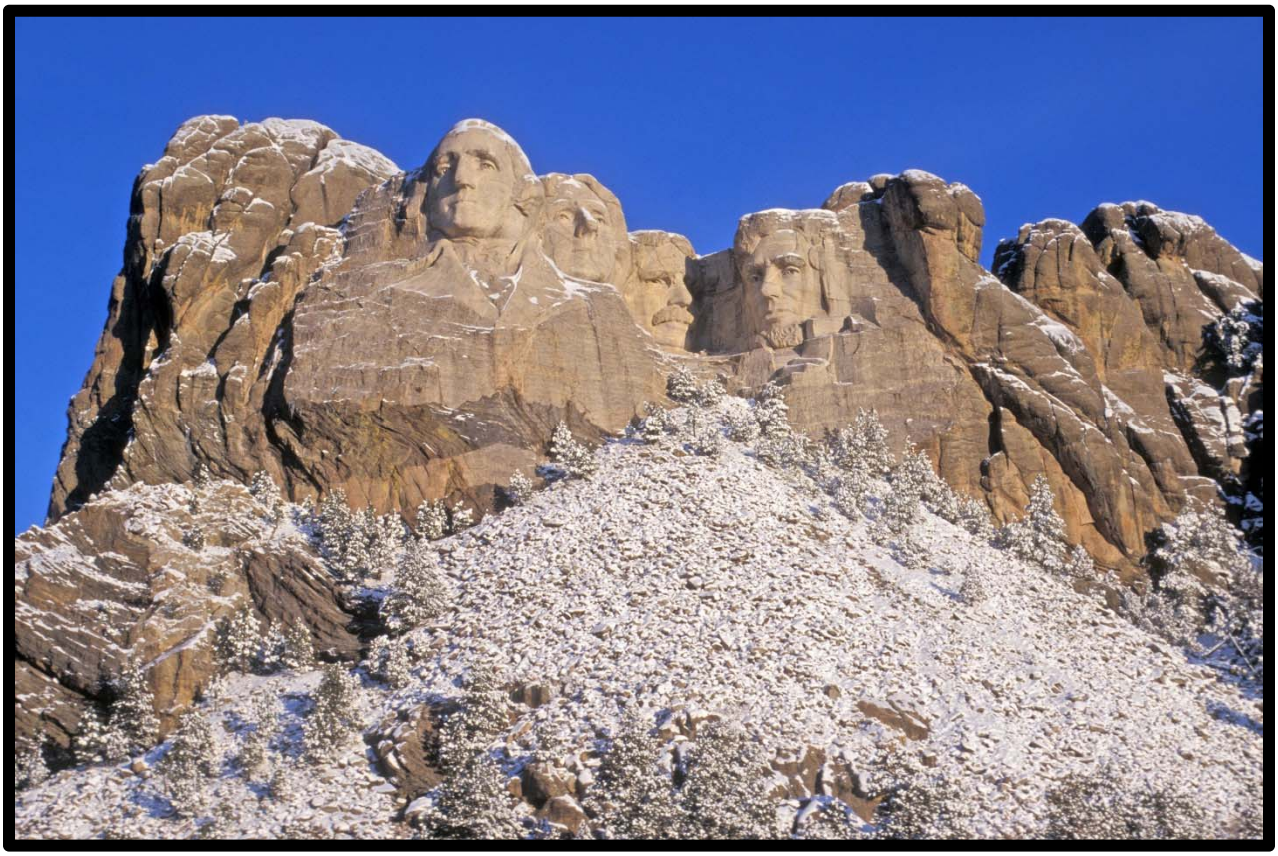
UNITED STATES ATTORNEY'S OFFICE

DISTRICT OF SOUTH DAKOTA

ANNUAL REPORT

2014



RANDOLPH J. SEILER

ACTING UNITED STATES ATTORNEY

Message from
Acting United States Attorney
Randolph J. Seiler



It is an honor to serve as Acting United States Attorney for the District of South Dakota, as I take over the reins from Brendan Johnson, who served our District with distinction for almost six years. Our office's mission will remain the same as we work to improve the quality of life for our citizens, provide public safety, and collect money on behalf of the American taxpayer.

I want to thank Brendan for his dedication and commitment to the District of South Dakota. His tenacity and leadership were unsurpassed, specifically in areas such as human trafficking where he brought to light a crime that many did not believe could possibly happen in South Dakota. But it was happening. As U.S. Attorney, Brendan Johnson was involved in the prosecution of over 30 men for sex trafficking. These prosecutions created public awareness across South Dakota and the country, and established broader federal engagement and grass-roots activism in combating child sex trafficking.

Brendan was a visionary leader in several areas, helping deliver justice to thousands of victims. Attorney General Eric Holder offered these eloquent remarks when Brendan announced his departure:

> "During Brendan Johnson's tenure as United States Attorney for South Dakota, he has distinguished himself as an exemplary leader, a passionate advocate for his fellow citizens, and an extraordinarily dedicated public servant," said Attorney General Holder. "As a lawyer and as a leader, Brendan has set a standard of excellence that will not soon be surpassed. Particularly with regard to public safety challenges on tribal lands, he has served as a key advisor to senior Justice Department officials—including me. As past Chair of the Native American Issues Subcommittee, he is not only a respected champion for tribal justice in his own right, but a critical national leader—offering sound guidance, wise counsel, and candid advice on a host of pressing issues. In standing against violent crime, fraud, drug trafficking, violence against women, and countless other threats, Brendan's fierce and determined service, on behalf of the people of South Dakota, has been without equal. Although he will be greatly missed, his many contributions will endure. I thank him for his outstanding service—to South Dakota, and to our nation—and wish him all the best as he takes on new challenges and opportunities."

An area of great importance for our District has historically been making tribal communities a safer place to live. In an effort to enhance our office's visibility in Indian country, one of my first staffing decisions was to name Troy Morley as the District's Tribal Liaison. Troy will serve as the conduit in matters between the USAO and the nine tribes of South Dakota, and will be dedicated to building productive relationships and helping to empower the tribes in the judicial arena. Troy is currently involved in the formation of a working group to study reentry alternatives with the States of North Dakota, South Dakota, and the Standing Rock Sioux Tribe. He will also be working on a reentry project with the Sisseton-Wahpeton Sioux Tribe, as well as working with

tribal officials in implementing a pilot program to exercise special domestic violence jurisdiction. Troy is originally from Grand Forks, North Dakota, and is an enrolled member of the Turtle Mountain Band of Chippewa.

The District's unwavering commitment to protecting civil rights is reflected in our efforts to achieve equality for all citizens. Civil rights issues at the national forefront include human trafficking, police brutality, hate crimes, marriage equality, access for the disabled, voting rights, and all forms of illegal discrimination. In South Dakota, we have earned a reputation as national leaders in combatting human trafficking. But the District's civil rights efforts have extended even further through our demonstrated commitment to prosecuting color of law violations, ensuring equal access for those with disabilities by requiring ADA compliance in municipal facilities, and working aggressively to ensure that Native Americans enjoy an equal right to vote. A large component of addressing civil rights violations is community outreach. We have worked tirelessly to educate the public through conferences and dozens of training programs so that citizens know their rights, know what to do when those rights have been violated, and can identify and respond when others' rights are being violated. The District's civil rights enforcement is vigorous and independent, working at all times to combat injustice.

Another important facet of the work done in the U.S. Attorney's Office is our collection efforts. In addition to protecting the public through prosecutions, we also collect money to help the victims of these crimes and recoup losses to the American taxpayer. The District of South Dakota collected over $3.6 million in Fiscal Year 2014 from civil and criminal actions. Of this amount, over $2.3 million was collected in criminal actions and over $729,000 was collected in civil actions. Moreover, our District worked with other U.S. Attorney's Offices and components of the Department of Justice to collect an additional $625,000 in civil actions that were pursued jointly.

The case summaries and accomplishments highlighted in this year's report reflect the dedication and commitment of the staff of the USAO, and of all our partner agencies. We are proud to be part of South Dakota's rich history of working together to strengthen and protect our communities. As Acting U.S. Attorney, I am fully committed to the priorities established in the District, and look forward to building on those areas.

Sincerely,



Randolph J. Seiler
Acting United States Attorney
District of South Dakota

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INTRODUCTION

In 1789, the United States Congress passed the Judiciary Act which, among other things, directed the President to appoint an attorney in each federal judicial district to represent the interests of the United States. In fact, United States Attorneys were independent of the Attorney General and did not come under the Attorney General's supervision and authority until 1870 when the United States Department of Justice was created.

South Dakota has had 41 United States Attorneys dating back to 1861 when William Gleason served as the first United States Attorney for Dakota Territory. United States Attorneys began serving solely for the District of South Dakota in 1889 when Dakota Territory was divided into individual states and the District was created.

United States Attorneys are nominated by the President and must be confirmed by the United States Senate. Following confirmation, United States Attorneys serve at the will of the President for a term of four years, which may be renewed.

United States Attorneys are the chief federal law enforcement officers in each federal district. They insure the fair and impartial enforcement of federal criminal laws and also represent the United States government in civil claims brought by and against the government. In 1935, Supreme Court Justice George Sutherland described the role of the United States Attorney in the following terms:

> The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all, and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the two-fold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his 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.

Berger v. United States, 295 U.S. 78, 88 (1935).

YEAR IN REVIEW

USA Johnson Honored with Shared Hope Pathbreaker Award: USA Brendan Johnson was named a 2014 Pathbreaker Award recipient for his determined leadership in combatting child sex trafficking. The 2014 Pathbreaker Award ceremony was held in Washington, D.C., during Shared Hope International's JuST Conference.



USA JOHNSON AND LINDA SMITH

USA Johnson was recognized for his progressive approach and aggressive prosecution of buyers, which established broader federal engagement in combating demand for child sex trafficking, and for overseeing the prosecution of more than 30 human trafficking cases in five years, including three life-sentences, and the federal prosecution of numerous men who attempted to purchase sex from trafficking victims. The group also recognized his efforts in prioritizing the prosecution of cases involving violence against Native American women and children and human trafficking.

Shared Hope International was established in 1998, by former U.S. Congresswoman Linda Smith, to prevent, restore, and bring justice to women and children in crisis. They provide leadership in awareness, training, prevention strategies, restorative care, research, and policy initiatives.

The organization's President and Founder Linda Smith said, "Brendan Johnson is a force of determination, initiative, and skill that should leave buyers terrified to purchase sex with a minor in South Dakota. By creating a threshold for buyer accountability, he sets a national precedent that, if applied, will make significant strides in reducing tolerance for purchasing sex with a minor."

Tribal Relations Day: USA Johnson addressed the crowd at the 2014 State-Tribal Relations Day held at the Capitol Rotunda in Pierre in February. The South Dakota Department of Tribal Relations hosts the event each year. The State-Tribal Relations Day included a morning tribal listening session and the theme focused on public safety. The USAO staff also had a booth at the event in the rotunda to share information regarding the victim witness program in the office.



USA JOHNSON SPEAKING AT CAPITOL IN PIERRE

Keynote Speaker at National Crime Victims Right (NCVR) Luncheon: USA Johnson was the keynote speaker at the NCVR luncheon in Rapid City in April. WAVI partnered with Pennington County Victims' Assistance, the State's Attorney Office, and the Pennington County Sheriff's Office to host a luncheon to honor the victims we all serve and celebrate the progress made in advocacy, prevention, and support. Two women were also honored for their dedication to victims of crime. Lila Doud with Mothers Against Drunk Driving was awarded the Voice for Victims Award for her tireless efforts to raise awareness and support the surviving victims of drunk driving. Tracey Dollison-Decker, Deputy State's Attorney, was awarded the Victims' Champion award.



