to 12 years in prison and 20 years of supervised release for Conspiring to Advertise Child Pornography. MacMillan used the display name "TdlrLuvr" (Toddler Lover) to communicate on a website dedicated to child pornography hosted in Nebraska. MacMillan reached out to another user who, like MacMillan, resided in the Washington D.C., area. They shared their mutual fantasies involving the violent abuse of children. Included in their exchanges was an expressed desire to sexually abuse a toddler and a graphic

Continued on Page 20

Continued from Page 19

description of what each would do while the other watched.

**Jerald Vrbas** was sentenced to 15 years in prison to be followed by 15 years of supervised release for Producing Child Pornography. Vrbas took sexually explicit photos of a three-year-old relative and posted those images to a Russian website. He also emailed the images to an individual in Iowa and provided a thumb drive of the images to a friend in Wauneta, Nebraska. His friend in Wauneta, **Richard Cooley**, received a 70-month prison term to be followed by a seven-year term of supervised release.

**Ian Wait** was sentenced to 135 months in prison and a 15-year term of supervised release for Distributing Child Pornography. Wait posed as a teenage girl on the internet where he would solicit children to send him sexually explicit photographs. He would also send images of child pornography over the internet. After a search warrant was executed by the Nebraska State Patrol, a total of 867 images of child pornography were found on his computer.

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**FAILURE TO REGISTER AS A SEX OFFENDER**

**Marc Anthony Acosta** was sentenced to 15 months in prison, to be followed by five years of supervised release, following his conviction for failing to register as a sex offender. Acosta, an employee of an Oklahoma construction company, was the supervisor of a crew working in Gage County. He had been convicted in 2009 of second-degree rape, and was required to register with law enforcement in Oklahoma. If he moved out of Oklahoma or left the state for his employment, he was likewise required to register in his

new location. He was found working in Nebraska without having registered.

**Cesar Tlantenchi** was sentenced to 12 months and one day of imprisonment. After his release from prison, Tlantenchi will begin a term of supervised release of five years. Tlantenchi was previously convicted in the State of Nebraska of an offense requiring him to register as a sex offender for 25 years. In May 2013, authorities became aware that Tlantenchi was living in Omaha, Nebraska, for at least 3 months and had not registered as a sex offender with the Nebraska State Patrol.

## VIOLENT CRIME

### VIOLENT CRIME

**Adam Beck** was sentenced to 110 months' imprisonment and three years of supervised release following his conviction for being a felon in possession of a firearm. A search of Beck's residence yielded a stolen Ruger rifle and two other rifles which each contained Beck's DNA. At the time of the search, Beck was on supervised release for a prior federal conviction for being a felon in possession of a firearm.

**Torrie Caesar** was sentenced to a 36-month term of imprisonment and a three-year term of supervised release following his conviction for transporting an individual in interstate commerce with intent to promote prostitution. Between the dates of March 1, 2013, and March 13, 2013, Caesar traveled with female companions from Italy, Texas, to Omaha, Nebraska, for the purpose of having the women engage in prostitution. On March 13, 2013, the Omaha Police Department arrested one of the female companions traveling with Caesar for soliciting prostitution to an undercover Omaha Police Department officer.

**Laron Hawkins** was sentenced to 75 months' imprisonment following his conviction for being a felon in possession of a firearm. On September 13, 2013, Omaha police officers stopped a car

Hawkins was driving after they saw him commit a traffic violation. As they made contact with Hawkins, they saw he had a small quantity of marijuana in his lap. A search of the vehicle was performed and a stolen .45 caliber handgun was found under his seat. Hawkins had previously been convicted of a felony offense and, as such, was prohibited by law from possessing firearms. He was on federal supervised release at the time of his arrest having previously been convicted of being a felon in possession of body armor.

**Max Lafferty** was sentenced to 70 months in prison to be followed by five years of supervised release following his conviction for bank robbery. Lafferty went to a Bank of the West location in South Sioux City, Nebraska, and, while brandishing a knife, demanded money. He took approximately \$1,500.00 belonging to the bank during the robbery.

**Michael Stansall, a/k/a Michael Amack**, was sentenced to 10 years in prison following his conviction for Interstate Transportation of a Minor to Engage in Sexual Conduct. On June 6-7, 2013, a 14 year-old North Platte girl got into a car and rode with Stansall, age 22, and three others from North Platte to Wray, Colorado. After taking her to Colorado, Stansall engaged in sexual activity with the young girl.

## CRIMINAL CASES (CONT.)

Other criminal cases prosecuted in 2014 include:

### INDIAN COUNTRY

**Travis Gilpin** was sentenced to 30 months' imprisonment and three years of supervised release following his conviction for assault resulting in serious bodily injuries. Gilpin, an enrolled member of the Santee Sioux Tribe of Nebraska, got into an argument with another male at his residence on the Santee Indian Reservation and went to his room to retrieve a small sword from his closet. A female in the residence tried to stop Gilpin, but was struck on her hand as Gilpin was swinging the sword. The victim sustained severe injuries.

**Mark Grant** was sentenced to eight years' imprisonment and three years of supervised release following his conviction for child abuse resulting in death. Grant, an enrolled member of the Omaha Tribe of Nebraska, resided with his girlfriend and her 14-month-old son on the Winnebago Indian Reservation. On September 10, 2013, Grant took the infant to the Indian Health Services Hospital in Winnebago. The child was

later life-flighted to Children's Hospital in Omaha where he eventually died. The child's injuries were classified as abusive head trauma, and Grant admitted shaking the infant.

**Verlyn Grant** was sentenced to 57 months' imprisonment and three years of supervised release following his conviction of two counts of assault with a dangerous weapon. Grant was drinking at his residence on the Omaha Indian Reservation when he became angry with his girlfriend. Grant threw his girlfriend to the ground and began punching her and kicking her with his steel-toed boots. A second woman attempted to stop Grant by getting on top of Grant's girlfriend as she lay on the floor. She was kicked as well. Both women sustained bodily injuries.

**Milton LaRose** was sentenced to time served (seven months) and six months at a residential reentry center following his conviction for assault on a federal officer. LaRose was encountered by a BIA officer on the Winnebago Indian Reservation following a report of a disturbance. When the officer attempted to arrest LaRose, he pushed the officer away and punched him in the face.

## WHITE-COLLAR CRIME

**Jason Armstrong and Tamika Payne** were sentenced to 24 months in prison and five years' probation, respectively, following their convictions for Conspiring to Commit Mail Fraud. They were also ordered to pay restitution to the Nebraska Department of Health and Human Services in the amount of \$141,091.18. Armstrong worked as a case manager for the Nebraska Aids Project where he was tasked with addressing the needs of Nebraska clients living with HIV/AIDS. Armstrong linked clients to appropriate resources which included housing assistance. Armstrong, working in concert with Payne, submitted fraudulent applications for housing benefits that were paid out with funds provided by the United States Department of Housing and Urban Development. The applications were fraudulent, in some instances, because they had been submitted in the names of people who were not clients of the Nebraska AIDS Project. In other instances, the applications were submitted in the names of actual clients but the submissions were made without the clients' knowledge or consent. Checks would be issued in response to the fraudulent applications and the proceeds would be split between Armstrong and Payne. During the course of the scheme, approximately \$141,091.18 in fraudulent benefits were paid out.

**Franklin Ansu** was sentenced to three years' probation and 120 hours of community service following his conviction for making false statements to a government agency. Ansu was also fined \$1,000. Ansu applied for a civilian position with the U.S. Weather Agency at Offutt Air Force Base. Ansu completed a form to be used in conducting his background check.

The form called for a description of his background and prior work experience. In completing the form, Ansu omitted any reference to his prior employment with the Ghana Bureau of National Investigations.

**Katiengnanin Coulibaly** was sentenced to 10 months incarceration and ordered to pay \$13,872.83 in restitution for his possession of 15 or more counterfeit credit cards. Law enforcement learned that Coulibaly had ordered the counterfeit credit cards through the internet. Police conducted a controlled delivery of the credit cards and arrested Coulibaly when he presented himself to retrieve them. Though no loss was associated with the credit cards which were part of the controlled delivery, the arrest of Coulibaly yielded other counterfeit cards which had fraudulent transactions attributed to Coulibaly totaling \$13, 872.83.

**Tina Davis-Smith** was sentenced to 12 months and one day of imprisonment following her conviction for making a False Statement to the Social Security Administration, along with 24 months' imprisonment to be served consecutively for Aggravated Identity Theft. Davis-Smith was also ordered to serve a three-year term of supervised release after serving her prison sentence. Davis-Smith was also ordered to make restitution in the amount of \$8,846.00. In 2011, Davis-Smith made a false statement on a Social Security Administration Work Activity Report when she failed to report her previous employment. The Work Activity Report was relied upon by the Social Security Administration to determine Davis-Smith's continued receipt of Social Security Administration Benefits. The investigation also determined that in 2010

Continued on Page 24

Continued from Page 23

Davis-Smith used the identification of another person for purposes of obtaining employment under that person's identity.

**Karen Gagner** was sentenced to a five year term of probation following her conviction for embezzlement and theft from an employee pension benefit plan. Gagner was also ordered to make restitution in the amount of \$36,816.30. Gagner was the Secretary-Treasurer, Director and an owner of Gagner Restoration, Inc., a Nebraska corporation. Gagner Restoration, Inc. had established a 401(k) employee benefit plan for eligible employees' retirement savings. Gagner served as the 401(k) employee benefit plan's trustee. Gagner also acted on behalf of Gagner Restoration, Inc. as the 401(k) employee benefit plan Administrator. Beginning in January, 2008 and continuing through September, 2011, Gagner, without permission or authorization, caused 16 check transfers totaling \$94,485.64 to be made from Gagner Restoration, Inc. employee 401(k) accounts.

**Gomez, Inc.**, of Grand Island, Nebraska was sentenced to serve 5 years of probation, pay a \$50,000 fine, and forfeit \$10,361.70 to the United States following the corporation's conviction for intentionally structuring cash deposits to evade federal currency reporting requirements. Between January 5, 2009 and March 30, 2012, Gomez, Inc., doing business as Fourth Street Auto Sales, deposited and directed currency deposits into bank accounts at various financial institutions being aware of the financial institution's legal obligation to report currency transactions in excess of \$10,000. During the time in question, Gomez, Inc., through its officers, intentionally structured currency deposits totaling over \$2,000,000, including \$10,361.70 seized by the United States

during the investigation.

**Gagik Hakobyan** and **George Kazaryan**, both of Van Nuys, California, were sentenced to 6 months in prison for their involvement in attempting to steal in excess of \$60,000 worth of meat products from Gibbon Packing of Gibbon, Nebraska. In addition to their prison term, Hakobyan and Kazaryan will also serve 3 months of supervised release. Hakobyan and Kazaryan used the identity of a legitimate trucking company to bid on hauling a load of meat from Gibbon Packing. Hakobyan and Kazaryan were then arrested by the Nebraska State Patrol as they attempted to steal the meat.

**James Holt** was an Omaha licensed mental health counselor who submitted claims to Nebraska Medicaid between September 2009 and September 2012 for services not rendered. Total loss to Nebraska Medicaid was \$15,530. His company, **Umoja**, was convicted of felony health care fraud and agreed to be excluded from all Medicare, Medicaid, and any other federal health care programs. Holt was convicted of nine misdemeanor counts of theft of government money. Both Holt and Umoja were placed on five years' probation and ordered to pay \$15,530 in restitution.

**John Main** was sentenced to five years' probation, six months of electronic monitoring, 100 hours of community service and ordered to pay \$240,937.00 in restitution following his conviction for making a false declaration on his 2006 tax return. As the sole proprietor of Main Concrete and Construction, Main was required to file a Form Schedule C as part of his Form 1040. On his 2006 and 2007 tax returns, he underreported his gross receipts by \$860,491.00. When he filed his returns, he signed a declaration under

the penalty of perjury that the information contained therein was true when in fact he knew the gross receipt figures were wrong. The tax loss to the United States was determined to be \$240,937.00.