LILA DOUD AND USA JOHNSON



MARLYS BIG EAGLE, VICTIM WITNESS SPECIALIST FOR THE USAO; TERRY FRIEND, RECIPIENT; AND SUPERVISORY AUSA GREGG PETERMAN

Additionally as part of NCVR week, Terry Friend, CNM, MSN, from Kyle, was awarded a Department of Justice Certificate of Appreciation. The presentation took place at the Four Directions Clinic in Kyle on April 11, 2014. Friend was recognized for her outstanding dedication, service, and contributions on behalf of crime victims. Originally from Massachusetts, Friend is currently a full time midwife at the Kyle Health Center's Four Directions Clinic, where she manages two Domestic Violence Prevention Initiatives. One of her most notable accomplishments to date includes the opening of the Four Directions Clinic in Kyle in January of 2014. It provides a clinic based setting and comfortable environment to those needing care after a sexual assault or abuse, as well as offering other services.

Biennial Indian Law Symposium at the University of South Dakota (USD): The Biennial Indian Law Symposium was hosted by the USD School of Law, along with USD Law's Native American Law Student Association (NALSA.) The topic was "Public Safety in Indian Country: Tribal, Federal and State Responses." USA Johnson delivered the keynote address, and students, practitioners, judges, scholars and the general public were invited to join the events that focused on public safety, the protection of women and the recent Tribal Law & Order Act. AUSA Meghan Dilges also participated as part of a panel discussion.

Commencement Speaker at USD: USA Johnson delivered the commencement address at the 127th Spring Commencement at USD, in Vermillion, on May 10. USA Johnson, a 1998 graduate of USD, gave the keynote address before more than 1,200 candidates for degrees at the ceremony held in the Dakota Dome. He urged graduates of his alma mater to take full advantage of the opportunities that await them, as he called graduation a "celebration of opportunity."



USA JOHNSON GIVES COMMENCEMENT ADDRESS

President Obama Visits Standing Rock Indian Reservation:
USA Johnson participated in a historic visit that President Obama and the First Lady Michelle Obama made to the Standing Rock Indian Reservation on June 13, 2014. It was President Obama's first visit to Indian country, as he and the First Lady joined in the Cannon Ball Flag Day Celebration. As former Chair of the Native American Issues Subcommittee, USA Johnson welcomed the opportunity to have the President and First Lady visit the reservation and spend some time experiencing Native American life. In addition to his commitment to improving federal and tribal relations, the President's visit had a special emphasis on youth and the next generation, and efforts to strenghthen economic and educational opportunities.







Violent Crime and Human Trafficking Conference: USA Johnson, USA Timothy Purdon, District of North Dakota, the Department of Justice Office for Victims of Crime, and Avera Health co-hosted a *Violent Crime and Human Trafficking Conference* on August 12 - 14, in Sioux Falls. The conference focused on training in the areas of human trafficking and sexual assault, for medical professionals, advocates, social workers, counselors, and others in the healthcare field, and also included the perspective from providers, the patient's needs, and the public's responsibility. Other key topics included increases in human trafficking and other violence against women that is occurring in the North Dakota oil fields, Internet predators in the Dakotas, sexual assault in Indian country, family violence, and working with child victims of physical and sexual assault.



USA-SD BRENDAN JOHNSON, ELIZABETH SMART-GILMOUR, USA-ND TIMOTHY PURDON

Among the featured speakers were Elizabeth Smart-Gilmour, a sexual abuse survivor, who was abducted from her bedroom in the family's Salt Lake City home in 2002, and a victim from the Penn State University sex scandal that involved Jerry Sandusky, a former assistant football coach under the late Joe Paterno.

Crow Creek Annual Pow Wow: For a second year, the Crow Creek Sioux Tribe and the South Dakota Highway Patrol worked together in a joint enforcement operation during the Crow Creek Sioux Tribe Annual Pow Wow. State troopers, some with drug detection dogs, helped tribal police during the weekend pow wow, in a joint effort to ensure that everyone had a safe experience at the celebration. The troopers who were part of the operation were sworn in after a training and orientation program. A memorandum of understanding between the two entities was signed in 2013, and that spirit of cooperation was recognized as an important step towards future joint law enforcement operations.

Law Enforcement Coordinating Committee (LECC) Annual Conference: The annual conference was held in Sioux Falls in November. The LECC is co-chaired by the USA and the South Dakota Attorney General. The LECC sponsors a state-wide conference each year for the purpose of training and information sharing, and it is held in conjunction with the South Dakota Annual Law Enforcement Appreciation Dinner and Children's Charity Fundraiser. The 2014 conference featured speakers on the topics of active shooter investigations

and the impacts of marijuana legalization. In addition, the conference included subcommittee meetings of the Health Care Fraud Task Force meeting and Victim Witness Services.

AUSA Activity:

- **AUSA Kevin Koliner Receives Prestigious National Award:** Appellate Chief and AUSA Kevin Koliner received the Top Prosecutor Award by Women in Federal Law Enforcement (WIFLE) for his work in human trafficking. Koliner received the national award at the WIFLE Foundation's Fifteenth Annual Leadership Training August 25-27, 2014, at the Omni Shoreham Hotel in Washington D.C. WIFLE is a not for profit organization working to promote the value that women bring to law enforcement.



APPELLATE CHIEF/AUSA KEVIN KOLINER

  The Top Prosecutor Award recognizes one career federal prosecutor for exemplary achievements in prosecutions of federal crimes involving trafficking of women or children, trafficking of human beings for forced labor, commission of crimes of violence against women or a minority group, a civil rights violation, any terrorist-related violation against the United States, or commission of any corporate or government fraud. Koliner was specifically commended for his prosecution of human trafficking cases. Kevin was nominated by the SAC of Homeland Security, and is the first male to receive the award. He frequently provides human trafficking training to groups and organizations throughout the country.

- **AUSA Sarah Collins Member of Federal Advisory Committee**: In 2010, the Office for Victims of Crime (OVC) established the AI/AN SANE-SART Initiative to address the comprehensive needs of tribal victims of sexual violence, with the ultimate goal of institutionalizing sustainable and evidence-based practices that meet the needs of tribal communities. AUSA Sarah Collins was a leading voice as a member of the National Coordination Committee that was charted in 2011, and in 2014 released the report, *Report to the U.S. Attorney General on Improving Federal Agency Response to Sexual Violence in Tribal Nations: Issues and Recommendations.* The Committee, which is comprised of representatives from six national tribal


ATTORNEY GENERAL ERIC HOLDER AND AUSA SARAH COLLINS

organizations, five federal agencies, and experts in Alaska Native issues and medical forensics exams, provided recommendations to the Attorney General to improve federal response.

- **Guest Lecturer:** Supervisory AUSA Gregg S. Peterman participated as a guest lecturer at the United Tribes Technical College in Rapid City in support of a class teaching "CSI" to local high school students. One of the College instructor's goals was to increase awareness in the Indian community of career opportunities in the area of law enforcement. AUSA Peterman provided a lecture on analyzing a crime scene, guided students through expert witness examination drills, and acted as judge at the end of the semester when the students conducted mock examinations of experts.

- **Law Enforcement Training**: At the request of officials with the Rosebud Sioux Tribe (RST), AUSA Tim Maher and AUSA Marie Ruettgers provided training for law enforcement officers on the Rosebud reservation. They put on two training sessions which were staggered to accommodate calls for service and the officers working graveyard shifts. The sessions were well attended and geared towards patrol officers, with such topics as Search Warrants, Child Sexual Abuse, Photography, Fourth Amendment, Report Writing, and new VAWA. The RST Prosecutor's Office also worked on the training and offered other insight for the officers, such as local prosecutor needs/report writing/Tribal Code issues.

- **U.S. Fish and Wildlife (USFWS) Training**: AUSA Meghan Dilges provided a legal update/training to USFWS officers from Region Six, which includes eight different states. The August training consisted of information regarding DOJ policies, search and seizure relative to cell phones and GPS trackers, restitution in wildlife cases, and discovery issues.

- **Human Trafficking Training**: AUSA's from each District office participated in Human Trafficking training on several of the Indian reservations. It was joint training provided in conjunction with the Internet Crimes Against Children Taskforce, the Child Advocacy Center, and agency victim specialists. The educational and informational training was targeted for law enforcement and allied professionals.

HUMAN TRAFFICKING

In 2000, the *Trafficking Victims Protection Act* (18 U.S.C. Sections 1589-1594) was passed to address the problem of trafficking in persons through protection and assistance for victims, prosecution of offenders, and prevention efforts internationally. The *Act* strengthened federal criminal laws that prohibit human trafficking.



Human trafficking, commonly referred to as "modern day slavery," is a global phenomenon that involves obtaining or maintaining the labor or services of another through the use of force, fraud, or coercion in violation of an individual's human rights.

The Department of Justice and the U.S. Attorney's Offices' commitment to preventing human trafficking, bringing traffickers to justice, and assisting victims has never been stronger – and our approach has never been more effective. The work being done has sent, and will continue to send, a clear and critical message. In this country human trafficking crimes will not be tolerated.

The District of South Dakota has become a national leader in the area of human trafficking and that is due, in part, to the federal statutes that provide for mandatory/minimum sentences in certain cases. It is also credit to our law enforcement partners, who conduct the investigations and undercover operations that identify the predators. If the cases meet certain criteria, federal prosecution is sought, given that tougher sentences can be imposed because of the federal guidelines. Since 2009, the office has been involved in over 20 sex trafficking cases.

Federal statutes criminalizing sex trafficking have provided our office strong prosecutorial tools. The following statutes have been used with the greatest frequency in our federal cases.

1. 18 U.S.C. Section 1591 – Sex Trafficking of Children or by Force, Fraud, or Coercion
2. 18 U.S.C. Section 2422 – Coercion and Enticement.

The investigations have uncovered dozens of victims of sex trafficking, mostly South Dakota residents. The victims have all been female, and their ages have ranged from approximately 13 up to about 30. The backgrounds of the victims vary, but they are predominantly from low-income homes, often with one or both parents absent. Most endured childhoods of abuse and neglect. Many were encountered by their traffickers during periods of drug addiction and homelessness, and many were struggling to care

for family members, including young children of their own. Several have been identified as victims in more than one of our cases.

Significant Cases

Prostitution Enterprise Stopped

A 34-year-old man from Wisconsin, was arrested in Sioux Falls for sex trafficking. The defendant transported an adult female from Wisconsin to Sioux Falls, rented a hotel room, and began advertising her for prostitution on Backpage.com. The Street Crimes Unit, of the Sioux Falls Police Department, quickly began an investigation after seeing the advertisements. Officers were inside the hotel speaking with the front desk clerk when the defendant chased the victim down the hall and physically abused her. The defendant was immediately arrested. Police later learned the defendant also had a history of abusing children and selling drugs. He pled guilty and was sentenced to 63 months in custody and forced to forfeit $1,100 in cash along with his cell phones and laptop computer.

Sex Trafficking of a Child

A 45-year-old Sioux Falls man was sentenced to life imprisonment after being convicted by a federal jury for sex trafficking of a child, conspiracy to engage in sex trafficking of a child, and two counts of sex trafficking by means of force, fraud, or coercion. He is the third person in the past few years to receive a life sentence for human trafficking in the District of South Dakota.

Sturgis Sex Traffickers

As part of an undercover sting operation during the 2013 Sturgis Bike Rally, nine defendants were indicted for commercial sex trafficking. All nine responded to an advertisement placed by law enforcement on Craigslist.com or Backpage.com and negotiated to have sex with underage girls. They all showed up at the predetermined meeting spot and had the negotiated amount of money or goods to pay for sex with the child. The undercover operation and arrests were a joint effort between the South Dakota Division of Criminal Investigation, the Federal Bureau of Investigation, the Rapid City Police Department, and the Pennington County Sheriff's Office. Following is a summary of the case outcomes:

- A Grapevine, Texas, man negotiated for sex with a 12-year-old girl in exchange for $300. He pled guilty to commercial sex trafficking and was sentenced to the 15 year mandatory/minimum sentence.

- A Maryland man negotiated for sex with a 12-year-old girl in exchange for $200. The defendant pled guilty to attempted trafficking in involuntary servitude or forced labor with the underlying offense being commercial sex trafficking. He was sentenced to 120 months in prison.

- An 18-year-old Colorado man negotiated for sex with a 13-year old girl in exchange for marijuana. The defendant pled guilty to attempted trafficking in involuntary servitude or forced labor with the underlying offense being commercial sex trafficking. He was sentenced to 3 years in prison.

- A Rapid City man negotiated for sex with a 13-year-old girl in exchange for $150. The defendant pled guilty to attempted trafficking in involuntary servitude or forced labor with the underlying offense being commercial sex trafficking. He was sentenced to 36 months in prison.

- A Rapid City man negotiated for sex with a 12-year-old girl in exchange for $200 and was told to bring a strawberry shake with gummy worms because the girl liked it. The defendant pled guilty to attempted trafficking in involuntary servitude or forced labor with the underlying offense being commercial sex trafficking. He was sentenced to 120 months in prison.

- A full-patch member of the Sons of Silence motorcycle gang negotiated to pay $200 in exchange for anal sex with a 13-year-old girl. The defendant pled guilty to attempted trafficking in involuntary servitude or forced labor with the underlying offense being commercial sex trafficking. He was sentenced to 84 months in prison.

- A 20-year-old Rapid City man negotiated a ring he claimed was worth $400 in exchange for sex with a 15-year-old girl. The ring was actually worthless. The defendant pled guilty to attempted trafficking in involuntary servitude or forced labor with the underlying offense being commercial sex trafficking. He was sentenced to 24 months in prison.

- A Belle Fourche man negotiated to have sex with a 15-year-old girl in exchange for a $400-smart phone. The defendant was convicted of commercial sex trafficking and was sentenced to the 10-year mandatory/minimum sentence.

- A Belle Fourche man negotiated for sex with a 13-year-old girl in exchange for $150. A jury found him guilty of commercial sex trafficking. He was sentenced to the 15-year mandatory/minimum sentence.

CRIMINAL DIVISION

The primary responsibility of the Criminal Division for the U.S. Attorney's Office is the prosecution of federal crimes in the District. Many of the offenses prosecuted by the Criminal Division arise on the District's Indian reservations and other Indian lands which constitute Indian country under federal law. By Act of Congress, most serious offenses involving Native Americans which take place in Indian country must be prosecuted in federal court under the Major Crimes Act, the Assimilative Crimes Act, or other federal statutes. The office works closely with tribal prosecutors to coordinate the prosecution of offenses arising in Indian country.

The other crimes prosecuted by Assistant U.S. Attorneys assigned to the Criminal Division cover a wide range of criminal activities, including drug trafficking, firearms violations, corporate and financial institution fraud, bankruptcy fraud, mail fraud, healthcare fraud, computer fraud, agricultural program fraud, public corruption, terrorism, child pornography, environmental crimes, civil rights violations, federal wildlife violations, and any of the more than 900 federal offenses that have been created by Congress.

Twenty attorneys are assigned to the Criminal Division. This includes two office supervisors and the Criminal Chief. Within the Division, one attorney is assigned to the Organized Crime Drug Enforcement Task Force to handle major drug trafficking prosecutions. One attorney in the Division serves as the District's anti-terrorism coordinator. One attorney and one auditor are assigned to healthcare fraud investigations. The District's asset forfeiture and financial litigation attorneys are also assigned to the Criminal Division.

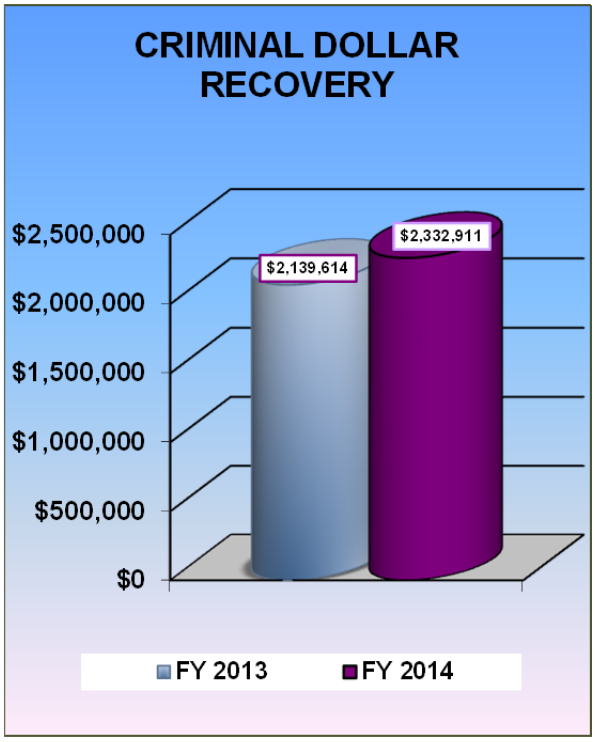
Financial Litigation Unit

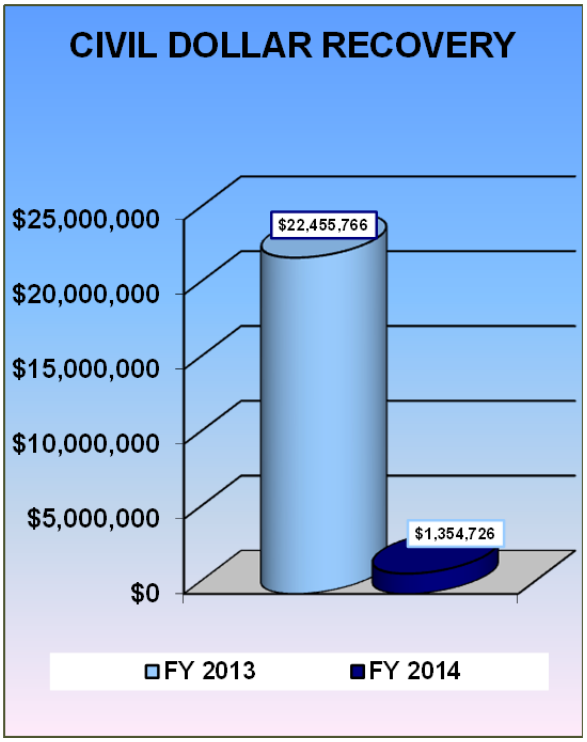
The Financial Litigation Unit (FLU) is responsible for activities related to the collection of civil debts owed to federal agencies, as well as the collection of restitution, fines, penalties, assessments, and court costs imposed by the court in criminal judgments. The goal of the U.S. Attorney's Office is to fairly achieve the maximum amount of recovery with the least amount of cost for each affirmative claim or debt. This office strives to collect debts due the United States and victims of crimes in a timely, aggressive, efficient, and cost-effective manner.

Collection Efforts

FLU collected $3.7 million in civil judgments and criminal payments in fiscal year 2014. Of this amount, $951,578 stemmed from health care fraud cases.

Although all recoveries are vitally important, the recovery of restitution in an effort to make victims whole is a high priority of this office. In 2014, of the $2,332,911 recovered from criminal judgments, $1,471,783 was returned to victims of crime. The rest was deposited into the Crime Victims Fund which is used to fund programs that assist crime victims.