**Daniel Malone** was sentenced to 10 months imprisonment, a term of supervised release of one year, fined \$3,000 and ordered to pay \$170,000 in restitution to the IRS following his conviction for failure to pay withholding and FICA taxes. Malone the owner and operator of several businesses including title and property management companies, failed to pay over the taxes in 2005 and 2006 to the IRS after the taxes were withheld by him from his employees' payroll checks.

**Rodney Moraczewski** was sentenced to 41 months in prison and ordered to pay restitution to the IRS in the amount of \$299,206.60 following his convictions for filing false claims and aggravated identity theft. Moraczewski submitted fraudulent tax returns to the IRS.

**Lois Powell** was sentenced to five years' probation and ordered to pay \$177,675.00 in restitution following her conviction for theft of government property. Powell defrauded the Social Security Administration by receiving benefits belonging to a deceased friend. Powell had been added as a signor to the account of a friend. When the friend passed away, Powell continued to receive checks and converted the money to her own personal use.

**Paul Rosberg** was sentenced to 18 months in prison, a term of supervised release and fined \$8,400 following his conviction for the sale of misbranded meat. Rosberg, the owner of Nebraska Finest Meats, a meat locker business, sold approximately 2,600 pounds of

uninspected ground beef to the Omaha Public School system in 2011. The meat fortunately was intercepted by the United States Department of Agriculture before it reached school lunchrooms.

**Leslie Schulz and Dewayne Long** were convicted of conspiracy to defraud the government in connection with their preparation and filing of false tax claims. Schultz, a tax preparer, and his associate Long filed several false tax returns on behalf of clients, specifically false 1099 forms claiming over \$4,700,000 in refunds to which the taxpayers were not entitled. Long was sentenced to prison for 12 months and a day and ordered to pay restitution in the amount of \$920,954.00. Schulz is awaiting sentencing.

**Shawna Faith Rene Stokes** was sentenced to 12 months and 1 day imprisonment, following her conviction for Social Security Fraud and Theft of U.S. Government Money and Property. Stokes was also ordered to serve a three year term of supervised release after serving her prison term. Stokes was also ordered to make restitution in the amount of \$38,989.00. During the period of March, 2010, through May, 2012, Stokes received approximately \$38,989.00 in Social Security Administration and Nebraska Department of Health and Human Services Supplemental Nutrition Assistance Program benefits which were to be used for care and support of her minor children. However, Stokes was not using the benefits for the children's care and support, but rather used the benefits for personal and unauthorized purposes.

**Lisa Stork** was sentenced to probation for three years and ordered to pay restitution in the amount of \$205,428.80 following her conviction for making a false

**Continued on Page 26**

**Continued from Page 25**

statement to a federal agency. Stork was receiving social security disability benefits while working full time and receiving income in a real estate brokerage business owned by her husband. Stork denied working or receiving income to the Social Security Administration as a part of a review of her disability case.

**Daniel Stratman** was sentenced to six months in prison and required to serve a three-year term of supervised release following his conviction for having intentionally caused damage to a protected computer. Stratman was also ordered to pay \$107,722.58 in restitution to the University of Nebraska. A security breach of the University of Nebraska and the Nebraska State College Systems database was discovered in May of 2012. An investigation led law enforcement to Stratman, a senior at UNL at the time of the intrusion. A search warrant of his residence and forensic examination of his computers verified that Stratman had damaged the integrity of the protected computer systems and records maintained by the University of Nebraska and the Nebraska State College Systems.

**Randall Thompson** was sentenced to six months imprisonment and three years' supervised release following his conviction for failing to pay over employee withholding taxes to the IRS. Thompson was further ordered to pay restitution in the amount of \$95,505.42. Thompson, the President and CEO of American Medical Files, LLC., was the person responsible for paying over to the IRS the payroll taxes which had been withheld from AMF's employees' paychecks. Thompson failed to pay over \$95,505.42 which had been collected during the last quarter of 2007 and the first quarter of 2008.

**Pilar Anica Valentin** was sentenced to imprisonment for 21 months, a term of supervised release of three years and ordered to make restitution in the amount of \$33,721 to the Nebraska Department of Health and Human Services following her convictions for social security fraud and false statement to the government. Anica Valentin, while using a name and social security number of another person to work full time at Packers Sanitation Services in Omaha, at the same time applied for and ultimately received food stamps and aid to dependent children benefits from the Nebraska Department of Health and Human Services totaling approximately \$33,000 to which she was not entitled.

#### **OFFENSES BY PUBLIC OFFICIALS**

**Christi Freemont** was sentenced to five years' probation and 50 hours of community service following her conviction for embezzlement from an Indian tribal organization. Freemont was further ordered to pay restitution in the amount of \$8,529.69. Freemont, an employee of the Winnebago Tribal Court, used a debit card belonging to the tribal court to make unauthorized cash withdrawals at ATMs and unauthorized personal purchases at Walmart and Hy-Vee stores.

**Michael Peitzmeier** was sentenced to probation for three years and ordered to pay restitution of \$3,960.71 following his conviction for making false entries in records of a United States Post Office. Peitzmeier was an employee of the United States Postal Service. He was observed collecting monies from the sale of stamps that he did not record as sold. Peitzmeier was observed on video removing money from his cash drawer and placing money in his own pocket. The investigation showed 15 transactions which totaled approximately \$3,960.71 which were not recorded by Peitzmeier.

## 2014 HONORS

Each year the FBI awards the Director's Award for Excellence to individuals who have made a lasting impact on the community. The award's ceremony was held in Washington D.C. in August, 2014. AUSA Michael Norris was presented the Outstanding Criminal Investigation Director's Award for his work on Operation Torpedo. Operation Torpedo began in August of 2011 when the FBI began investigating an international child pornography ring. The FBI noted, "The team's outstanding criminal casework resulted in six convictions and laid the groundwork for future investigations that will disrupt similar child exploitation enterprises and protect the innocence of countless children." (For full award story see page 60.)



On May 8, 2014 Assistant U.S. Attorney Russell X. Mayer received an award from the Food Safety Inspection Service division of the USDA for the successful prosecution of Paul Rosberg. In 2011, Mr. Rosberg sold approximately 2,600 pounds of uninspected beef to the Omaha Public School system. (For more information see page 25.)



Photo ID from left to right: Jeffery Griess, FSIS Investigator; Joseph Wolfgram, FSIS Investigator; Luis Zamora, FSIS Regional Director; Deborah R. Gilg, U.S. Attorney; Russell Mayer, AUSA; Brett Dickerson, OIG Special Agent; Anthony Mohatt, Assistant Special Agent-in-Charge; Jan Sharp,

## IMMIGRATION

The United States Attorney's Office prosecutes numerous individuals for immigration related offenses every year. Those offenses can involve charges of illegal reentering the United States after removal, identity theft, possession of false documents, or distributing false documents. During 2014, the United States Attorney's Office convicted 161 offenders charged with immigration offenses. An additional 33 offenders were convicted of identity theft offenses.



## FISH AND WILDLIFE

**Lamar Bertucci** was sentenced to eight months' imprisonment and one year of supervised release following his conviction for violating the Bald and Golden Eagle Act and the Migratory Bird Treaty Act. Bertucci was further ordered to pay restitution in the amount of \$6,500. Bertucci, an enrolled member of the Omaha Tribe of Nebraska, shot a bald eagle and a rough-legged hawk. Bertucci had previously been charged in 2009 with similar violations of the Bald and Golden Eagle Act.

## NARCOTICS ENFORCEMENT UNIT

The fight against illegal drug trafficking continued to be a major priority of the United States Attorney's Office in 2014. Nebraska is a significant trans-shipment area for drug traffickers due to its location in the central United States, between western drug sources and eastern drug markets, and with a large number of major interstate and other highways which pass through the State. Omaha, Lincoln, Grand Island, and other Nebraska cities serve as redistribution points for drug markets within Nebraska and neighboring states and markets, and to smaller rural communities within the District.

The coordinated efforts of Assistant United States Attorneys (AUSAs) and Special Assistant United States Attorneys (SAUSAs) addressed the comprehensive threat posed to the United States and the District of Nebraska by the trafficking, diversion, and abuse of illegal drugs. SAUSAs from the Douglas and Hall County Attorney's Offices have multiplied the prosecutorial resources dedicated to this effort. Attorneys who prosecuted drug cases were supported by the cooperative investigative efforts of federal, state, and local enforcement agencies throughout the District.

To address the issues related to the investigation and prosecution of drug-related offenses, the United States Attorney's Office filed approximately 213 indictments and informations charging 290 defendants in 2014.

Some of the more significant cases prosecuted in 2014 include:

### **Brian Spotts**

An FBI confidential informant and an undercover agent were able to make numerous controlled buys of methamphetamine in and around the North Platte area. During the Spring of 2014, Brian Spotts a prior federal defendant, was Indicted for conspiracy to distribute methamphetamine from the Colorado border to Grand Island. He was a significant distributor in western and central Nebraska. As a result of his arrest, the CODE task force was able to make numerous other arrests throughout the year. A total of 25 defendants have been Indicted on drug and/or firearm charges. At this time, several of the defendants have pled guilty but have not

been sentenced. This operation reflects the benefits when federal and local law enforcement work together and the impact they can make on the community.

### **Mauricio and Willie Gonzalez**

The Omaha Police Department began investigating Mauricio and Willie Gonzalez in October 2012 for their involvement in a conspiracy to distribute large amounts of methamphetamine in the Omaha metro area. Ultimately, the Gonzalez brothers were convicted for bringing in several multiple-pound shipments of methamphetamine. Mauricio Gonzalez received a sentence of 235 months and Willie Gonzalez received a sentence of 144 months.

Continued on Page 30

## NARCOTICS ENFORCEMENT UNIT CASES (CONT.)

**Luis Vallejo, Luis Meza-Galvez, Jorge Munoz-Ramon and Froilan Cuevas**

In May of 2013, the Omaha Police Department arrested Jorge Munoz-Ramon and his driver, Froilan Cuevas, for their role in a conspiracy to distribute large quantities of methamphetamine in the Omaha metro area. Following these arrests, the investigation turned to an apartment in the area of 25<sup>th</sup> and G. The apartment was identified as a drug stash house, and officers conducting a search warrant located several pounds of methamphetamine and a firearm. Both Luis Meza-Galvez and Luis Vallejo were arrested at the apartment. All four were convicted. Luis Vallejo received 188 months in prison, Luis Meza-Galvez received 120 months, Jorge Munoz-Ramon received 188 months, and the driver Froilan Cuevas received split sentence to include a term of probation.

**California Painters Investigation**

The Lincoln/Lancaster County Narcotics Task Force used a variety of traditional and financial investigation techniques to dismantle an organization bringing large quantities of methamphetamine from California for re-distribution in Lincoln. The organization moved the drugs within equipment hauled in semi-tractor trailers. The investigation resulted in the conviction of five defendants, the seizure of about six pounds of methamphetamine and the forfeiture of a semi-tractor. Drug trafficking and money laundering charges are pending against the California suppliers.

**Operation Q**

Investigation and prosecutions in the OCDETF case Operation Q continued in 2014. Six of the previously indicted

defendants pled guilty in 2014 and were sentenced. Twelve additional defendants were indicted in 2014, including three sources from Phoenix, Arizona. Of those twelve, nine have pled guilty. This case was investigated by the Lincoln Police Department and the FBI. Investigative techniques included electronic surveillance and interceptions, controlled buys and search warrants.

**Sonia & Freddy Hernandez**

In June of 2014, the Nebraska State Patrol stopped a speeding vehicle traveling eastbound on Interstate 80. Driving the vehicle was defendant Sonia Hernandez of California. Her passenger was her nephew, Freddy Hernandez, Jr. from Virginia. During a search of the vehicle, troopers found 10 kilograms of heroin and 6 kilograms of cocaine. Sonia Hernandez and Freddy Hernandez, Jr. were indicted for one count of possession of heroin with intent to distribute and one count of possession of cocaine with intent to distribute.

**Melissa Clinton**

This defendant was prosecuted for possession of methamphetamine with intent to distribute. The Defendant made arrangements to receive distribution quantities of methamphetamine through the U.S. mail monthly from a source in Las Vegas. The investigation was coordinated among the U.S. Postal Inspection Service, local law enforcement and the Nebraska State Patrol. Clinton pled guilty in December 2014. Her sentencing is pending. The investigation concerning the drug supplier is ongoing.