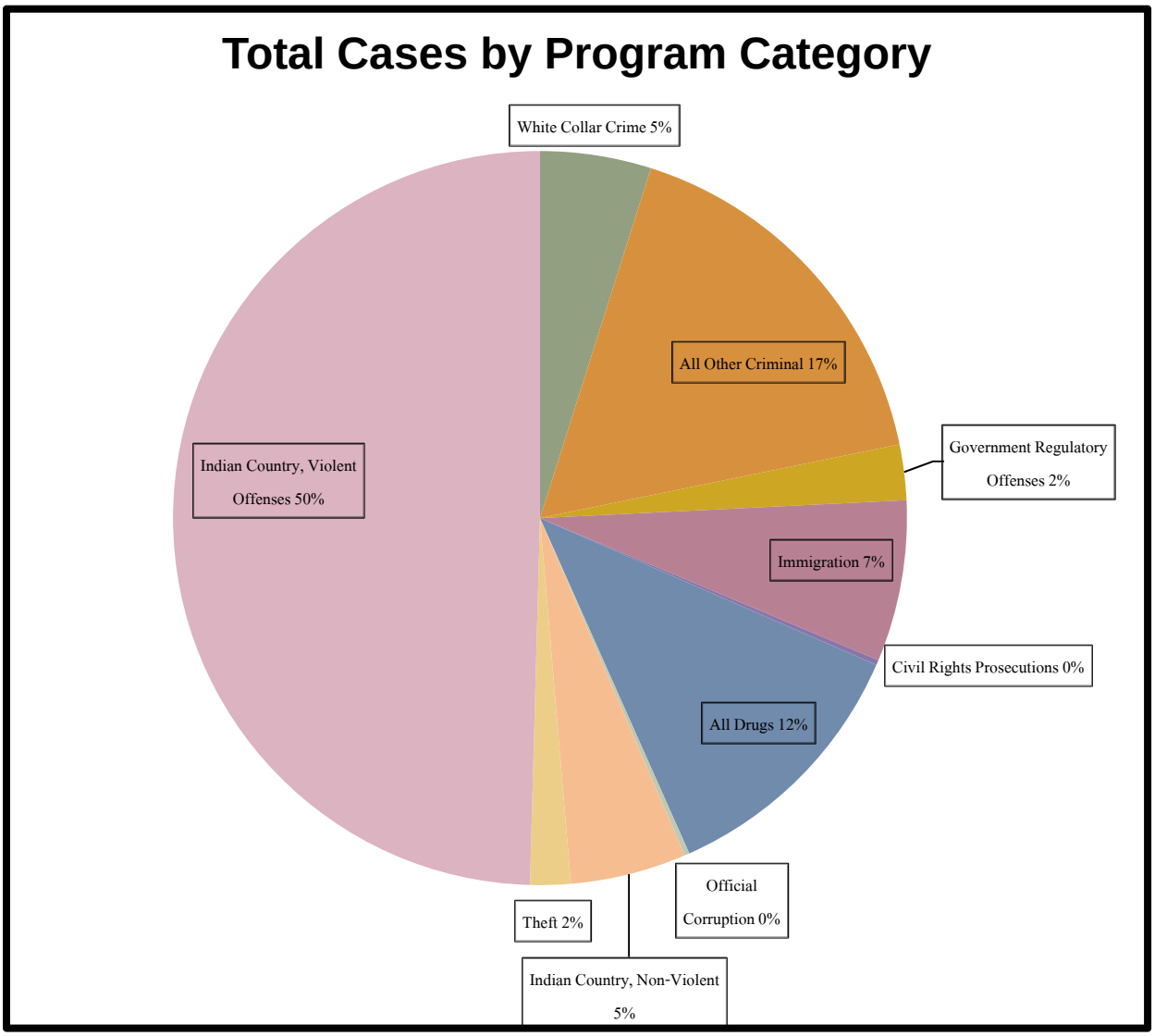




STATISTICAL HIGHLIGHTS

Criminal Caseload Statistics

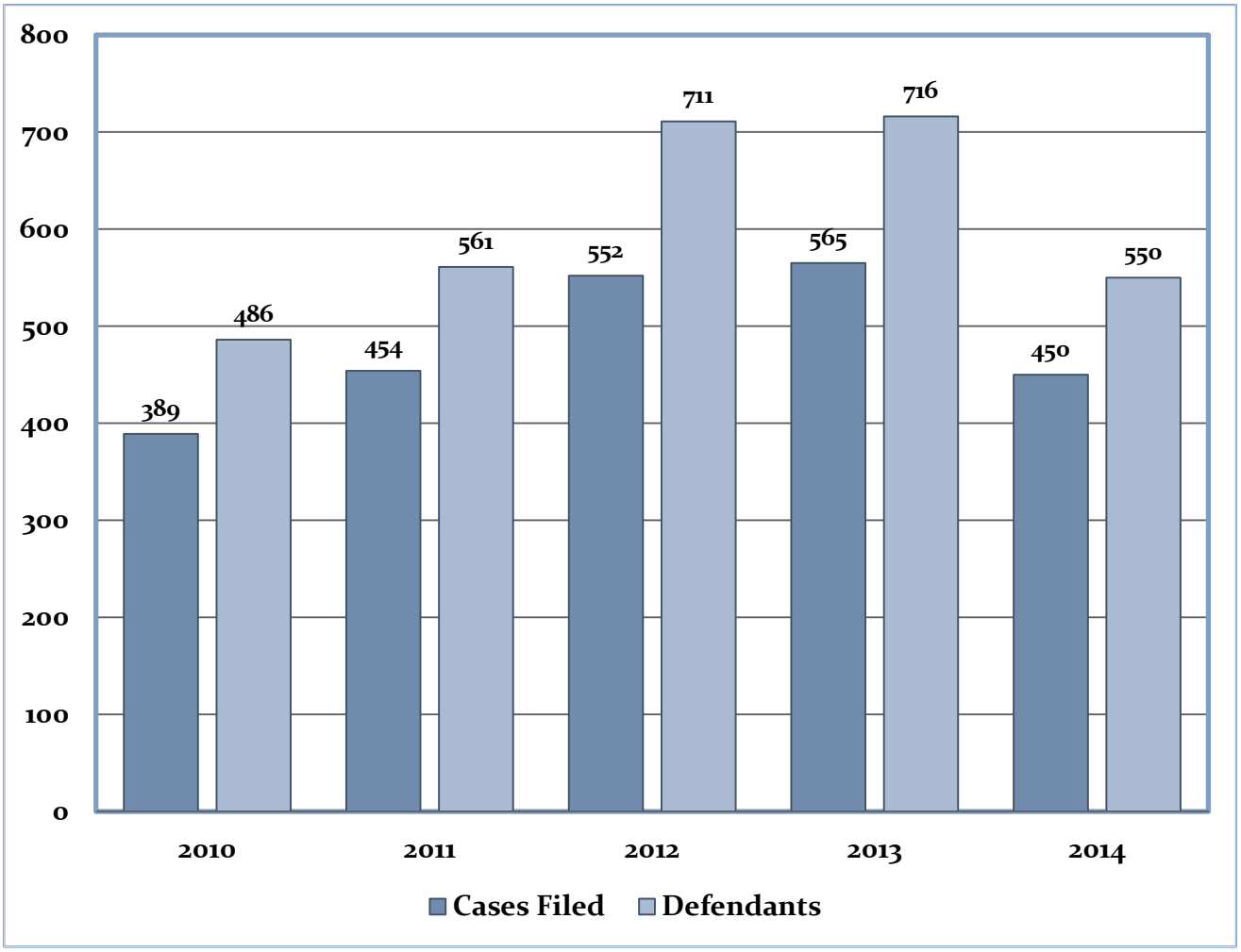
450 Total Cases Filed[1]



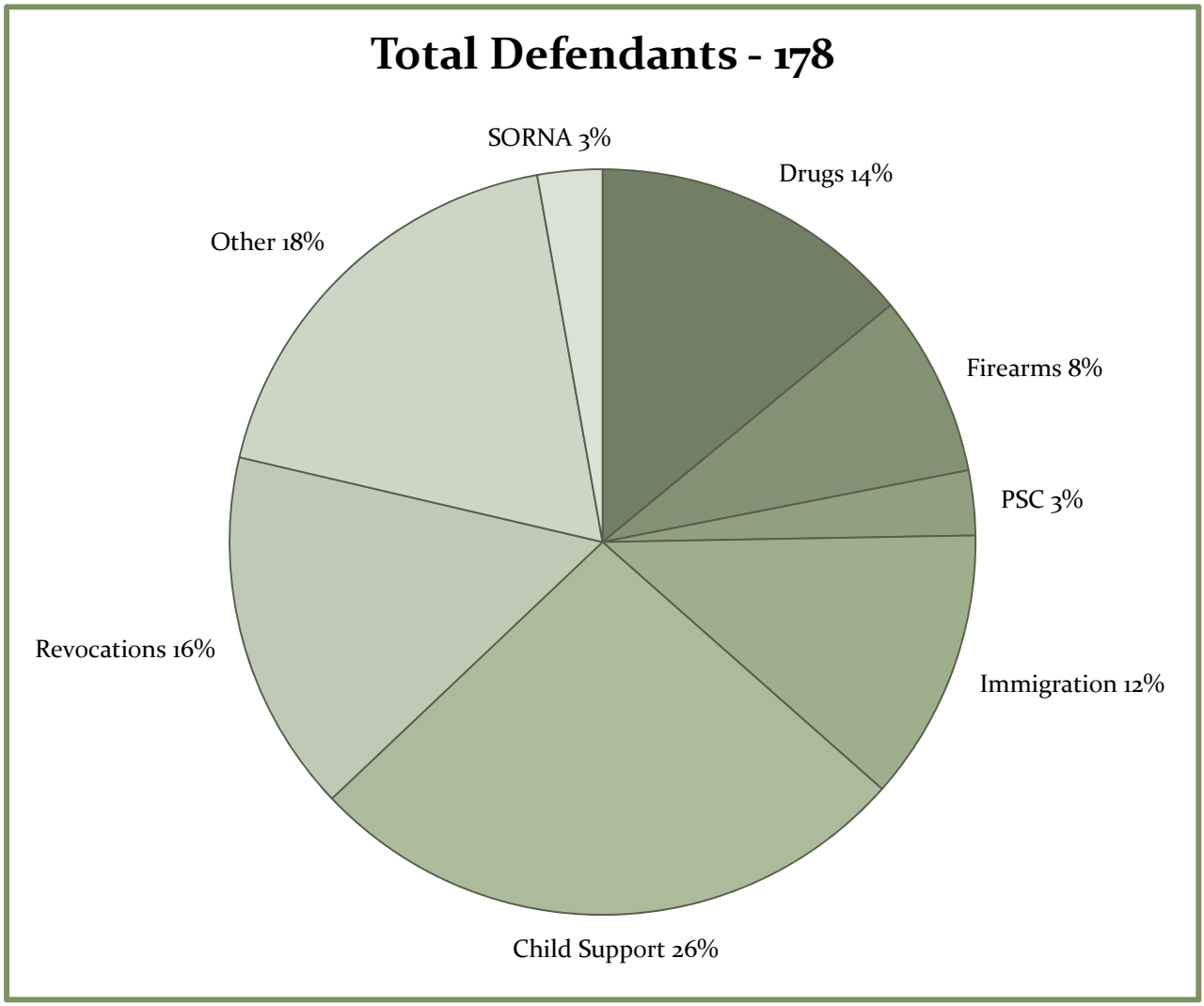
[1] Total cases filed FY 2014.

Cases & Defendants Filed

FY 2010 - 2014



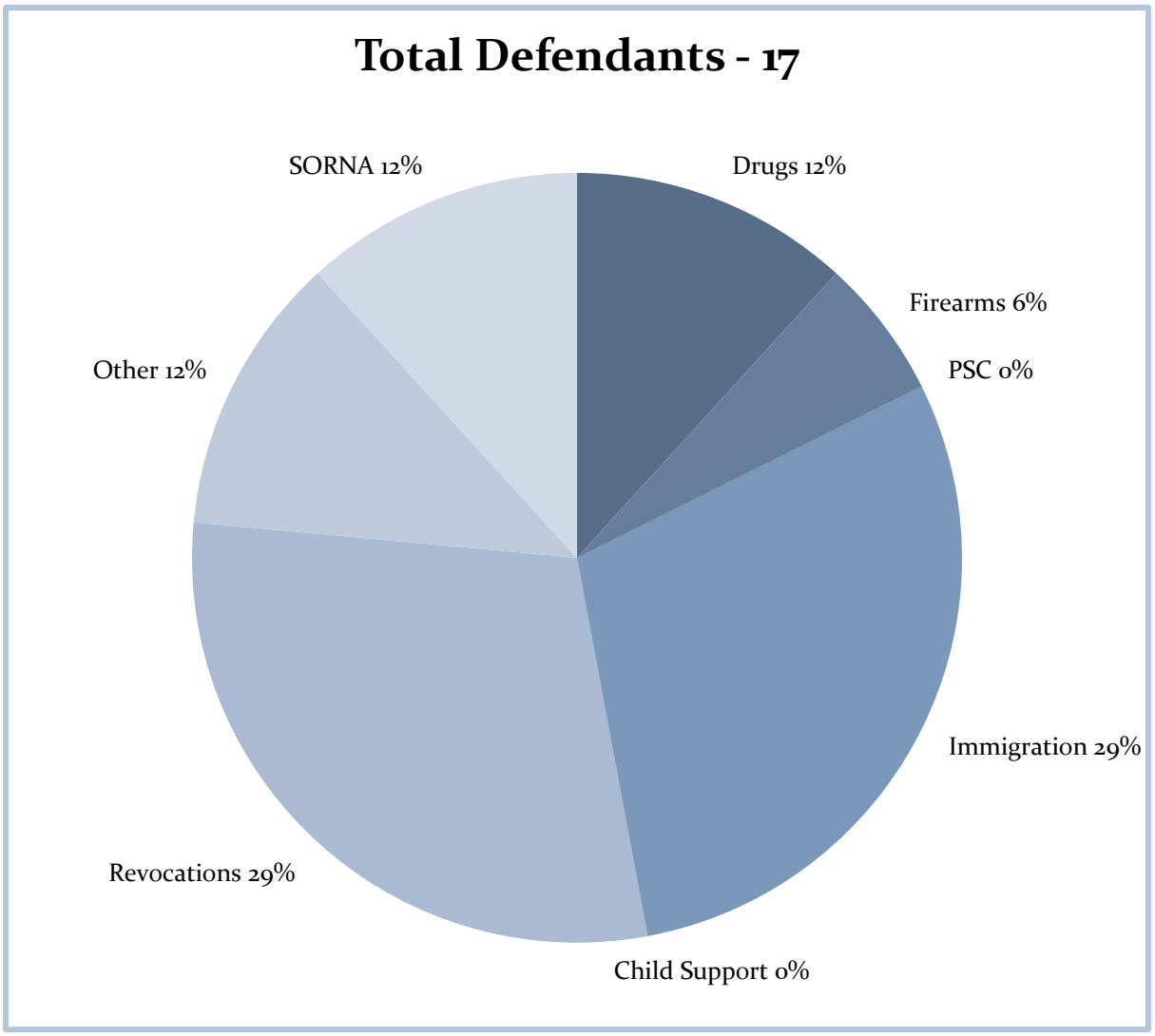
Non-Indian Country Defendants by Program Category Per Division[2] Southern Division



PSC (Project Safe Childhood) includes all cases concerning child pornography, sex trafficking, human trafficking, etc.

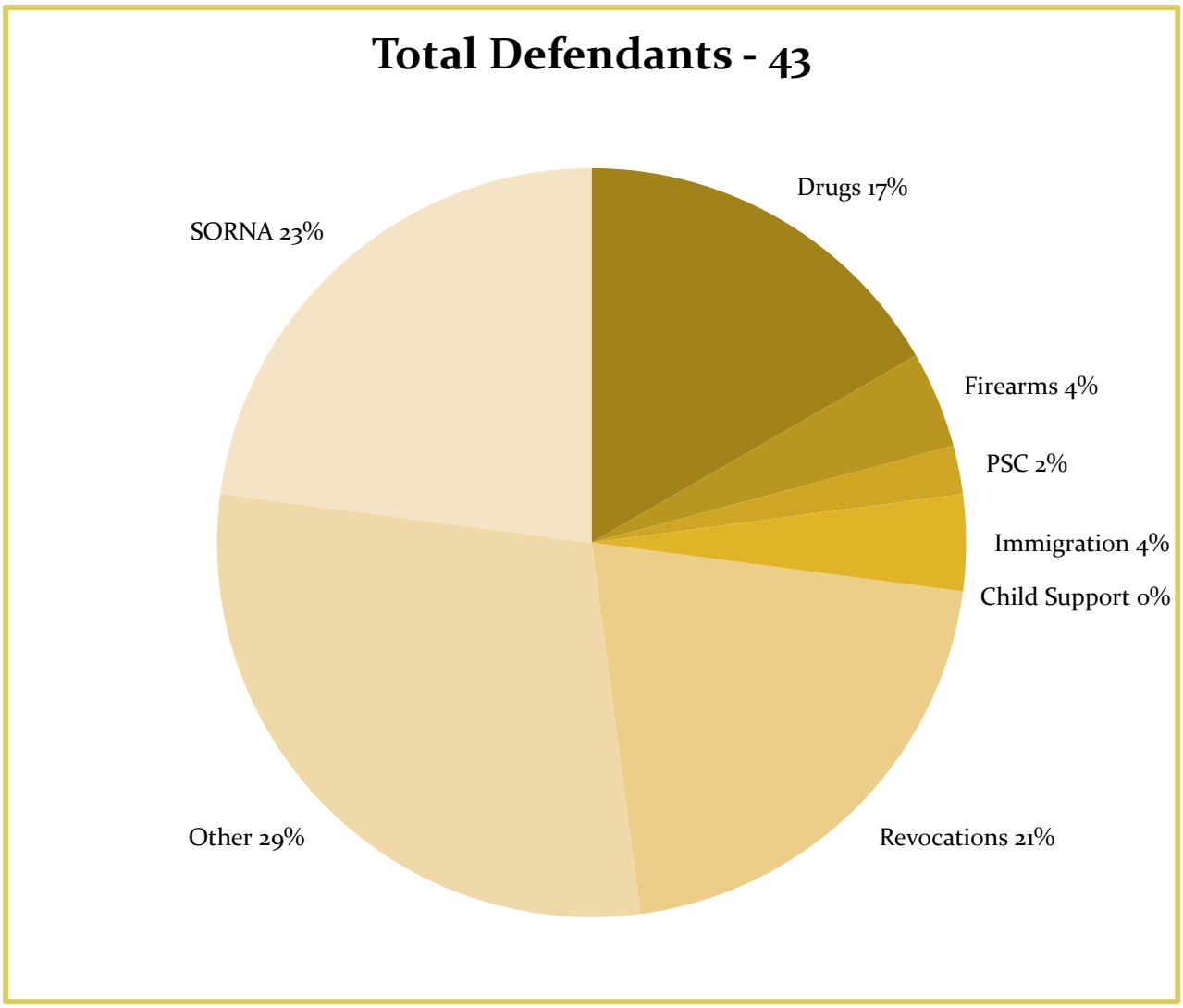
[2] Total cases file calendar year 2014

Northern Division



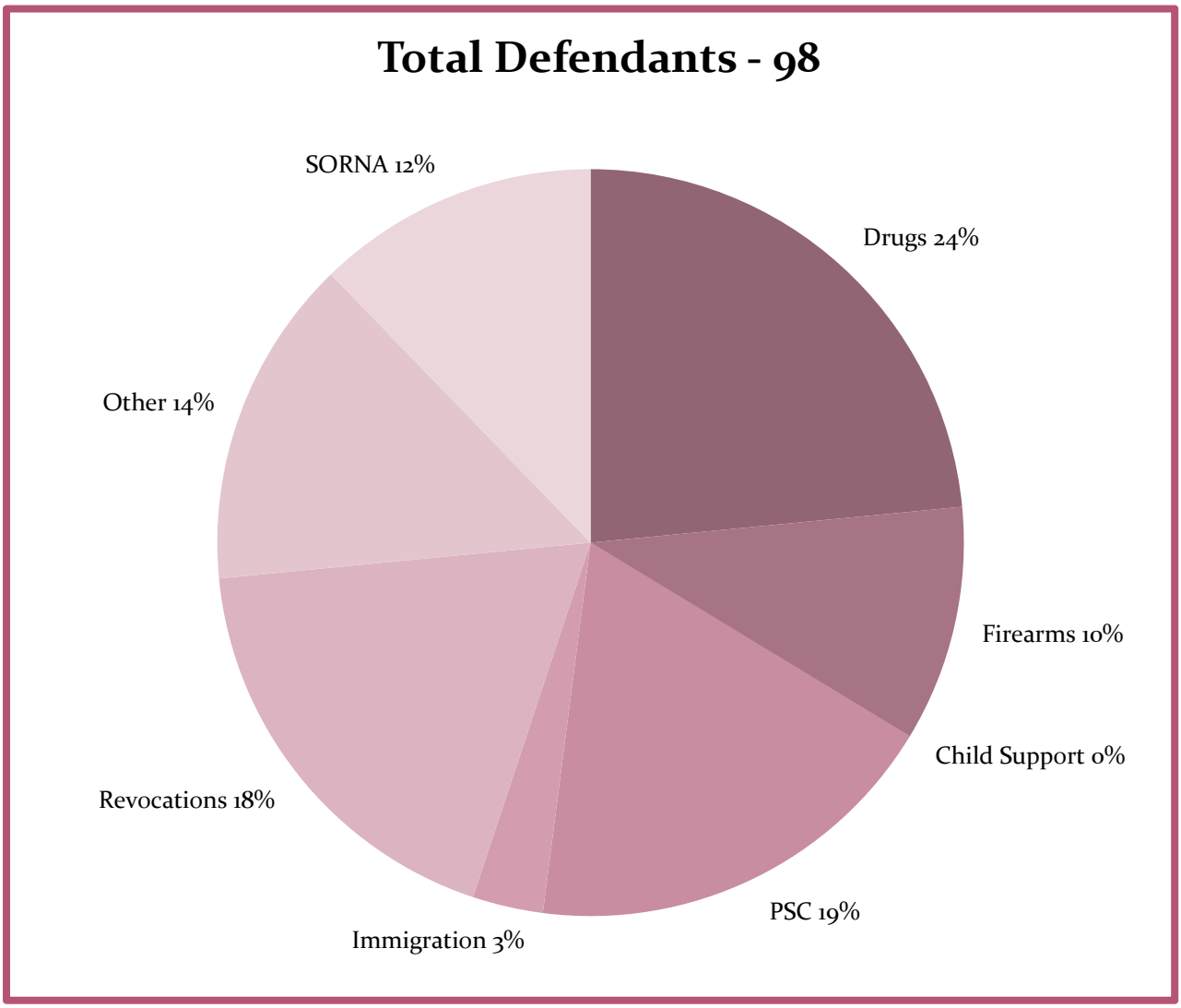
PSC (Project Safe Childhood) includes all cases concerning child pornography, sex trafficking, human trafficking, etc.

Central Division



PSC (Project Safe Childhood) includes all cases concerning child pornography, sex trafficking, human trafficking, etc.

Western Division



NON-INDIAN COUNTRY

Significant Cases

Fraud

Multi-Million Dollar Investment Fraud Scheme

A 65-year-old South Dakota farmer was convicted of conspiracy to commit wire fraud and mail fraud involving over $20 million dollars of investments into a hedge fund. The defendant created a hedge fund in 2007, and obtained investments from over 100 clients. As the president and founding member of the hedge fund, he operated the fund with the assistance of three other individuals in New York. Investors were told investments would be made in the futures market of the Standard & Poor's Index, but that only a small portion of their investment would be at risk. For four years, the defendant sent statements to investors showing positive growth of their investments. However, by 2011, all of the investors' money was gone. One of the co-conspirators turned himself in to authorities and later divulged some of the incriminating communications between those involved. Bank records revealed that the defendant had used money from new investors to pay off existing investors that were demanding their investment money. The defendant was sentenced to 108 months in prison and ordered to pay over $17,000 in restitution.

Stripper Commits Tax Fraud

A 42-year-old Canistota woman, employed as an exotic dancer, failed to file federal income tax returns from 2005 through 2008. By the time she filed all four tax returns at the same time in 2010, an IRS investigation was already underway. The investigation revealed that the defendant substantially underreported her income. Bank records showed that she failed to claim over $850,000 as income over the four-year period of time. The defendant claimed the money she received from performing "private shows" as an exotic dancer was a gift, not income. The jury did not believe her explanation and returned guilty verdicts on all four counts. She was sentenced to 33 months in custody and ordered to pay $214,000 in unpaid taxes.

Access Device Fraud (Social Security Fraud)

A 59-year-old Nisland woman pled guilty to access device fraud and was sentenced to 18 months of custody and ordered to pay $54,407 in restitution. The defendant stole the identity of a woman from Washington state in the late 1980's and used it through 2013.

Using the stolen identity, she applied for social security benefits. The benefits were granted and direct deposited into her bank account which she then accessed using bank debit cards.

Conspiracy to Defraud the United States



A 23-year-old Tampa, Florida, man convicted of conspiracy to defraud the United States and aggravated identity theft, was sentenced to 30 months in prison on the conspiracy charge, 24 months on the identity theft charge, and 3 years of supervised release. He was also ordered to make restitution to the Internal Revenue Service (IRS) and identity theft victims in amount of $421,832. The defendant and 10 others were indicted on the above charges by a federal grand jury in 2013. Several co-defendants, who are former members of the University of South Dakota football team, were involved in a scheme to defraud the United States by using personal identifying information, including names, Social Security numbers, and dates of birth of other individuals to file bogus income tax returns showing tax refunds due. The requested refunds total approximately $1 million, and the IRS paid fraudulent claims of over $400,000 before the fraud was discovered. As his part in the conspiracy, this defendant filed bogus tax returns using stolen identifying information received from a co-conspirator, kept the co-conspirator informed as to whether the returns were accepted by the IRS and, if so, to which address the refunds would be mailed. He also provided stolen identifying information to his co-conspirators.

Wire Fraud

- This case involves three defendants: a mother, father and their adult son. The defendant mother contacted the victim, a friend of the defendant's family who lived in California, and told him that she had a wealthy grandmother from whom she expected to inherit several million dollars. She asked the victim to provide her and her family with financial assistance until she received her inheritance, and assured him that he would be repaid from the inheritance. However, she had no such inheritance forthcoming.

  The victim agreed to provide the assistance with the understanding that he would be repaid from the inheritance. The mother defendant continued to request more and more money from the victim, claiming that the inheritance was being tied up in extensive litigation. The victim also recruited some of his friends to loan funds

to the defendant and her family, again with the understanding that they would be repaid from the inheritance. During the scheme, the defendant directed the victim and his friends to either send wire transfer instruments payable to the defendant, her husband, or their adult son, or to deposit funds directly into their bank accounts.

The defendants were indicted for conspiracy to commit wire fraud, wire fraud (as to mother defendant), and structuring currency transactions (as to the adult son). Mother and father defendants both pled guilty to the conspiracy charge. Their son pled guilty to larceny. Mother defendant was sentenced to 51 months' imprisonment to be followed by 3 years of supervised release. She was also ordered to pay restitution of $405,790. Her husband was sentenced to 3 years of probation and ordered to pay restitution of $35,832, and their son was sentenced to 3 years of probation and ordered to pay restitution of $10,130.

- A 37-year-old Sioux Falls woman was employed as the lead accountant for a construction company. In this capacity, she was responsible for managing and reconciling the company's accounts. From approximately June 2009 through July 2013, the defendant stole money from the Sioux Falls company by writing checks payable to herself or to other entities for her personal expenses. She disguised these checks as legitimate vendor payments in the accounting system or hid them in large batches of legitimate vendor or payroll checks in order to conceal her theft. She also used the company's debit card for her personal expenses. The defendant was indicted on eight counts of wire fraud, pled guilty to one wire fraud count, and was sentenced to 5 years of probation. She was also ordered to pay $158,710 in restitution.