**Levi Sanderson and Jayme Horacek**

These defendants were prosecuted for unlawfully manufacturing a controlled substance in a manner which created a substantial risk of harm to human life. They were trying to make methamphetamine using the “shake-and-bake” method. Sanderson purchased pseudoephedrine and brought it to Horacek. Horacek, Sanderson, and a third individual then took a pop bottle to a car to finish the manufacture when the bottle exploded. The ensuing fire severely burned Horacek, resulting in a lengthy hospital stay. Both defendants have entered pleas and are awaiting sentencing

**Operation Los Ninos**

Francisco Santos was the head of a group that regularly arranged for pounds of methamphetamine to be delivered to the Grand Island and Hastings, Nebraska areas. Based on information provided by the witnesses in the case, law enforcement estimated that Santos oversaw the distribution of more than 80 pounds of methamphetamine. Santos arranged for the methamphetamine to be transported from Phoenix, Arizona and Denver, Colorado for re-distribution in Grand Island. The investigation also indicated connections between Santos and the Sinaloa Cartel in Mexico. Santos was indicted in the District of Nebraska and was arrested in Oakland, California in June of this year. Santos pleaded guilty to conspiracy to distribute 500 grams or more of methamphetamine and is pending sentencing. Several other people who worked for Santos and helped him distribute his drugs in the Grand Island and Hastings areas have already been convicted and sentenced.

**Operation Texas Hold'em**

An investigation by the Federal Bureau of Investigation, the Greater Omaha Safe Streets Task Force and the DEA revealed that Laron Gray was regularly transporting kilograms of cocaine base (i.e. “crack cocaine”) from Fort Worth, Texas to Omaha, Nebraska, as well as to other cities. The agencies involved conducted several controlled purchases of crack from Gray and one of his associates, Lewis Phoenix, in the Omaha area. The agencies involved also applied for and obtained court approval to intercept phone conversations and text messages from Gray’s phones. The investigation was cut short when Gray was arrested in Texas on another matter. Gray pleaded guilty to distribution of crack, and was sentenced to a term of 15 years and 8 months imprisonment. One of the more significant factors in determining Gray’s sentence was his prior convictions for crimes of violence, which included convictions in Arkansas stemming from incidents where Gray threatened people with a gun and shot one person. Lewis Phoenix was sentenced to a term of 7 years imprisonment.

**John Ways, Jr.**

At the beginning 2012, the Bureau of Alcohol, Tobacco, Firearms & Explosives began investigating the Exotica stores, five head shops in eastern Nebraska and Council Bluffs. The stores were owned by Frank Firoz and managed by John Ways, Jr. Through the use of informants and undercover officers, the investigation revealed the stores sold drug paraphernalia, synthetic ecstasy and synthetic marijuana. The drugs were sold as “bath salts” and “herbal incense.” The investigation included the operation’s

Continued on Page 32

**Continued from Page 31**

finances, tracing the money Ways was making from the sale of the synthetics. The investigation ended in late 2012, with the execution of arrest, search and seizure warrants. Agents arrested ten individuals, including Ways and eight of his employees. Agents seized tens of thousands of pieces of drug paraphernalia, such as pipes, bongs, hookahs, grinders and scales, and seized over \$800,000.00 from Ways' bank accounts. Later seizure warrants resulted in the seizure of another almost \$175,000.00. Ways was the sole defendant who went to trial. After a two-and-a-half week trial in August, 2014, he was convicted of conspiracies to sell drug paraphernalia, to distribute controlled substances and to launder money. He was also convicted of being a felon in possession of ammunition. The United States is asking the Court to forfeit the almost \$1,000,000.00 seized from Ways' bank accounts and enter a money judgment of over \$2,300,000.00 against Ways, representing the amount of money generated by the Exotica stores during the three years Ways operated them.

**Adam Crom**

In July, 2014, Crom sold 11 grams of 95% pure methamphetamine to a cooperating witness working with the Sarpy County Sheriff's Department in the parking lot of Crom's work in Sarpy County, Nebraska. Crom pled guilty in November, 2014 and is pending

sentencing. Due to the number and nature of his prior offenses, Crom will likely qualify as a career offender and face a sentencing guidelines range of at least 188 months of incarceration.

**PRESCRIPTION DRUG DIVERSION**

The pattern of abuse and diversion of prescription medications continued in 2014. The DEA's Diversion Task Force in Omaha coordinated with pharmacies and State and local law enforcement to interdict those obtaining and distributing prescription controlled substances unlawfully.

**Patt Down**

The DEA Diversion Task Force's investigation has resulted in the prosecution so far of 30 defendants in the OCDEF case Patt Down. Davis Patterson and associates and employees of his business, Pat's Rental in Fremont, repeatedly traveled to other states to obtain prescriptions by fraud for oxycodone and other pain medications. The prescriptions were filled in Nebraska, and the medications were re-distributed by Patterson and others. Twelve defendants were indicted initially. Follow-up investigation resulted in the indictment of 18 more. Most of the defendants have pled and have been sentenced to terms ranging from one year plus one day to 108 months. The cases of several defendants remain pending.

## Civil Forfeiture Highlights

Civil forfeiture requires striking a balance. On the one hand, we must protect public safety by depriving criminal enterprises of the fruits of their crimes so they are unable to continue to operate. On the other hand, we must safeguard the exercise of personal freedoms. Innocent travelers may transport large amounts of cash. Simply transporting cash, of course, in and of itself is not a crime.

The U.S. Attorney's Office coordinated with State, local and federal partners to strike this balance. We requested and received additional investigative efforts to determine whether assets were furnished or intended to be furnished to obtain controlled substances, or were proceeds from such transactions. Where the evidence did not support this conclusion, our office declined to pursue forfeiture.

Cases which originally started from a cash seizure can, with an effective and thorough investigation, lead to evidence supporting a criminal prosecution. The following is an example of one such case.

### **Stephen Scanlon and Nicole Witbeck**

On October 19, 2013, the Nebraska State Patrol conducted a routine traffic stop on a westbound vehicle on Interstate 80 in York County, Nebraska. That stop resulted in the seizure of \$90,080.00, cash. It also resulted in the investigation of the owner of that cash, Stephen Scanlon, and his then-girlfriend, Nicole Witbeck. The State Patrol's investigation led to Scanlon and Witbeck being indicted for a marijuana conspiracy which involved them transporting over 600 pounds of marijuana from Oregon for distribution in Pennsylvania, then transporting the proceeds back to their home in Utah. The case resulted in a felony conviction for Scanlon, the forfeiture of the \$90,080.00 involved in the traffic stop and of the \$15,000.00 Scanlon posted as a cash bond.

In December, 1996, the Office of National Drug Policy (ONDCP) designated counties in Iowa, Kansas, Missouri, Nebraska, and South Dakota as the Midwest High Intensity Drug Trafficking Area (HIDTA). In February, 1999, designated counties in North Dakota joined the Midwest HIDTA. The goal of the Midwest HIDTA is to enhance and facilitate the coordination of regional drug-control efforts among local, state, and federal law enforcement agencies in order to reduce drug trafficking and its harmful consequences in critical markets in the region.



Co-located with the United States Attorney's Office's LECC Unit is the Nebraska Office of the Midwest HIDTA. The Midwest HIDTA State Coordinator located in this office, facilitates working relationships between local, state, federal law enforcement agencies and the US Attorney's Office. The Midwest HIDTA's intelligence center in Kansas City, Missouri offers state of the art technology to develop and share intelligence in Nebraska, Midwest HIDTA adjoining states, and nationally.

In 2014 two Nebraska HIDTA Drug Task Forces along with Assistant U.S. Attorneys and one Special Assistant U.S. Attorney were recognized with regional awards by the Midwest HIDTA Executive Board for their contribution in reducing drug trafficking and outstanding casework. AUSA Nancy Svoboda and AUSA Meredith Tyrakoski who handled Operation South Paw, along with SAUSA David Wear who handled the Omaha/DEA task force.

**2014 Midwest HIDTA Award for Outstanding Investigative Effort  
FBI Great Omaha Safe Streets Task Force  
"Operation South Paw"**

Beginning in April 2011 and continuing through September 2014, members of the Greater Omaha Safe Streets Task Force (GOSSTF) conducted a multi-jurisdictional, drug trafficking investigation known as Operation South Paw. Officers and Agents from the FBI, DEA, IRS, Omaha Police Department, Bellevue Police Department, LaVista Police Department, Nebraska State Patrol, Council Bluffs Police Department, Plattsmouth Police Department, and Douglas County Sheriff's Office worked together in a cooperative effort to dismantle and disrupt five drug trafficking organizations (DTO) operating in the Omaha, Nebraska/Council Bluffs, Iowa metro area and further into the State of Nebraska.

During the first phase of the Operation South Paw investigation, the GOSSTF learned that the drug trafficking organization operated primarily in Omaha, but had connections to Mexico, California, Missouri, Oklahoma, West Virginia, and Connecticut. The GOSSTF learned that two individuals were the leaders of the organization. The two individuals were a direct source of methamphetamine to the Omaha metro area from Mexico. A local car dealership, owned by one of the individuals, was used as a "front" to launder money, receive, and distribute narcotics. The initial phase of Operation

South Paw investigation is considered a great cooperative effort considering that the investigative responsibilities of each DTO were separated. Both DEA and FBI were given responsibility for a DTO target in the initiation of Title III intercepts. The intercepts were conducted in concert with each other, sharing information gained, and physical surveillance assets, yet separating the overheard administration. The separation allowed each federal agency's task force to focus on a segment of the DTOs while pooling resources to eventually dismantle the shared networks of the two DTOs.

In addition, the IRS took control of the financial aspect of the investigation, looking into finances of both DTOs. The IRS was able to identify assets that resulted in the complete dismantlement of both organizations, including the ultimate seizure of the auto dealership and its vehicle inventory.

The first phase was taken down in 2012 resulting in a number of arrests and included narcotics and asset seizures. Utilizing information derived from the first phase of the operation, the GOSSTF continued the investigation into a second phase, identifying a second, large DTO operating in the Omaha/Council Bluffs area. Additional investigative techniques were used to identify suppliers, the location of stash houses, and the location of assets. The entire investigation resulted in the initial identification of two DTOs, which led to the follow-up identification of three other DTOs and one Weapons Trafficking Organization.

The GOSSTF worked tirelessly to determine the full extent and scope of each of the drug and weapons trafficking organizations. In addition, members of the GOSSTF helped identify financial assets of the individuals involved in the organizations. The assets identified included U.S. Currency, residences, businesses, and vehicles. Members of the GOSSTF worked closely with the US Attorney's Office for the District of Nebraska and the Douglas County Attorney's Office to obtain search and arrest warrants for the locations and people involved in the drug trafficking organization. As a result of the work by members of the GOSSTF, 26 people were indicted in the District of Nebraska and/or arrested on state charges in Douglas County, Nebraska; over 142 pounds of methamphetamine was purchased, recovered, or seized; \$168,661.00 (United States currency), and 46 vehicles were also seized. The value of the methamphetamine seized during this investigation was in excess of \$5,000,000.

**2014 Midwest HIDTA Award for  
Outstanding Financial Investigative Effort  
Omaha DEA Drug Task Force**

This investigation was a multi-agency investigation, involving the Omaha DEA Drug Task Force, Omaha PD Gang Unit, Nebraska State Patrol, Douglas County Sheriff's Office and the United States Attorney's Office for the District of Nebraska. In October of 2013, a Source of Information (SOI) provided information that the target was selling marijuana and laundering the marijuana proceeds through a locally owned business.

Continued on Page 36

**Continued from Page 35**

Between October and December 2013, investigators used a confidential source (CS) to make purchases of marijuana from the target. One of these purchases was conducted at the target's place of business.