Counterfeiting

- Making, Passing and Possessing Counterfeit Currency: In 2013, the Sioux Falls Police Department received reports that several area businesses had received counterfeit $20 bills. The investigation determined that one defendant made at least 116 counterfeit $20 bills that were passed at area businesses. This defendant also used some of the counterfeit bills he made to purchase drugs from two other defendants, who then passed the counterfeit bills at area businesses. Some of the counterfeit bills were used to purchase drugs from yet another defendant, who kept the bills in her possession. One defendant was indicted on one count of



making counterfeit currency, three counts of passing counterfeit currency, and one count of possession of counterfeit currency. He pled guilty to making counterfeit currency and was sentenced to 30 months' imprisonment, 2 years of supervised release, and was ordered to pay $560 in restitution. Another defendant was indicted on two counts of passing counterfeit currency, pled guilty to one passing count, and was sentenced to time served (6 months), 2 years of supervised release, and was ordered to pay $140 in restitution. The third defendant was indicted on three counts of passing counterfeit currency. He pled guilty to one passing count, was sentenced to time served (7 months), 2 years of supervised release, and was ordered to pay $200 in restitution. The other defendant was indicted on one count of possession of counterfeit currency, pled guilty to that count and was sentenced to time served (4 months) to be followed by 2 years of supervised release.

- Conspiracy to Pass Counterfeit Obligations: This 22-year-old Menomonie, Wisconsin, man was indicted for conspiracy to pass counterfeit obligations of the United States and passing counterfeit obligations. He was sentenced to 6 months in custody to run concurrent with a state sentence he will serve in Wisconsin, to be followed by 2 years of supervised release. He was also ordered to pay restitution in the amount of $400.

- Passing Counterfeit Obligations: The defendant and two co-defendants, a 22-year-old man from Minneapolis, Minnesota, and a 22-year-old man from Eau Claire, Wisconsin, passed counterfeit $100 bills at various businesses in Sioux Falls. The co-defendants pled guilty to one count of passing counterfeit obligations and were sentenced to 10 months and 24 months in custody, respectively. They were also ordered to make restitution.

Filing False Claims for Grant Money

A Hermosa man was convicted on 7 out of 10 counts relating to fraud in obtaining and use of a $100,000 grant from the National Science Foundation. A federal jury found him guilty of two counts of false claims, two counts of false documents submitted to a department or agency of the United States, two counts of fraud by wire, and one count of receiving stolen government money. He made materially false representations at various stages of the grant process in order to obtain the funds, and then utilized over $80,000 of the $100,000 for personal and non-grant-related expenditures. The defendant is awaiting sentencing and faces a maximum of 20 years on the highest count of conviction.

DRUG CASES

Operation Black Widow



A Watertown, man convicted of conspiracy to distribute a controlled substance was sentenced to 180 months in prison and 5 years of supervised release. The defendant was indicted for conspiracy to distribute 50 grams or more of methamphetamine and he pled guilty to the offense. This indictment was a result of Operation Black Widow, an extensive multi-year investigation into a wide variety of alleged criminal activity. The investigation resulted in nearly a dozen indictments for drug trafficking and firearm offenses. For his part in the Operation, the defendant provided at least 500 grams of "ice" methamphetamine (at least 80% purity) to various co-conspirators to distribute in South Dakota, and elsewhere.

The investigation was led by the U.S. Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF). ATF received significant assistance from other law enforcement agencies, including the Watertown Police Department, the Codington County Sheriff, the South Dakota Division of Criminal Investigation, and the Drug Enforcement Administration.

In December 2013, Heron Lake, Minnesota, law enforcement officers executed a search warrant at the defendant's home and found firearms, $49,420 in cash, drug ledgers, and approximately eight pounds of high-purity methamphetamine. Several sources of information had told police that the defendant was their methamphetamine supplier in Sioux Falls, and that he would frequently distribute methamphetamine around the city. The defendant was convicted of conspiracy to distribute 500 grams or more of methamphetamine at a jury trial. He was sentenced to 262 months imprisonment followed by five years of supervised release.

Conspiracy to Distribute a Controlled Substance

The 29-year-old defendant, from Korbel, California, who was convicted of conspiracy to distribute a controlled substance was sentenced to 60 months in prison, to be followed by 4 years of supervised release. The defendant agreed to forfeit to the United States all his interest in the proceeds of the sale of real property located in Petrolia, California, which he acquired as a result of his illegal activities. The defendant was indicted for conspiracy to distribute more than 100 kilograms of marijuana and conspiracy to commit money laundering. He pled guilty to the distribution conspiracy. The defendant joined a conspiracy to illegally distribute marijuana in South Dakota, and elsewhere. During his involvement, he grew, harvested, and obtained marijuana, illegally distributed it, caused

it to be illegally delivered and distributed, and received payments for it. Marijuana was grown and harvested, among other places, on the real property in California, and then illegally sold. The proceeds of the marijuana sales were used to make payments on the real property.

FIREARM OFFENSES

In 2010, the defendant was convicted of passing counterfeit currency. In July 2012, he was spotted by several eyewitnesses brandishing a gun at a fight across the street from an elementary school in Sioux Falls. The defendant ran from the scene and kept running once police arrived. Law enforcement officers eventually caught up with him, and the defendant was identified by all witnesses as the person they had seen pointing the gun. The 23-year-old Sioux Falls man was convicted of being a felon in possession of a firearm at a jury trial, and was sentenced to 78 months in custody and 3 years of supervised release.

Felon in Possession of a Firearm, Interstate Stalking

The defendant arrived at the Hughes County home of the victims, a married couple living in South Dakota, who had property in Alabama. The Alabama property included land, a shop, a lake house, boats, planes, industrial equipment, and tools. The defendant falsely claimed he was an FBI agent, and displayed FBI credentials, a firearm, a military ID, handcuffs, and said his name was "Agent Russ." He accused the victims of being involved in a drug trafficking or money laundering scheme and demanded that they accompany him to a polygraph examination in Sioux City, Iowa. They wanted to clear their name, so they got into the back seat of his vehicle. The defendant was driving the victims toward Sioux City, when he stopped at Humboldt, and informed the couple that he had received a call that cleared them of the drug investigation. He said a different arrest was in the process of being made, and he would return them home. He apologized, indicated he would buy them dinner, and would enter them into a victim compensation program for the inconvenience. The defendant learned the victims were shooting sport enthusiasts and had a knack for gunsmithing, so he left his sidearm with them, saying he wanted some trigger work done on the firearm.



For several months, the victims had trouble maintaining contact with "Agent Russ," and began to doubt he was an actual FBI Agent. The FBI began to track the defendant's travel to and from South Dakota. Federal search warrants were obtained for the defendant's home in Alabaster, Alabama. Numerous items of evidence were found, including fake FBI badges, fake military credentials, fake credentials for surgeons, fake Immigration and

Customs Enforcement uniforms and credentials, pepper spray, handcuffs, computers, and molds and materials to make other law enforcement badges and credentials. The defendant was also found to possess the victims' medical records, financial records, land records, plane records, boat records, and family heirlooms, including a photo album.



The defendant was tracked for three days and arrested after he fled from pursuing FBI agents through Confederate Memorial Park in Alabama. After his arrest, he sent a letter to a family member asking the family member to track down a laptop computer that he did not want law enforcement authorities to find. The laptop computer and other computer media seized from his home connected the defendant to a plot to defraud the victims by illegally transferring their Alabama real estate and other property and assets to himself and his land surveying business. The defendant used fake notary credentials to make transfer paperwork look legitimate. The defendant's associate testified at trial that the defendant wanted to take and sell the victims' Alabama property, so he traveled to South Dakota to determine if they had plans to come back to Alabama. Though incarcerated on other Alabama charges, the defendant sent a letter to the victims that served to threaten and intimidate them. The letter sought to have them stop cooperating with law enforcement authorities and withhold testimony. A superseding indictment alleging witness tampering was obtained. The defendant had three prior felony convictions from Alabama and was not a member of the military, despite the false credentials he possessed and displayed. After a five-day jury trial, he was found guilty of all charges, including felon in possession of a firearm, impersonating a federal officer, interstate stalking, and tampering with a witness. The jury also determined he should forfeit his interest in the gun that was left with the victims in South Dakota. He was sentenced to 70 months in custody, and 3 years of supervised release.

WILDLIFE CASES

Unlawful Killing of Migratory Birds and Lacey Act Violations

- DUCKS: Over the course of two years, the defendant operated a hunting/guide business in Northeast South Dakota where he would guide nonresident hunters on duck hunts. In two undercover duck hunts, he encouraged and allowed the hunters to exceed the daily bag limit for ducks. When they were over the legal limit, the defendant encouraged the hunters to give the ducks away so they could keep hunting. Each hunter paid the defendant a daily guide fee and lodging. He was sentenced to 2 years of probation to include no hunting and no guiding, $3,000 fine and $550 in restitution.



- GEESE: South Dakota Game, Fish, and Parks received information that the defendant, who was doing business as a custom meat shop, in Chester, was unlawfully selling wild game which had been received under the auspice of the Sportsman Against Hunger Program. Several undercover purchases, including goose jerky and deer meat, were made from the defendant's locker. A review of the defendant's Sportsman Against Hunger Program reports indicated he was consistently the lowest pounds per goose submitted to the program for reimbursement. In the last year, he was approximately 255 pounds short of goose meat. A search warrant was executed on the locker and 91 packages of goose jerky and 1,900 pounds of deer meat were seized. He was sentenced to 2 years' probation to include no hunting, $5,025 in restitution and a $3,000 fine. He was also banned from the Sportsman Against Hunger program for the term of his probation.



- HAWKS AND OWLS: A confidential source contacted the South Dakota Game, Fish and Parks officer for Meade County and reported seeing a hawk in a pole trap on property owned by the defendant. The investigation revealed that the defendant had two "pole traps" on his property, but he had recently taken them down. (A pole trap is a pole in the ground with a metal leg hold trap set on top of the pole. Raptors stand on the pole as a perch location and then the trap closes on the legs, usually breaking the legs of the bird). The defendant admitted to actively trying to kill owls on his property because he thought they were the worst bird God created. He admitted to killing multiple hawks and owls for the last several years. He stated the birds would get trapped in the pole traps and he would then shoot and kill the birds and dispose of them in the river that ran through his property. The defendant was sentenced to 1 year of probation to include no hunting, $17,500 in restitution and a $500 fine.



- WOLF: The defendant and several friends went on a moose hunt to Ontario, Canada. In Canada, it is legal to kill a gray wolf if you have the proper license and tag prior to shooting the animal. While moose hunting, the defendant saw a large wolf, and while knowing he did not have a license or tag and knowing it was illegal to kill the wolf, he shot and killed it. Once back at camp, he had a license and tag purchased for him and flown into camp the next day. At the border when crossing into the United States, the



defendant did not declare the wolf and did not have the proper CITES permit for the wolf. When he arrived in South Dakota, the defendant attempted to take the wolf to a taxidermist who advised him that he could not accept the wolf without the CITES permit. The defendant then contacted the U.S. Fish & Wildlife Service (USFWS) in an attempt to falsely get a CITES permit for the illegally killed wolf. He was sentenced to 1 year of probation to include no hunting, a $5,000 fine, and $750 restitution to Canada. As part of the plea agreement in this case, the defendant agreed to work with the Canadian officials to help in the prosecution of the guide and outfitters in Canada as it relates to the wolf and the illegal moose hunts.

- DEER, HAWKS, OWLS, BADGERS & TURKEYS: Eighteen individuals pled guilty and were sentenced in both state and federal courts to fines, restitution, and civil damages in excess of $235,000 for wildlife violations that occurred at a commercial hunting operation in Todd County, South Dakota. The investigation, which was conducted by the USFWS, South Dakota Department of Game, Fish and Parks, Iowa Department of Natural Resources, and the Rosebud Sioux Tribe, revealed that the defendants hosted paying hunting clients from Michigan, Texas, and New Jersey for guided deer and pheasant hunts on their property known as Rock Creek Ranch. The investigation showed that the defendants, along with several of their hunting clients, unlawfully killed and possessed a minimum of 56 deer, hawks, owls, badgers, and turkeys. The value of the wildlife was over $70,000.



The defendant pled guilty in federal court to a felony charge of conspiracy to violate the Lacey Act and multiple counts of unlawful possession of wildlife in state court. He was sentenced to two months in custody and ordered to pay $92,285. The co-defendant pled guilty in federal court to violating the Migratory Bird Treaty Act and unlawfully transferring a hunting license in state court. She was sentenced to probation and ordered to pay $10,500.