In December 2013, investigators served three federal search warrants on the DTO which included the target's Omaha residence, the target's business, and his vehicle. The target was taken into custody and seized was over 18 pounds of marijuana and \$7500 in United States Currency. Also, during the service of the warrants investigators seized numerous financial documents. These documents led investigators to request numerous grand jury subpoenas and Ex Parte orders for tax information. Investigators discovered that the source of the marijuana was the target's cousin in California. Investigators further discovered that the target had been a producer for a band and that the target along with a member of the band had opened a business account in the name of the band. A few months later the band and the target parted ways yet the checking account remained active and the name of the band member was taken off the signature card and another target's name was added. The original target and the second target were then using the bank account to transfer the proceeds from selling the marijuana. Investigators were able to show over \$100,000 going through this account and that both targets were the only two individuals on the signature card. The target also used Money Gram during 11 transactions to wire over \$25,000 to the second target. Investigators also interviewed numerous witnesses that made statements that the target was subsidizing his business with his marijuana proceeds. Another witness told investigators that she had driven to California to pick up marijuana from one target and then she transported the marijuana back to Omaha to the original target.

In August 2014, investigators obtained federal indictments on the targets for conspiracy to distribute marijuana and for money laundering. Also, based on the hard work of the investigators a money judgment against the original target for \$100,000 will be imposed upon their conviction. Investigators traveled to California and arrested the second target. Shortly, thereafter the target was again taken into custody on the federal indictment.

The dismantlement of the DTO is directly attributed to the excellent working relationship, dedication, and professionalism of every agency involved. The investigators labored through numerous financial documents to uncover how the DTO was moving their marijuana proceeds. This investigation showed the tenacity of the investigators to not only pursue the drug charges but to dig further and dismantle the DTO financially as well.



U.S. Attorney Deborah Gilg; Omaha Police Chief Todd Schmaderer, and Dave Barton, Executive Director of HIDTA

## Midwest HIDTA Drug Threat Analysis Nebraska 2014

According to information provided by Nebraska Midwest HIDTA Drug Task Forces, the predominant drug threat in Nebraska remains to be ice methamphetamine/methamphetamine. Methamphetamine continues to be highly available with greater purity values in excess of 90 percent. Methamphetamine contributes to an overall negative impact, socially and economically, by increased violent crimes against persons and property crimes. Marijuana increased in ranking for perceived drug threat when compared to 2013. Marijuana continues to be the most available and abused illicit drug in the region. Marijuana funds other illicit activities to include violent crime. Nebraska HIDTA Task Forces reported an increase of diverted medical and recreational use marijuana from western states, predominately Colorado.

Controlled Substance Abuse (CPD) is considered a severe threat in Nebraska through prescription diversion, with increases of overdoses and death. This assessed increase is possibly from CPD abusers, especially abusers of opioid-based CPDs, transitioning to heroin looking for a cheaper, more potent high, as well as Mexican heroin production and trafficking possibly expanding into the Midwest HIDTA region. Omaha HIDTA Drug Task Forces reported that crack cocaine is a perceived threat due to its tie to gang activity and associated violent crime. Multiple Nebraska Drug Task Forces reported an increase of heroin related investigations. Club drugs like MDMA are available at low levels, and have remained at that the same level compared to the previous year.



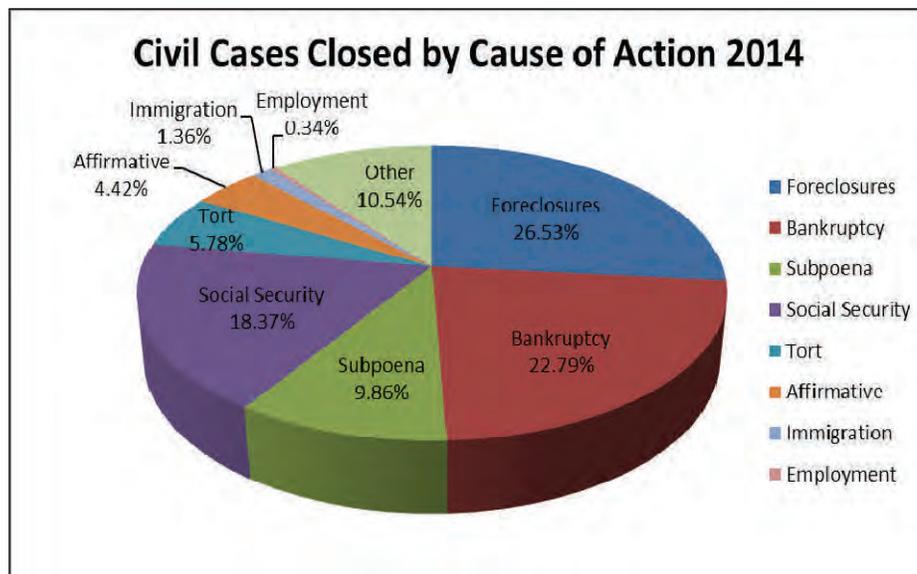
Midwest HIDTA Executive Board With Predator Drone  
Annual Meeting, Grand Forks, North Dakota

## CIVIL DIVISION - CIVIL LITIGATION



Attorneys in the Civil Division of the United States Attorney's Office represent the United States, as well as federal agencies, officers, and employees, in civil litigation in federal and state courts throughout Nebraska. Civil Division AUSAs work closely with lawyers from the federal agencies involved in each case to develop and present the position of the federal parties to the suit. Attorneys from the Department of Justice also assist in some civil litigation in the District of Nebraska.

Work on 295 civil cases and matters were completed in 2014. Included in that number are defensive cases in which the validity of federal laws, or the acts of federal agencies and employees, was challenged. Also included were affirmative cases brought to enforce federal statutory and regulatory requirements, and to collect debts owed to the United States. The chart below depicts the types of civil cases and matters completed during 2014.



The Internal Revenue Service, Social Security Administration, Department of Justice, and the Department of Agriculture continued to be the agencies involved in the largest number of civil cases in the District during 2014. The number of bankruptcy and social security cases increased in 2014, as did the number of defensive tort and employment cases from the Postal Service, while the number of subpoena requests and foreclosure cases showed slight decreases from recent years. A variety of cases involving the agencies within the Department of Justice also made up a significant portion of the overall civil workload. The number of cases completed for various federal agencies is reflected in the chart on page 44.

A primary function of the Civil Division is to provide quality representation to the United States and its agencies and officers in defensive litigation in federal and state court.

During 2014, Civil Division AUSAs defended a number of cases brought in federal court to set aside or modify the actions of federal agencies and officers. Civil Division AUSAs also handled several cases seeking damages for alleged negligence or other wrongful conduct by federal employees, as well as cases alleging discrimination in federal employment.

In the area of affirmative litigation, the Civil Division continued its Affirmative Civil Enforcement (ACE) program, which involves various initiatives designed to collect civil monetary penalties and damages for violations of federal law, to recover costs incurred by agencies as a result of violations of federal statutes and regulations, and to obtain compliance with the requirements of federal law through civil litigation. In calendar year 2014 ACE cases resulted in monetary recoveries of more than \$1.8 million. ACE cases also led to court orders directing various defendants to comply with federal laws and regulatory requirements.

The United States Attorney's Office ACE program includes an active Health Care Fraud Task Force made up of civil and criminal AUSAs, Special AUSAs from the Nebraska Attorney General's Office, investigators from various state and federal agencies, and representatives of insurance providers and intermediaries. The task force approach enhances communication regarding the investigation of health care fraud in the District of Nebraska, and allows oversight agencies to pursue cases in the manner most effective to deter fraudulent activity and recover losses.

Another major area of emphasis in the ACE program is environmental enforcement. In 2014, the United States Attorney's Office worked with attorneys from the United States Department of Justice and the Environmental Protection Agency on civil environmental cases brought to recover civil penalties as well as response costs, and to obtain judgments requiring polluters to comply with environmental laws.

As in most years, Civil Division AUSAs also conducted a significant amount of litigation in 2014 to collect debts owed to the United States. Suits to obtain judgments for unpaid balances of delinquent loans made by agencies such as the U.S. Department of Agriculture, the U.S. Department of Education, the U.S. Department of Veteran's Affairs, and the U.S. Department of Health and Human Services comprise a significant portion of the Office's civil workload. Those cases are litigated in federal district court, in bankruptcy court, and in state courts throughout Nebraska. All told, the Financial Litigation Unit, within the Civil Division, collected more than \$10.5 million dollars.

## CIVIL LITIGATION CASES

### SIGNIFICANT CASES 2014

#### AFFIRMATIVE CIVIL ENFORCEMENT

##### Affirmative Civil Fraud

A *qui tam* complaint alleged an otolaryngologist performed endoscopic sinus surgeries so quickly that he either did not perform the surgery or that the surgeries he did perform were worthless. The relator alleged a number of hospitals at which the physician had privileges were submitting claims for the worthless services as well. After thorough investigation to include witness interviews, review of medical records and peer comparison data, and consultation with medical and billing consultants, the United States declined to intervene in the litigation. After securing the United States' consent, the relator voluntarily dismissed the Complaint.

In a second health care fraud *qui tam*, a relator alleged a neurologist was billing for services not rendered in connection with the treatment of epilepsy. After interviewing witnesses, reviewing peer comparison data, and analyzing the relevant billing and coding requirements, the United States declined to intervene. The seal was recently lifted and the relator was ordered to serve the Complaint on the Defendants.

##### Non-Health Care Fraud

The United States filed a notice of declination and suggestion of dismissal in a lawsuit involving U.S. Department of Housing and Urban Development funds. The District Court granted the government's motion and dismissed the Complaint under Fed. R. Civ. P. 12(b)(6)

for its failure to include sufficient factual allegations to provide grounds on which to support the claim. The Court noted the law in the Eighth Circuit is clear that a *pro se* plaintiff may not prosecute a *qui tam* action on behalf of the United States. The relator's appeal was dismissed for failure to prosecute.

##### Affirmative Civil Rights

The USAO investigated an allegation that a medical facility failed to provide effective communication to a hearing impaired patient. The U.S. negotiated a resolution whereby the hospital implemented and provided staff training on a policy for ensuring effective communication; posted notices in conspicuous locations and on its official website informing patients and the public that auxiliary aids and services for persons with disabilities were available, free of charge, upon request; and secured contact information for an Interpreter Referral Service.

##### Affirmative Environmental Litigation

The United States obtained a judgment imposing a \$2,285,874 civil penalty in a Clean Water Act case against a beef rendering facility. After the Court granted the government's motion for partial summary judgment on the issue of Defendant's liability, a bench trial was held on the issue of damages. Representatives from the Department of Justice's Environment and Natural Resources Division, EPA, and the Nebraska Attorney General's office all participated on behalf of the government. The Defendant appealed the liability and penalty determinations to the Eighth Circuit, which appeal is pending.

## CIVIL LITIGATION CASES (CONT.)

### DEFENSE IMMIGRATION LITIGATION

**Jamshid Irshad v. Johnson** (Eighth Circuit Court of Appeals) – The Eighth Circuit affirmed the decision of the District Court granting summary judgment in favor of Defendant United States Citizenship and Immigration Services (‘USCIS’). This case was commenced as a mandamus action to compel USCIS to decide Plaintiff’s pending application for adjustment of status. Plaintiff filed an I-485 Application with USCIS to adjust his status from asylee to lawful permanent resident in 1999. In 2008, USCIS denied the application because of Plaintiff’s affiliation to an alleged Level III Terrorist organization. However, due to a change in law and policy in 2007, USCIS reopened Plaintiff’s application and placed it on an adjudicatory hold pending a potential exemption from inadmissibility. The Eighth Circuit held that the government’s delay in adjudication was to be measured from the 2008 denial/hold forward, not the 1999 filing of the application. The Court further found that the government’s four-year delay in providing a final adjudication was reasonable as a matter of law.

**Ali Ahmed Sheikh v. USCIS** (District Court - Nebraska) – While in custody for a probation violation, the Plaintiff, a Somali, was ordered removed from the United States. After being held for nearly a year in detention, Plaintiff filed a Habeas Corpus action alleging that more than 180 days had passed after the time he was ordered removed. Detentions of six

months or less are presumed to be constitutional. Detentions lasting longer than six months comport with due process if a “significant likelihood” of removal in the reasonably foreseeable future” exists. The Court dismissed the Complaint after the government established that despite earlier difficulties obtaining an agreement from Somalia to accept repatriation of Somali aliens, the United States had been able to successfully reinstate removal proceedings with that country. As a result, it was very likely the Plaintiff would be removed from the United States and thus, detention, within a reasonable time frame.

### DEFENSE OF TORT LITIGATION

(The following cases were filed in District Court seeking damages under the Federal Tort Claims Act (FTCA)).

**Fatal Accident** – Plaintiffs were the widow and surviving grandson of the deceased. The victim was fishing on the bank of the Missouri River at the Gavins Point Dam in Northeast Nebraska, when a pickup came out of gear, rolled down the riverbank striking and killing the victim. Plaintiffs brought a wrongful death suit against the United States, alleging that the United States Army Corps of Engineers was negligent in failing to timely replace guardrails along the riverbank that had been removed shortly before the accident, and was otherwise negligent in failing to inspect the parking

Continued on Page 42

area above the river, and for failing to warn the public of a dangerous condition. Prior to any discovery, the United States moved for dismissal of the case, arguing the discretionary function exception of the FTCA supported the government's managerial decisions with respect to replacement of the guardrails, because no mandatory regulations directed replacement, and also because the decisions were otherwise grounded in policy. The District Court dismissed the case, ruling that the discretionary function exception completely barred the claims of the surviving Plaintiffs. The case is now pending in the Eighth Circuit Court of Appeals.

**Motor Vehicle Accident** – Plaintiff brought an FTCA claim after he was injured when his vehicle collided with a U.S. Postal Service truck on a rural highway. Plaintiff suffered injuries to his nose, right arm, right leg and left ankle after the collision. His broken nose was treated at the local emergency room, but he continued to have numbness and other complications. Plaintiff had surgery for a right shoulder rotator cuff tear, as well as surgery on his left ankle for a tendon tear and injury to the joint. Plaintiff's vehicle was totaled in the collision. The case was successfully resolved without trial.

**Motor Vehicle Accident** – Plaintiff was driving a vehicle on a dirt road in rural Kimball County, Nebraska when it struck an Air Force HumVee that was parked on the road. Plaintiff brought suit against the United States under the FTCA, alleging he sustained personal injuries as a result of the accident, and further alleging the HumVee, parked without warning lights,

should have been parked off the road. The case was successfully resolved without trial.

**Motor Vehicle Accident** – Plaintiff brought suit against the United States under the FTCA. The suit involved an automobile collision between Plaintiff's vehicle and a U.S. Postal Service vehicle in North Omaha. Plaintiff alleged the vehicle he was driving was rear-ended by the Postal vehicle, causing personal injury to Plaintiff. Plaintiff claimed the Postal driver was negligent in following his vehicle too closely; in failing to keep his vehicle under proper control; in failing to keep a proper lookout; in operating his vehicle at a speed that precluded him from stopping in time to avoid collision; and in operating his vehicle in a careless and reckless matter. The case was successfully resolved without trial.

**Motor Vehicle/Bicycle Accident** - Plaintiff brought suit against the United States under the FTCA. The suit involved a collision between a bicyclist and a U.S. Postal Service vehicle in Lincoln. Plaintiff alleged he was struck while riding his bicycle on a pedestrian crosswalk, causing personal injury to Plaintiff. Plaintiff claimed the Postal driver was negligent in failing to properly stop at a stop sign before proceeding with a right turn onto the street. In the course of investigating the matter, the government secured an eyewitness to the accident who refuted most of Plaintiff's version of events. Plaintiff also refused any medical treatment for scrapes and bruises he allegedly suffered. Following some discovery in the case, the case was dismissed voluntarily by Plaintiff.

**Prisoner Claim** – Plaintiff brought suit against the United States under the FTCA for various alleged injuries suffered while in the custody of the U.S. Bureau of Prisons (“BOP”). The District Court granted the government’s motion to dismiss due to Plaintiff’s failure to exhaust administrative remedies based on the lack of having previously filed an FTCA claim with the BOP.

**Slip and Fall** – Plaintiff fell on a wet surface in the lobby of the Omaha VA Hospital and brought a case under the FTCA. The case was successfully resolved without trial.

**Slip and Fall** – Plaintiff brought suit against the United States under the FTCA, alleging she was injured when she slipped on a wet floor while exiting the Omaha VA Hospital. Plaintiff alleged injuries to her right foot, right ankle, and right lower leg, including a partial Achilles tendon tear, which resulted in permanent impairment. After a non-jury trial, the District Court determined Plaintiff failed to meet her burden of proving the United States’ negligence caused the accident and resulting injuries, and dismissed the case.

## **DEFENSE OF PROGRAM LITIGATION**

**Harris News Agency, Inc. v. Bowers** (District Court - Nebraska) – The Complaint was filed to review the Bureau of Alcohol, Tobacco, Firearms and Explosives’ (“ATF”) denial of a federal firearms dealer license to the Plaintiff’s business in Nebraska. The ATF determined Plaintiff could not obtain a license because there was a willful violation of the Gun Control Act by aiding and abetting possession of firearms by a felon; specifically, by allowing another family member, a convicted felon, to

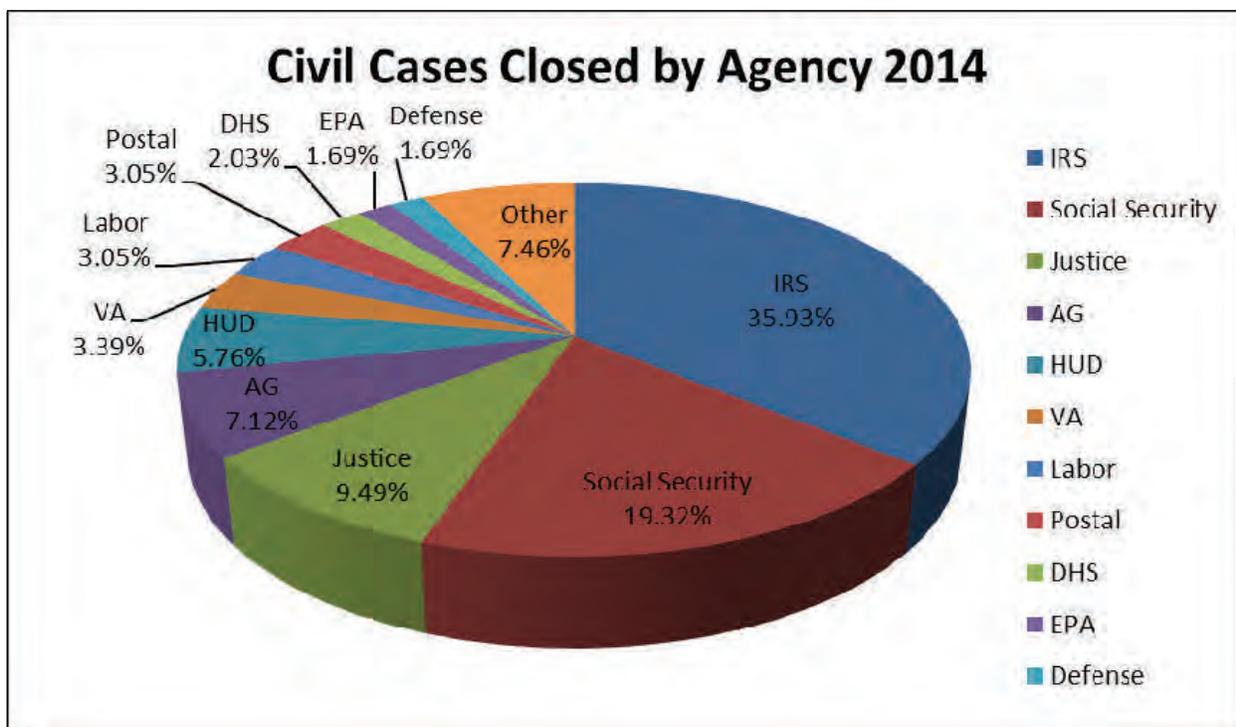
possess firearms at the business. After *de novo* review, the District Court granted summary judgment for the government.

**State of Nebraska v. EPA** (District Court – Nebraska) – The state of Nebraska filed suit in federal court seeking to challenge a proposed rule under the Clean Air Act concerning new standards that would limit emissions of carbon dioxide from newly-built fossil fuel-fired “electric utility generating units.” The District Court granted the EPA’s motion to dismiss holding that the state of Nebraska cannot sue in federal court to challenge a rule that the EPA had not yet actually made.

**Schuldt Chiropractic v. Sebelius** (District Court - Nebraska) – A chiropractor challenged a decision by the U.S. Department of Health and Human Services that Medicare had overpaid the chiropractor. The Agency determined the total amount of overpayment based on a statistical sampling of claims, and then extrapolated those findings to the total claims submitted by Plaintiff. The Agency’s appeals council found Plaintiff had not met his burden to prove the methodology was invalid or insufficiently reliable to be used. After review of the record, the District Court found there was substantial evidence to support the Agency’s decision and granted summary judgment for the government.

**Brown v. Colvin** (District Court - Nebraska) – After reversal of Social Security’s final administrative decision, claimant’s counsel filed a motion for attorney fees and expenses under the Equal Access to Justice (EAJA). The District Court found that counsel devoted an abnormally high number of hours to the case. After reviewing a large number

**Continued on Page 44**



of reported cases, the Court determined that a fee award of approximately half the requested amount would be appropriate in the case.

**Larson v. United States** (District Court - Nebraska) – Plaintiffs filed an amended complaint against the United States, and USDA individual federal defendants in their official capacity, seeking relief pursuant to the Quiet Title Act, and requesting the District Court to compel an individual federal defendant to perform his duty and approve the Plaintiffs’ request to repair levees on easement property pursuant to the Administrative Procedures Act. The dispute involved the interpretation of a Warranty Easement Deed under the Wetlands Reserve Program entered into between Plaintiffs’ partnership and the United States. Plaintiffs claimed they did not violate the terms and conditions of the easement when they initiated the repair of levees located on the easement

property after the 2011 Missouri River flood. After limited discovery, the United States successfully moved for summary judgment. After careful analysis of the deed under Nebraska law, the District Court held Plaintiffs retained no rights to rebuild or repair levees on the easement property. The District Court further held it did not have jurisdiction under the Administrative Procedures Act to compel individual agency personnel to perform official duties, because the Plaintiffs could proceed exclusively under the Quiet Title Act which limits the possible defendants to the United States.

#### **DEFENSE OF EMPLOYMENT LITIGATION**

**Rehabilitation Act** – Plaintiff was a former employee of the U.S. Postal Service who filed an action under the Rehabilitation Act under various theories of recovery. The District Court granted

the government's motion to dismiss finding that Plaintiff had failed to exhaust his administrative remedies because he failed to file a formal administrative complaint within 15 days after receipt of the notice that the complaint could not be resolved through the informal counseling process.

**Sexual Harassment** – Plaintiff was a former employee of the U.S. Postal Service in a rural mail post office who brought suit against the Postal Service seeking damages for sexual harassment and wrongful termination under Title VII of the Civil Rights Act. After extensive discovery was conducted in the case, the matter was successfully resolved without trial.