Sixteen other defendants also pled guilty to state and federal wildlife violations as a result of the investigation and were

sentenced to fines ranging from $500 to more than $26,000 per person. Collectively, the defendants in this case had their hunting privileges revoked for 45 years and were additionally sentenced to 19 years of probation.

Bald and Golden Eagle Act Violation

- BALD EAGLE: A complaint came into the local Game, Fish and Parks (GFP) office about dead deer on property leased by the defendant. While on the property looking for the dead deer, the officer found the carcass of a mature adult bald eagle. That same day, the defendant came into the GFP office to complain of eagles killing deer on his property and wondering what he could do about it. Further investigation by the USFWS revealed that the defendant routinely shot at hawks and other migratory birds on his property. He admitted to shooting and killing the bald eagle found on his property and was sentenced to 1 year of probation to include no hunting, $10,000 in restitution and a $500 fine.



HEALTH CARE FRAUD

- The 59-year-old defendant from Sioux Falls, was sentenced to 2 years of probation and fined $250 after being convicted of making false statements relating to health care matters and obtaining controlled substances by fraud. The defendant, a Medicare beneficiary, presented himself to multiple physicians at multiple facilities, complaining of pain and seeking prescription pain medications, including Hydrocodone and Oxycodone. To obtain the prescriptions from the different doctors, he falsely represented to the physician that he was not taking any other prescription pain medications.



- The defendant entered a plea of guilty to theft involving a health care organization, and agreed to pay approximately $5 million in restitution to Medical X-Ray Center. Between approximately April 2008, and November 29, 2012, the defendant was employed as the business manager for Medical X-Ray Center, P.C., Sioux Falls. Between approximately April 2008 November 12, 2012, and before that time frame, he embezzled for his own use, money belonging to Medical X-Ray Center, P.C., and did so by depositing checks made out to Medical X-Ray Center, P.C., into his personal bank account. The funds were then spent by the defendant

for personal expenses, or transferred to bank accounts including the bank accounts listed in the forfeiture allegation of the indictment. The defendant was sentenced to 36 months in custody, and ordered to repay $4.9 million in restitution. He also agreed to forfeit approximately $4.5 million in assets, and our office is requesting that those funds be applied toward the restitution in this case.

IMMIGRATION

Conspiracy to Harbor Aliens
Continuing Unlawful Employment of Aliens

The defendants were owners and employees of several logging companies that were awarded United States Forest Service contracts for thinning in the Black Hills National Forest. The contracts provided that it was unlawful for contractors to hire undocumented and unauthorized aliens who were not eligible for employment in the United States. The contracts also provided that contract recipients were required to pay prevailing wages and benefits to all employees. The owners of the companies knowingly hired dozens of unauthorized aliens, paid them less than prevailing wages, failed to pay overtime wages, and failed to provide benefits required under the contracts. The company owners paid employees under fictitious names or made checks out to other workers for distribution to unauthorized alien employees, intending to hide the unauthorized alien workers' status. The companies electronically submitted invoices and requests for payments on the contract awards, certifying the amounts requested were for performance in accordance with the terms and conditions of the contracts. Other defendants were lower-level employees of the companies who participated in harboring unauthorized aliens by making arrangements for payment of wages in cash or outside the contract requirements. The primary company owners pled guilty to making false statements to an agency of the United States or misprision of a felony. The primary company owners received sentences ranging from a term of probation to 12 months in custody, were ordered to pay over $1 million in restitution, and to forfeit over $626,000 in cash and equipment. The employees and other defendants pled guilty to continuing unlawful employment of aliens and received fines or were ordered to forfeit equipment and cash.



Illegal Reentry After Deportation

The defendant, a citizen of Nicaragua, was arrested in Hamlin County, after having been deported from the United States in 2009 and then re-entering the United States without permission of the government. He had previously been convicted of felonies in Missouri, which increased the potential maximum sentence. The defendant was sentenced to 33 months in custody.