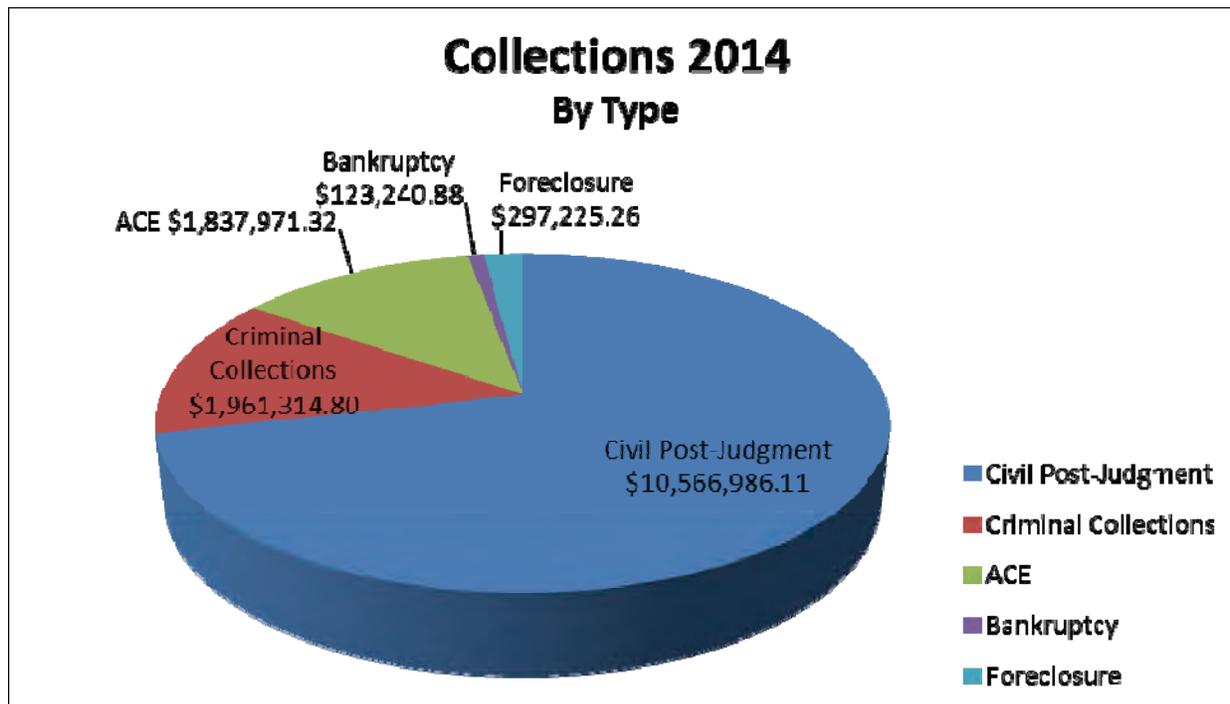
**COMMERCIAL LITIGATION**

**State of Nebraska , EX REL Ann Frohman, Director of Insurance of the State of Nebraska v. American Growers Insurance Company,** (in Liquidation, Lancaster County District

Court ) – The United States Department of Agriculture, operating through the Federal Crop Insurance Corporation ('FCIC'), and its Risk Management Agency ('RMA'), provided crop insurance coverage benefits to American Growers Insurance Company ('American Growers') pursuant to a Standard Reinsurance Agreement ('SRA') as provided by the Federal Crop Insurance Act. Under this program, the RMA reinsures commercial crop insurance companies that participate in the program.

When American Growers failed to maintain a minimum liquidity required by the state of Nebraska Department of Insurance, it was placed on a plan of rehabilitation. During this 'rehab' phase, the RMA stepped in and continued to operate the company so that the farmers who held policies with American Growers would be fully protected. American Growers was placed in Liquidation

Continued on Page 46



pursuant to the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act. RMA sought to recover expenses it incurred during the rehab phase of the American Grower's liquidation. The State Liquidator was holding funds for disbursement to American Grower's creditors in the amount of approximately \$10,000,000. After defending its claim against multiple challenges in various venues, the government obtained a final order allowing collection of all of the funds held by the Liquidator for a cash recovery of \$10,454,641.01. This cash recovery was in addition to monies set off from the RMA's under secured claim in the liquidation proceeding.

**Bryan Behrens v. USA** (Eighth Circuit Court of Appeals) – The Eighth Circuit Court of Appeals affirmed the Bankruptcy Appellate Panel's dismissal of Behrens' adversary complaint for failure to state a claim. Behrens had been convicted of securities fraud, mail fraud, wire fraud, and money laundering. As a part of his criminal sentence, Behrens was ordered to pay criminal restitution in the amount of approximately \$6.8 million. Behrens filed a Chapter 11 Bankruptcy proceeding. He then commenced an adversary case to test the validity of the

United States criminal judgment. In upholding the dismissal of the adversary, the Eighth Circuit Court determined that a bankruptcy proceeding cannot be used as a forum to mount a collateral attack on a final criminal judgment.

**United States v. Ruth Taylor** (District Court - Nebraska) – Ruth Taylor was convicted of fraud and ordered to pay the sum of \$61,118.99 in restitution to victims Social Security Administration ('SSA'), the Nebraska Department of Health and Human Services ('NDHHS'), and the Omaha Housing Authority ('OHA'). Efforts to collect this judgment revealed Defendant had received life insurance proceeds as the result of the death of her son in excess of \$286,000. A garnishment action was commenced, however, Defendant objected to the garnishment on the grounds that the account was exempt from garnishment under Neb. Rev. Stat. § 44-37. Defendant alleged the account contained life insurance benefits necessary to support her and her grandchildren. This exemption theory failed as the government successfully argued that life insurance proceeds are not included as exempt property pursuant to 18 U.S.C. § 3613(a)(1) of the Federal Debt Collection Procedures Act.



The mission of the United States Attorney's Office Law Enforcement and Community Coordination (LECC) Unit is to assist law enforcement and criminal justice agencies throughout the District of Nebraska, and to facilitate community-based efforts on issues related to criminal justice and community restoration. The LECC Unit manages or facilitates a number of programs designed to support and coordinate the objectives of the criminal justice system at various levels, provides services to witnesses and victims of federal crime, conducts training, and apprises the community at large about issues related to the criminal justice system. In 2014, the LECC Unit continued its work to maintain strong collaborative partnerships among federal, state, tribal, and local law enforcement agencies in order to improve the effectiveness of law enforcement in the District.

The LECC staff works with the Nebraska Sheriff's Association, the Police Officers' Association of Nebraska, the Police Chiefs' Association of Nebraska, Nebraska Coalition for Victims of Crime and the Nebraska County Attorneys Association to develop and present training on subjects related to criminal justice and victim assistance. A three-day criminal justice conference hosted by the United States Attorney's Office and co-sponsored by the Nebraska County Attorneys' Association is held in Kearney, Nebraska each year. Awards recognizing accomplishments in law enforcement presented at the 2014 conference are described in the following section of this report.

Trainings and conferences are also held throughout the year across the state at various venues. The trainings hosted by the U.S. Attorney's Office in 2014 focused on a number of topics, many of which were held more than once and at several venues across the district.

VALOR Training  
Speaking of Children Annual Conference  
Nebraska Infrastructure Protection Conference  
Federal Case Development  
Domestic Violence Training  
Victim Services Training and Academy  
Issues in Indian Country  
Darkness to Light Training

The annual *Protect Our Children* Conference was last held at the Omaha Hilton Hotel, October 15-17, 2013. We elected to merge with Project Harmony in conjunction with their annual *Speaking of Children* luncheon and training. The new merged conference will be held March 4-6, 2015 and will now be called *Speaking of Children*. Due to this new partnership, *Speaking of Children* has been expanded to a three-day training, and will be held permanently in Omaha. Also partnering in this endeavor is Children's

Continued on Page 48

**Continued from Page 47**

Hospital & Medical Center. This conference provides training on the most current issues regarding crimes against children; specifically child sexual/physical abuse, on-line enticement, and child pornography. *Speaking of Children* runs five training tracks: Prosecution; Law Enforcement; Victim Advocacy; Prevention/Treatment; and Medical as well as plenary sessions designed to meet the needs of all conference participants.

The conference features national and local experts in these fields, and is an excellent opportunity for various disciplines to build partnerships with local, state and federal agencies to benefit child victims, and contribute to a more effective investigation and prosecution of the offenders. This annual conference is designed to address the needs of law enforcement, prosecutors, victim service providers, probation/parole/correctional officers, judges, social workers, child advocates, therapists, educators and health care providers. The conference addresses the priority initiatives of the Department of Justice, through *Project Safe Childhood*. Specific breakouts are featured for the various disciplines engaged in assisting children victimized by sexual abuse.

Project Harmony is key in the financial support of this conference and serves as the contractual agency responsible for managing the non-government funds contributed for this training. There is also invaluable financial support from other governmental and non-governmental agencies from Nebraska for this training. Funding is obtained from the Department of Justice, through the Office of Victims of Crime (OVC), for lodging scholarships for state and local attendees outside of the commuting area. The financial assistance received through these many partnerships is instrumental in delivering a very quality and affordable training.

The Victim Witness staff is an integral part of the LECC Unit, and provides victim and witness services related to federal prosecutions in the District. The Victim Witness staff works with victims of federal crime from the time of the occurrence of the crime through the completion of the prosecution. The Victim Notification System (VNS) notifies victims of the status of investigations, as well as developments in cases accepted for prosecution.

In 2014, the VNS provided 17,473 notices to victims of federal crime in Nebraska. There were 93 new victim cases involving 1,104 new victims of federal crime identified and entered into the system during 2014. There are currently 126 active victim cases providing notice and services to 1,180 victims. The Victim Witness Specialists ensure that the crime victims are informed of their statutory rights afforded to them as a victim of a federal crime and given the opportunity to exercise those rights. Services include information and assistance with travel and lodging related to court appearances, courtroom support, and referrals to other agencies for counseling, shelter, and other assistance. The Victim Witness Staff provides oversight and coordination to the Multi-disciplinary Child Abuse Investigation Teams located on the three Tribal Reservations.

During Crime Victim's Rights Week in April 2014, the Victim Witness Staff, along with the Federal Bureau of Investigation, the Nebraska Alliance of Child Advocacy Centers

and the Nebraska Coalition for the Victims of Crime, provided training for victim service providers, mental health professionals, law enforcement and corrections personnel on coordinating and enhancing services to victims. The theme for the 2014 CVRW Conference was “30 Years: Restoring the Balance of Justice” and featured special presentations on “Neurobiology of Trauma”; “Working With the Uncooperative Victim”; “Grief and Homicide”; and “Living With a Stalker.”

The United States Attorney’s Office, in partnership with Creighton University and University of Nebraska, Kearney, completed the third and final year of development of the Nebraska Victim Assistance Academy (NEVAA). Creighton University, the OVC grant award recipient, hosted the inaugural academy in 2013 and the 2<sup>nd</sup> academy was held at University of Nebraska, Kearney in 2014. The overall goal of this project is to create a comprehensive, foundation level victim assistance curriculum with a focus on victimology, victims’ rights, and victim services that reflect the laws and practices of the state, specifically for Nebraska. NEVAA will continue to be made available to victim service providers, prosecutors, educators, clergy and all allied professionals who routinely assist crime victims and the 3<sup>rd</sup> academy will be back at Creighton University in August, 2015.

Nebraska finished its second year with the Indian Country grant, through the Winnebago Tribe of Nebraska, for a Special Assistant United States Attorney (SAUSA) to address domestic violence, sexual assaults, child and domestic violence physical assaults and dating violence on the Winnebago, Omaha and Santee Sioux Indian reservations. The goals of the project are to increase coordination among the three tribes and local, state, and federal investigators and prosecutors, bridge gaps in jurisdictional coverage, establish cohesive relationships between federal prosecutors and tribal communities, and improve the quality of violence against women cases through effective case management, through the promotion of higher quality investigations and improved training.

The SAUSA works in close coordination with the Tribal Police, BIA and FBI to ensure cases are prepared appropriately for prosecution on all levels, and prosecutes cases in both federal and tribal court. The SAUSA is co-located at the Winnebago Reservation and the United States Attorney’s Office.

In addition to the funding of the SAUSA position there is funding for training to address domestic violence and child abuse issues in Indian Country. The SAUSA will collaborate with the LEC and the V/W Specialist on all training needs.

Co-located with the United States Attorney’s Office’s LECC Unit is the Nebraska Office of the Midwest HIDTA Initiative. The Midwest HIDTA focuses on decreasing the importation, distribution, manufacture, and demand for illegal drugs within the Midwest Region, which includes Nebraska and neighboring states. Intelligence information on drug activity is compiled and disseminated through the Nebraska Law Enforcement Intelligence System (NELEIS), maintained by the State Patrol. The HIDTA Initiative, in addition to supporting law enforcement and prosecution, has developed a number of drug abuse prevention programs.

Training Calendar  
 United States Attorney's Office - District of Nebraska  
 Deborah R. Gilg United States Attorney



Date	Event	Location
<b>March 2015</b>		
4 <sup>th</sup> -6 <sup>th</sup>	Speaking of Children	Embassy Suites - LaVista
19 <sup>th</sup>	VALOR Training	Boys Town - Auditorium
<b>April 2015</b>		
22 <sup>nd</sup> -23 <sup>rd</sup>	Crime Victim's Rights Week Conference	Omaha, NE (TBD)
<b>May 2015</b>		
20 <sup>th</sup> – 22 <sup>nd</sup>	LECC/ County Attorney's Conference	Holiday Inn, Kearney
<b>June 2015</b>		
TBD	ATF Firearms Training	Omaha - TBD
<b>Fall 2015</b>		
TBD	Violence in Indian Country	Nebraska (TBD)

Please contact Joe Jeanette at [joe.jeanette@usdoj.gov](mailto:joe.jeanette@usdoj.gov) for more information on the above trainings. We will update this as we schedule additional trainings. These trainings are promoted electronically – contact Joe Jeanette to ensure you are on the distribution list.

## 2014 LECC AWARDS

### **Raymond L. Fidone - LECC Top Gun Award**

Since April 2004, retired Omaha Police Sergeant Ray Fidone, has been the Operations Director of Nebraska's Project Safe Neighborhoods gun violence initiative. This program is a diverse program of enforcement, prosecution, case screening, community outreach, prevention efforts, and data analysis.

PSN is a proactive strategy in Omaha that focuses on gun, gang and drug crimes. PSN in Lincoln, Nebraska is also a proactive strategy with a strong partnership between probation officers and law enforcement officers with a focus on violent offenders in targeted neighborhoods. The remainder of the district benefits from the commitment of the U.S. Attorney to prosecute cases that meet the federal guidelines.

The enforcement and intervention strategies in Omaha include offender notification meetings, Nightlight operations (police-probation home visits), and Cease-fire operations (deployment of police and probation/parole officers to areas experiencing a rise in gun violence), All of these efforts were directed by Mr. Fidone.

Mr. Fidone developed a Firearms Case Screening Team comprised of designated Omaha police officials, county and city Prosecutors, and the U.S. Attorney's Drug Enforcement Unit Chief. This team is responsible for the prosecution screening of gun crimes that occur in the city of Omaha. Mr. Fidone reviewed every gun case from the Omaha Police Department through "overnight reports". E-mails are sent to the team with the facts of the case and information on gang affiliation and criminal records. This streamlines case intake, delivers immediate attention to egregious gun cases, and guards against cases falling through the cracks.

In addition to the screening of cases, Ray provides updates to officers and prosecutors on the status of firearm cases occurring in the Omaha metropolitan area. He also assists in the logistics of many of the street enforcement operations and the gun amnesty programs in Omaha.

Ray developed a firearm tracing/tracking program for the Omaha Police Department. Each gun that comes through the Department is traced through the Bureau of Alcohol, Tobacco and Firearms. In 2003, 114 firearms were traced by the Omaha Police Department. When Ray Fidone implemented this aggressive tracing/tracking program, those numbers average nearly 1,000 firearms per year.



*Ray & Karen Fidone, and U.S. Attorney Deborah R. Gilg*

**Continued on Page 52**

## **Raymond L. Fidone - LECC Top Gun Award (Cont.)**

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Ray Fidone created a partnership with the Omaha Public Schools to present a series of Offender Notification Meetings to at-risk students. Law enforcement officers and Prosecutors talk about “accountability and consequences of behavior”. Speakers from the Boy’s and Girl’s Club present the opportunity side to the students, offering club membership, help in obtaining GED’s, and job placement.

Mr. Fidone is responsible for all of the budget reports to the City of Omaha, semi-annual reports Bureau of Justice Assistance, Michigan State University, and works with the grantee and sub-grantees in maintenance of the overall budget. In 2005, Ray was honored by the Department of Justice, as one of four PSN coordinators in the nation, for his outstanding work with the Nebraska PSN initiative.

Omaha, Nebraska remains one of the safest cities per capita for gun homicides, largely due to the programs implemented, the diligence and the tremendous coordination efforts by Ray Fidone over the past ten years.

## 2014 LECC Award of Valor - Nebraska State Patrol

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**Sergeant Jim DeFreece  
Trooper Andy Allen  
Trooper Nicholas Bonney  
Trooper Mathew Maus  
Trooper Andy Ecklund  
Trooper Warren Gibson**

During the early evening hours on Friday, May 10, 2013, investigators with the Nebraska State Patrol were conducting surveillance on two males with active felony warrants, at a residence in Stromsburg, Nebraska.

Just before 8:00 P.M., investigators observed two males sitting in a car parked in an alley behind the residence. Investigators approached the vehicle at the same the vehicle accelerated through the yard ejecting one male suspect out of the passenger side of the vehicle. The suspect ejected from the vehicle sustained minor injuries and was taken into custody.

A pursuit ensued with the suspect and troopers traveling on county roads in Polk, Butler, and Seward counties. During the pursuit the driver of the suspect vehicle fired multiple rounds at Nebraska State Patrol vehicles. Just north of the community of Bee, the suspect's vehicle was disabled by Nebraska State Patrol vehicles and came to rest in the east ditch on County Road 252 in Seward County. Once the vehicle was stopped, the suspect again fired multiple rounds at troopers who returned fire; fatally wounding the suspect.

These officers utilized strategies which included tactical vehicle intervention, ramming, spike deployment and vehicle roadblocks in attempts to end the prolonged pursuit. Each of these attempts resulted in officers being fired upon by the suspect. The above-named troopers risked their lives throughout this extended event. The ultimate use of deadly force was necessary to end the continued disregard for human life displayed by the suspect and prevent any further risk of injury or death to the general public or Nebraska State Patrol personnel.



*U.S. Attorney Deborah R. Gilg with the Nebraska State Patrol recipients of the 2014 LECC Award of Valor*

## **Lauren Pilnick, Project Coordinator, Nebraska Victim Assistance Academy**

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Lauren Pilnick is the Project Coordinator for the Nebraska Victim Assistance Academy (NEVAA). Her leadership in the community has benefited law enforcement and victims of crime in ways that often go largely unnoticed. The benefits of this training academy reach far beyond basic victim advocacy - it equips law enforcement with an effective perspective and the right tools to conduct more thorough interviews and investigations.

In 2009, a group of victim advocates and other professionals made a decision to move forward with the development of a statewide comprehensive victim assistance academy. As a result, in October, 2011 Nebraska received funding via a grant awarded to Creighton University, to begin formal planning for the academy. This project was and is an enormous undertaking – the building of an accredited academy from the ground up!

This academy was designed to educate all disciplines that come into contact with victims of crime either directly or indirectly, and to provide a consistent foundational level of training to better serve crime victims. Nebraska is fortunate to have Lauren Pilnick at the helm of this project. Her vision, desire to serve, commitment to succeed, and the energy she puts forth is remarkable. She coordinates the academy project with administration and supervision, handles the financial and logistical aspects, and teaches some of the academy modules!

The increasingly complex needs of crime victims have resulted in a demand for more coordinated and multidisciplinary approaches to training in the victim services field. The inaugural academy was held at Creighton University in August, 2013. There were 49 graduates including law enforcement officers, victim advocates, attorneys and educators. The second academy was held at University of Nebraska Kearney, in July, 2014.

The legacy of what Lauren Pilnick has built will be a huge asset for the criminal justice system for many years to come.

## **Nebraska Attorney General Jon Bruning (2002 - 2014)**

Contribution to law enforcement, the criminal justice system, and the protection of citizens of Nebraska

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Elected as Nebraska's 31<sup>st</sup> Attorney General in 2002, Jon Bruning has dedicated his career to defending the defining principles of the United States Constitution and Constitution of the State of Nebraska. A fifth-generation Nebraskan, Bruning received both his undergraduate and law degrees with distinction from the University of Nebraska.

Jon Bruning was a three-term Attorney General and was re-elected without opposition in 2006 and 2010. He continues to protect Nebraskans by safeguarding the State's natural resources and financial interests, and working with law enforcement to hold violent offenders accountable.

Since he took office in 2003, the Attorney General's Office (AGO) Consumer Protection Mediation Center has increased recoveries from just under \$500,000 to more than \$1.1 million annually. Under his guidance, a total of more than \$12 million has been saved or recovered for Nebraska consumers through mediation. In addition, Bruning's Medicaid Fraud Unit has recovered more than \$64 million for taxpayers since its creation in 2004.

Bruning's commitment to defend Nebraska's agricultural interests against unfair federal overreach is reflected in more than 20 legal challenges of regulations imposed by the Environmental Protection Agency. In August 2012, one challenge alone saved Nebraska energy producers at least \$60 million when the D.C. Circuit of the U.S. Court of Appeals ruled in the States' favor to strike down the federal Cross-State Air Pollution Rule. This ruling effectively halted what was sure to be a massive rate increase for Nebraska consumers.

Each year, Bruning works to strengthen Nebraska laws by working with members of law enforcement to develop and support legislative efforts to protect Nebraskans. Successful initiatives have put the methamphetamine pre-cursor drug, pseudoephedrine, behind retail counters resulting in an 86% reduction in clandestine meth labs throughout the state. Other measures have removed the statute of limitation on incest, created a felony offense for strangulation and criminalized online child enticement.

Since 2003, Bruning's office has seen 36 legislative package bills successfully passed and signed into law.

## Internet Crimes Against Children

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**Kearney County Attorney – Melodie Bellamy**  
**Buffalo County Attorney Shawn Eatherton**  
**Lancaster Deputy County Attorney Holly Parsley**  
**Assistant Nebraska Attorney General Corey O'Brien**  
**Sergeant Eric Jones – NSP**  
**Investigator Jeffrey Ward – NSP**  
**Investigator Ryan Phinney - NSP**  
**Investigator Justin Davis – NSP**  
**Sergeant Jeromy McCoy - NSP**

On April 24, 2012, Nebraska State Patrol Internet Crimes Against Children (ICAC) Sergeant Eric Jones received an e-mail from an Omaha man advising he had information about a woman offering to provide her fourteen and nine year old daughters for sexual exploitation. Sergeant Jones then had a telephone conversation with the informant who had established contact with a woman through Craig's List before exchanging multiple telephone and text communications with her. The man reported that the woman was offering him sexual relations with her fourteen and nine year old daughters and also sent him nude photographs of both children via cell phone.

Investigator Jeffrey Ward was assigned to conduct a detailed face-to-face interview with the informant while Sergeant Jones began the tedious process to preserve the records of electronic exchanges between the informant and the suspect. He also initiated the monitoring process of the suspect's telephone, searched for other illicit communications involving the suspect, and identified the suspect.

During the face-to-face interview the informant introduced Investigator Ward, in an undercover capacity, to the suspect via text message and the suspect immediately began exchanging electronic messages with Investigator Ward. Sergeant Jones had identified the suspect as a mother from central Nebraska and Investigator Ward had made tentative plans to meet the woman and her daughter for illicit sexual exploitation.

Investigator Ward continued exchanging communication with the suspect the following day and made specific plans to meet her on April 26 at a Kearney motel as a ruse where the suspect offered to allow her daughter to be exploited. On the evening of April 26, Investigator Ward did meet with the suspect and her child in a Kearney motel room, confirmed the intent of the meeting, agreed to a price, and paid the suspect before an arrest team entered the room and took the suspect into custody.

Through subsequent interviews and electronic records, a number of additional suspects were identified for related incidents of sexual assault of the two children.

## Internet Crimes Against Children (Cont.)

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Investigators Ward, Ryan, Phinney and Davis conducted additional investigations that led to the arrest of six additional suspects.

Buffalo County Attorney Shawn Eatherton and his staff led the prosecutions of the mother who received consecutive sentences totaling more than ninety years.

Three other male suspects received sentences of fifteen years, twelve years, and jail time with probation. Lancaster Deputy County Attorney Holly Parsley and Nebraska Assistant Attorney General Corey O'Brien prosecuted two suspects in Lancaster County who received prison sentences of 15 to 45 years and 15 to 30 years respectively. Kearney County Attorney Melodie Bellamy prosecuted one suspect who received six months in jail and three years' probation. She was ably assisted by Sgt. Jeromy McCoy of the Nebraska State Patrol with his interview of one of the child victims.

Through communication, swift action, and collaboration among agencies and troop areas, NSP investigators took a child predator into custody and rescued three young girls. In addition, due to diligent follow through, additional perpetrators were identified, apprehended, and prosecuted by highly competent and prosecutors. While this initial event took place in 2012, the follow-up investigations and prosecutions went well into 2013.

This dedication and the coordination of efforts brought some very dangerous people to justice and rescued some brutally exploited children.



*U.S. Attorney Deborah R. Gilg with the Nebraska State Patrol recipients of the 2014 LECC Internet Crimes Against Children*

## Investigator Don Fosler, Lincoln Police Department

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Investigator Don Fosler of the Lincoln Police Department Technical Investigations Unit (TIU) was recognized for his outstanding work in bringing down a group of thieves known nationally as the Felony Lane Gang (FLG). The FLG travels around the country, primarily in the southern, eastern, and Midwest states, stealing identifications, checks, and other personal items and then using those stolen items to commit forgeries, identity thefts, and frauds around the country.

In early May of 2012, information was forwarded to the members of the Technical Investigations Unit from local financial institutions about this group and their illegal activities.

Investigator Fosler began compiling information on these individuals, talking to other police departments experiencing similar crimes. Fosler contacted local banks and apprised them of the activities of the FLG.

In May through June 2012 information was received from local banks that activity was occurring at several of their branches that was consistent with FLG.

During this time period LPD arrested eight individuals associated with the Felony Lane Gang. Investigator Fosler continued to work on the case by serving search warrants, obtaining phone records, disseminating information, and working with other law enforcement agencies. Inv. Foster's work was critical to identifying the scope of the criminal enterprise and upper echelon members of the group. Fosler worked with a number of law enforcement agencies and determined the illegal activities of these individuals occurred in Florida, Georgia, Tennessee, North Carolina, Virginia, West Virginia, Alabama, Ohio, Wisconsin, Minnesota, Iowa, Kansas, Oklahoma, Nebraska, Illinois, Indiana, Kentucky, Missouri, and Arkansas. As a result several of these agencies have issued arrest warrants for FLG members and have been able to clear cases relating to FLG activity.

It is estimated that the FLG has fraudulently obtained well over \$1,000,000.00. The eight suspects arrested in Lincoln, Nebraska have been through the court system and have served time or are currently serving prison time. They were charged and convicted on several counts of 2nd degree forgery and were given sentences ranging between 20 months to 48 months. Three 'middle tier' members of FLG have been charged or warrants issued for them in Federal Court on charges of bank fraud and aggravated identity theft. At least four 'upper tier' members of FLG have been arrested in Buffalo, New York, partially on information provided by Investigator Fosler also on identity theft and bank fraud charges.



*Sgt. Sandra L. Myers, LPD; U.S. Attorney Deborah R. Gilg and Investigator Don Fosler, LPD*

## **Investigator Don Fosler, Lincoln Police Department (Cont.)**

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Investigator Fosler was not the only law enforcement officer working this case but it was his efforts, working with numerous local jurisdictions that severely disrupted this ongoing, highly mobile criminal enterprise. He enlisted the help of the U.S. Secret Service, the Federal Bureau of Investigation, fraud investigators and analysts in Florida, U.S. Postal officers in Pennsylvania, local law enforcement officers in the Lincoln and surrounding areas, local and surrounding area financial institutions, and local and federal prosecutors. He played a key role in managing this multi-jurisdictional investigation.

Investigator Don Fosler is being recognized not only for his outstanding investigation and case management skills, but also for his ability to forge positive and productive relationships with the banking community, prosecutors, and other law enforcement jurisdictions. This was a very time consuming and high profile investigation, not only for the banking community but also for other law enforcement jurisdictions. Don Fosler was the critical player, patiently digging, sharing information, coordinating with multiple agencies, and driving the investigation forward.

## Operation Torpedo

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**Special Agent Jeff Tarpinian, Federal Bureau of Investigation**  
**Assistant U.S. Attorney Michael Norris, U.S. Attorney's Office**  
**Sarah Chang, Child Exploitation & Obscenity Section of the Dept. of Justice**  
**Keith Becker, Child Exploitation & Obscenity Section of the Dept. of Justice**

These four individuals were honored for their work on a child pornography/child exploitation case, entitled Operation Torpedo.

Operation Torpedo began with information provided to SA Jeff Tarpinian from Dutch law enforcement authorities about an international child pornography case involving three child pornography boards hosted in Nebraska. The suspect, Aaron McGrath, ran these electronic boards from a server farm in Bellevue and his residence in West Omaha. The boards were operated on the Tor network, a network that makes it almost impossible to trace the Internet Protocol (IP) address. Users on the Tor network believe they are acting in complete anonymity.

Each board hosted images of child pornography and encouraged members to post new images to the board(s). Forums on the board were dedicated to the abuse of babies, toddlers, prepubescent boys, prepubescent girls, teen boys and teen girls. PedoBoard at the time of its takedown had more than 5,600 members, 3,000 message threads and 24,000 postings. Similarly, PedoBook at the time of takedown had 8,100 members, 17,000 images and 120 videos of child pornography.

In order to identify those members it was decided to have the Federal Bureau of Investigation take over and run the boards for two weeks. SA Tarpinian was the affiant and involved in acquiring pen registers, three Title III (electronic intercept) applications, administrative subpoenas, six search warrants in Nebraska and coordinating 30 other search warrants in other states. These activities were orchestrated with the able assistance from prosecutors Norris, Becker and Chang.

Operation Torpedo was the first of its kind in the United States. Through the efforts of SA Tarpinian and the prosecutors, four individuals have been charged with Child Exploitation Enterprise with a twenty year mandatory minimum. McGrath has pleaded guilty and received a 20 year sentence. Jason Flanary, who was found in Guam has pleaded guilty and will receive a twenty year sentence. Two others are set for trial at the end of April.

Two individuals were charged with Conspiracy to Solicit and Advertise Child pornography. This charge carries a fifteen year mandatory minimum. One of these spoke with great anticipation of the arrival of his baby girl so he could abuse her and post the images for the benefit of other members. The other spoke of decapitating a small child for the sexual gratification of himself and others.

## Operation Torpedo (Cont.)

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Individuals who were not members but accessed the boards to view child pornography were identified through the deployment of a Network Intrusion Technique or NIT. The NIT was court authorized. When a user accessed the board to view child pornography the NIT sent a message back to the user's computer and was able to detect the users IP address. A total of 22 individuals were indicted in the District of Nebraska for receiving and accessing child pornography with intent to view.

SA Tarpinian, AUSA Norris, Prosecutors Keith Becker and Sarah Chang have put in countless hours on Operation Torpedo. Tonight we honor these individuals for the effort and innovation put forth in this investigation and prosecution.



*Special Agent Jeff Tarpinian, U.S. Attorney Deborah R. Gilg and Assistant U.S. Attorney Michael P. Norris*

## Scott Roberts, Nebraska Department of Correctional Services

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Scott Roberts has been employed with the Nebraska Department of Correctional Services (NDCS) since April 1, 1996. He was hired as a corporal at the Nebraska State Penitentiary and held several positions there. In 2005, Scott began working for Cornhusker State Industries of the Department of Corrections and progressed to his current position as Quality Assurance Manager. Foremost in all his duties has been ensuring safety and security within the institutions, including prison industry's shops and activities that extend into the community.

During his 18 year career with NDCS, Scott Roberts became a member of the Special Operations Response Team (SORT) in 2000 and advanced to the position of SORT Coordinator in 2009. As a member of SORT, Scott has responded to and assisted with the successful resolution of numerous crises throughout this period.

On December 2, 2013, the Nebraska State Penitentiary was placed in a lock-down status following a series of disruptive events involving 33 inmates, which continued into December 3, 2013. On the evening of December 2<sup>nd</sup> Scott was on an assignment in McCook, Nebraska to oversee a project for CSI. Upon receiving the call to activate SORT, he immediately returned to Lincoln and proceeded to perform his SORT duties until the institution was deemed under control.

Scott then left Lincoln at 3:00 a.m. on December 3<sup>rd</sup> and drove over three hours back to McCook to oversee completion of the CSI project. However, shortly after his arrival in McCook SORT was again activated. As before, Scott immediately responded to the call and again returned to Lincoln to serve in his role as SORT Coordinator.

As Coordinator for SORT, Scott's efforts were instrumental in the successful resolution of the emergency situation at NSP on December 2<sup>nd</sup> and 3<sup>rd</sup>. His actions brought about a resolution without and injuries or damage to property. His demonstrated ability to communicate effectively with the Institutional Crisis Management Team and the members/team leaders of the Corrections Emergency Response Team was crucial to the ability of NSP to manage this emergency situation. Scott's professionalism and the skills of the Special Operations Response Team were extremely beneficial in maintaining the safety and security of the institution during this emergency situation.



*Officer Scott Roberts and  
U.S. Attorney Deborah R. Gilg*

## Computer Hacking Award - University of Nebraska, Lincoln

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**Special Agent Josh Riser, Federal Bureau of Investigation, Nebraska**

**Special Agent Thomas Harper, Office of Inspector General, Department of Education**

**Charlotte Evans, Assistant Chief, University of Nebraska-Lincoln Police Department**

**Officer Casey Ricketts, University of Nebraska-Lincoln Police Department**

**Assistant U.S. Attorney Steven Russell, United States Attorney's Office**

On or about April 30, 2012, Daniel Stratman entered the University of Nebraska computer system by exceeding his authorization as a student of the University, and obtained student audit reports and records from the University of Nebraska and state college computer system, a protected computer under federal law. On May 23, 2012, he again entered the system and programmed information, code, or command in order to obtain access without required encrypted passwords. This allowed him to have total access to the database causing damage to the integrity of the program and computer system. Over 150,000 records were subject to being compromised due to this intrusion. The intrusion was discovered by the University of Nebraska and the Nebraska State College Systems late in the evening of May 23, 2012, and the investigation led law enforcement to Startman as a suspect in the intrusion.

On May 27, 2012, law enforcement from the Lincoln Police Department, University of Nebraska - Lincoln Police Department and Federal Bureau of Investigation executed a search warrant of the residence of Daniel Stratman in Lincoln, Nebraska and found computers and other items linking him to the intrusion. Forensic examination of the computers conducted by the Office of Inspector General, Department of Education, verified that Stratman had knowingly caused damage, resulting in the impairment of the integrity of the computer system. Due to the unauthorized intrusion, the University of Nebraska and the Nebraska State College Systems suffered a loss of over \$300,000.



*S.A. Thomas Harper, U.S. Dept. of Education; S.A. Joshua Riser, FBI; Charlotte Evans, Asst. Chief UNL Police Dept.; U.S. Attorney Deborah R. Gilg, Asst. U.S. Attorney Steve Russell and Officer Casey Ricketts, UNL Police Dept.*

**Continued on Page 64**

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## **Computer Hacking Award - University of Nebraska, Lincoln (Cont.)**

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The level of cooperation and coordination in this case by these agencies and the United States Attorney's Office was outstanding. Once the breach of the system was discovered by the University of Nebraska, the combined efforts of the University of Nebraska Police, the Federal Bureau of Investigation, and the Office of Inspector General – Department of Education, lead to a quick and intensive investigation and prosecution of Daniel Stratman.

This case demonstrated a tremendous amount of coordination and cooperation among these agencies. A number of investigative subpoenas and court orders were executed, and the computer forensic analysis from the OIG-DOE was invaluable in determining the method and extent of the intrusion. These officers and agents were unfamiliar with one another prior to this case and yet there were no turf battles or inter-agency squabbles among the various agencies. The law enforcement agencies and federal prosecutor in this case cooperated to investigate and, prepare for prosecution, a very complex and unique criminal case.

## WEBSITES OF INTEREST



Other U.S. Attorney's Offices: <http://www.usdoj.gov/usao/>

Department of Justice: <http://www.usdoj.gov/>

Federal Bureau of Prisons: <http://www.bop.gov>

Federal Bureau of Investigation: <http://www.fbi.gov/>

Bureau of Citizenship and Immigration Services: <http://www.uscis.gov/>

U.S. Immigration and Customs Enforcement: <http://www.ice.gov/>

U.S. Marshals Service: <http://www.usmarshals.gov/>

U.S. Department of Homeland Security: <http://www.dhs.gov/>

Extensive list of official Federal Government web sites: <http://www.usa.gov/>



*Photos courtesy of The Nebraska Tourism Commission*



*Photo courtesy of The Nebraska Tourism Commission*

**U.S. Attorney's Office  
District of Nebraska  
2014 Annual Report**