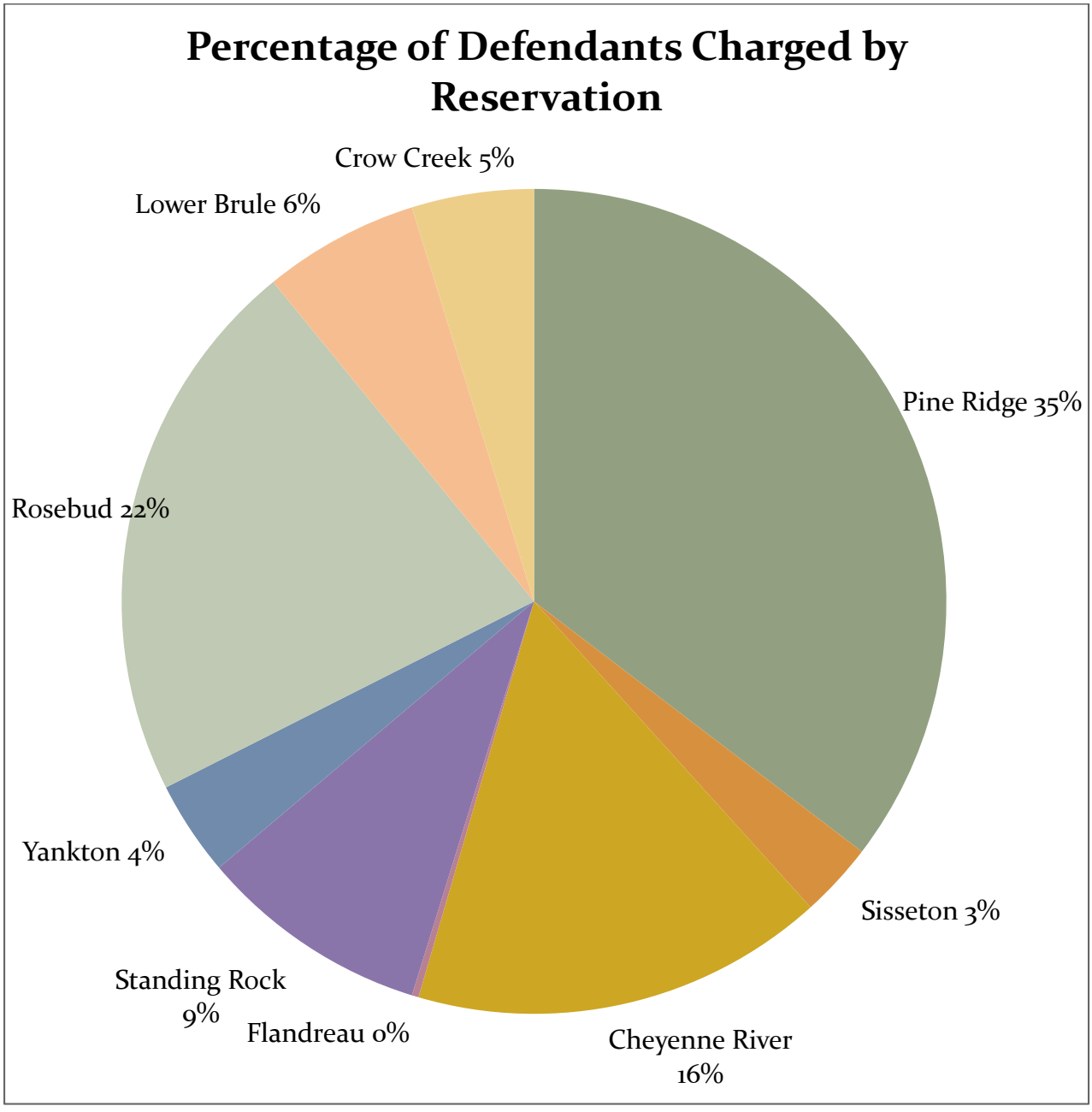
PROJECT SAFE CHILDHOOD

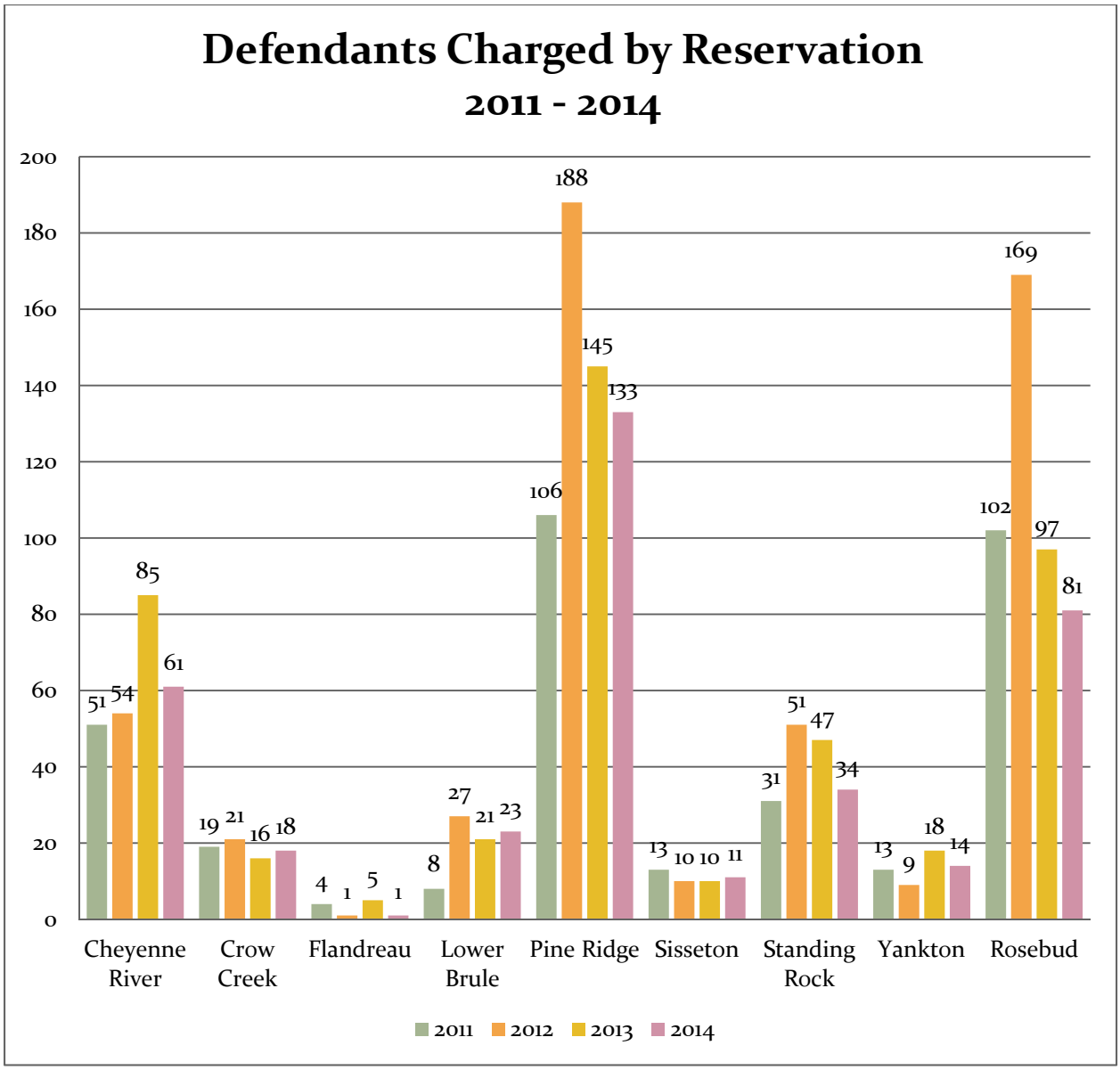


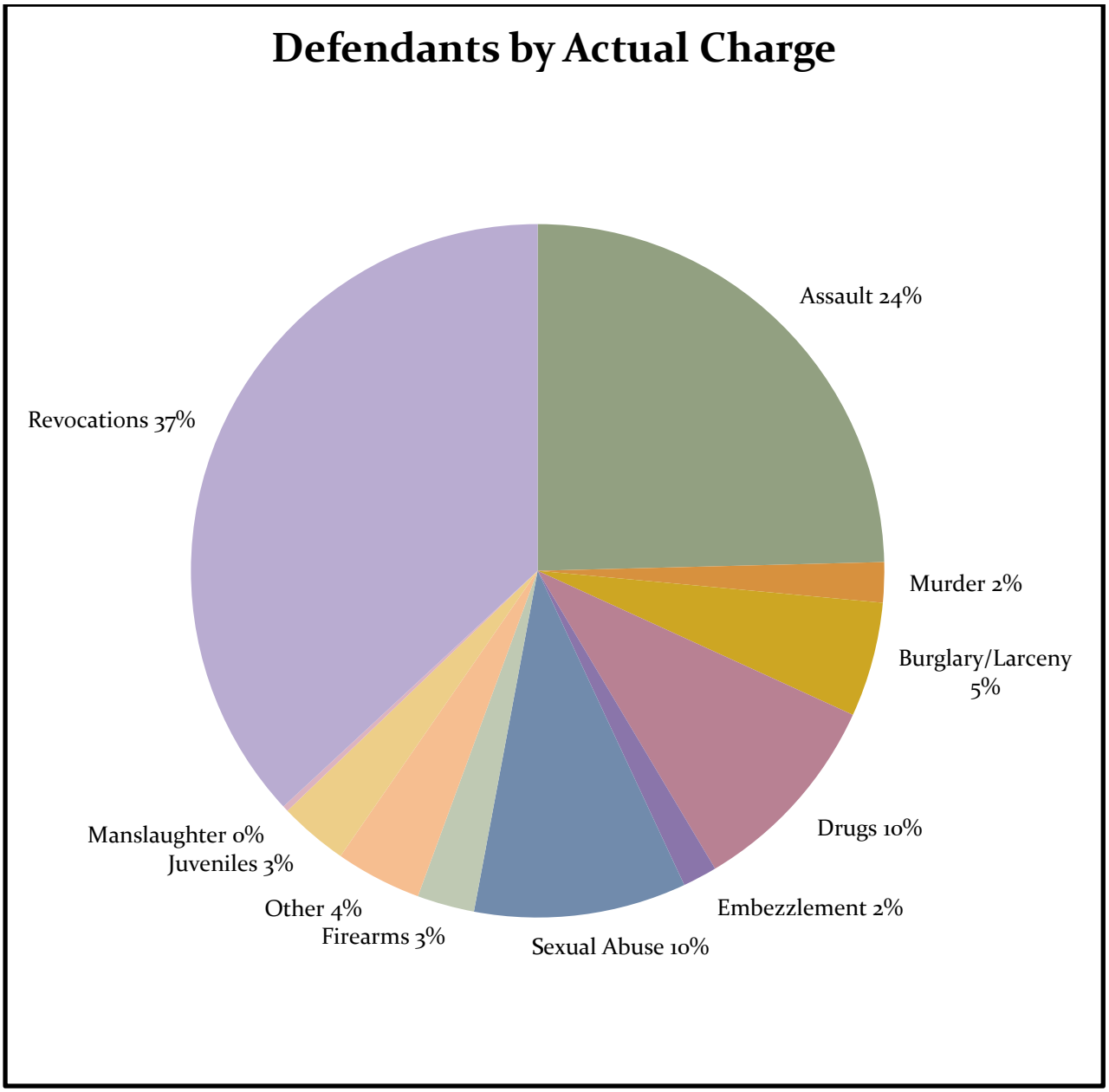
Receipt of Child Pornography: Between November 2012 and January 2013, the defendant lived in Sioux Falls, and used his computer devices to receive and possess images of child pornography. Facebook was one internet tool he used. Using various aliases, he would actively barter and trade for child pornography. He pled guilty to receipt of child pornography, and was sentenced to 168 months in custody, 5 years of supervised release, and with this conviction, will be required to register as a sex offender upon his release from prison.

Possession of Child Pornography: The defendant made several trips from South Dakota to Guatemala to engage in physical and sexual abuse of young boys. He is under indictment for production of child pornography, travel with intent to engage in illicit sexual activity and possession of child pornography. He was indicted in the spring of 2014 and is awaiting trial. He faces a mandatory 15 years in prison on the highest count.

STATISTICAL HIGHLIGHTS
INDIAN COUNTRY
Calendar Year 2014




Defendants Charged by Reservation
2011 - 2014
200
180
160
140
120
100
80
60
40
20
0
51 54 85 61
19 21 16 18
4 1 5 1
8 27 21 23
106 188 145 133
13 10 10 11
31 51 47 34
13 9 18 14
102 169 97 81
Cheyenne River
Crow Creek
Flandreau
Lower Brule
Pine Ridge
Sisseton
Standing Rock
Yankton
Rosebud
2011
2012
2013
2014


Defendants by Actual Charge
Assault 24%
Murder 2%
Burglary/Larceny 5%
Drugs 10%
Embezzlement 2%
Sexual Abuse 10%
Firearms 3%
Other 4%
Juveniles 3%
Manslaughter 0%
Revocations 37%

DEFENDANTS CHARGED BY PROGRAM CATEGORY

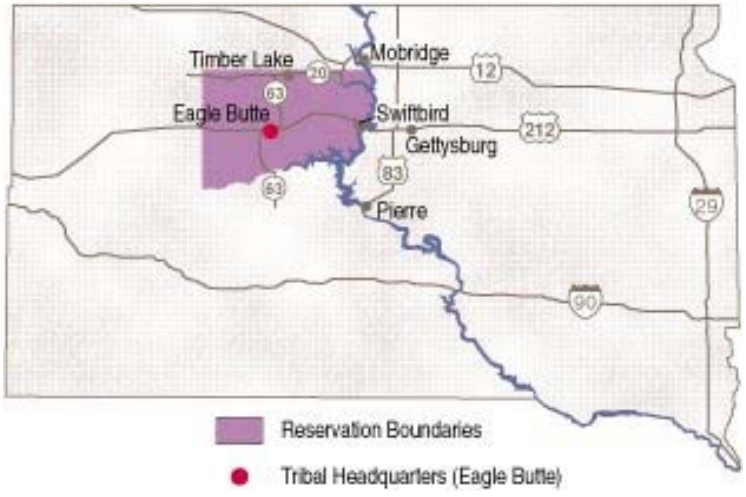
Reservation	Assault	Burglary/ Larceny/ Embezzlement	Drugs	Firearms	Juveniles	Manslaughter/ Murder
Cheyenne River	18	4	0	3	6	0
Crow Creek	6	1	5	0	0	0
Flandreau	0	0	0	0	0	0
Lower Brule	8	1	4	0	0	0
Pine Ridge	21	7	15	3	0	1
Rosebud	19	6	4	3	5	5
Sisseton	0	3	0	0	1	2
Standing Rock	19	4	0	1	0	0
Yankton	1	0	8	0	0	0
Totals	92	26	36	10	12	8

Reservation	Other	Revocations	Sexual Abuse of Minor	Rape Adult	SORNA	Total
Cheyenne River	2	18	6	3	1	61
Crow Creek	0	5	1	0	0	18
Flandreau	0	1	0	0	0	1
Lower Brule	2	6	2	0	0	23
Pine Ridge	6	68	7	5	0	133
Rosebud	2	33	2	1	1	81
Sisseton	2	2	1	0	0	11
Standing Rock	0	2	5	3	0	34
Yankton	1	3	1	0	0	14
Totals	15	138	25	12	2	376

SOUTH DAKOTA RESERVATIONS

Cheyenne River Sioux Reservation

The Missouri River borders its eastern edge, the rugged Cheyenne River forms its southern border, and the Moreau River flows through the heart of the reservation. This land of sprawling prairies and abundant waters is home to the Cheyenne River Sioux Tribe. Creeks with names like Red Earth and Thunder Butte flow through the "Wakpa Waste Oyanke" or "Good River Reservation." The total land area is 4,266.987 square miles, making it the fourth-largest Indian reservation in land area in the United States.



Significant Cases

Sexual Contact of a Child

The 31-year-old defendant was convicted of sexually abusing two sisters at Dupree. The defendant would visit the home where the children were living, and on numerous occasions take the six- and four-year-old females to the basement and force them to engage in sexual acts with him. The children's mother often was upstairs drinking with other adults. When he was a juvenile, the defendant also sexually abused three of his nieces and nephews. That case was handled by the Tribe. The defendant pled guilty to sexual contact of a child by force and sexual contact with a child by fear. He was sentenced to 156 months of custody and 5 years of supervised release.

Involuntary Manslaughter

The 21-year-old defendant, who had a history of driving too fast, left a Dupree High School football game with his friend to round up some horses for a sale the next day. He came upon a tractor pulling a hay bale wagon on a gravel road several miles southeast of Dupree. He went into the ditch, popped back up onto the road, and accelerated to 78 miles per hour. The defendant remained on the wrong side of the road up a hill where he ran his vehicle head on into a van driven by a mother and adult daughter. The crash seriously injured both ladies in the van and caused the defendant's passenger to be flung into the windshield and dash causing multiple blunt trauma injuries. The defendant's passenger died at the scene of the crash. The defendant pled guilty to involuntary manslaughter and was sentenced to 12 months and one day in custody to be followed by 2 years of supervised release.

Assault Resulting in Serious Bodily Injury

The 20-year-old defendant and several others were celebrating his recent wedding, when he got into a verbal altercation with his friend. After the argument, the defendant's friend went back to his house and got an iron bar. When the friend returned, the argument continued. The defendant took the iron bar away from his friend and hit, kicked, and beat his friend until he no longer moved. The beating caused multiple hematomas to the victim's brain, three lacerations to his scalp, and multiple contusions and abrasions all over his body. The victim went into a coma and incurred irreparable brain damage as a result of the assault. The defendant pled guilty to assault resulting in serious bodily injury and was sentenced to 40 months of custody and 3 years of supervised release.

Sexual Contact by Force

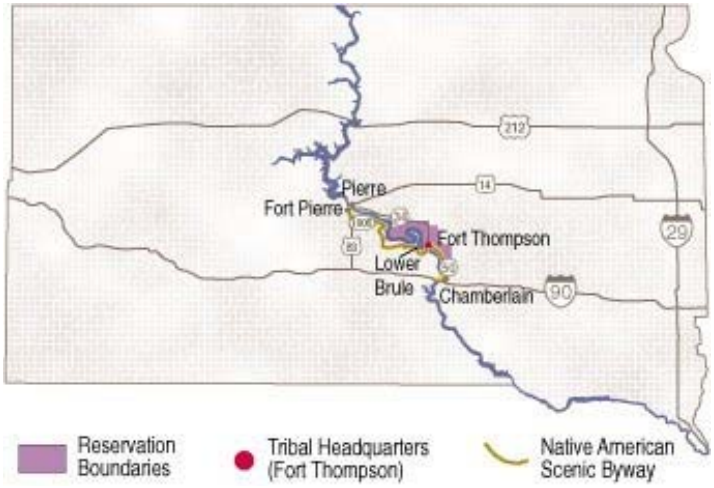
The 24-year-old defendant went to a drinking party at the victim's house. Once there, he followed the victim into her bedroom and sexually assaulted her. At one point, he struck her on the head with a beer bottle. As she tried to fight back, others at the party heard her cries for help, broke down the bedroom door, and forced the defendant to leave. The defendant pled guilty to sexual contact by force and was sentenced to 120 months of custody and 5 years of supervised release.



Crow Creek Sioux Reservation

The Crow Creek reservation is located in Buffalo, Hyde, and Hughes Counties along the north shore of the Big Bend stretch of the Missouri River in central South Dakota. It has a land area of 125,591 acres and is home to the Mdewakanton (People of Spirit Lake) and Ihanktonwan (People of the End) bands. The Crow Creek reservation is the third smallest reservation in South Dakota.

When originally established in 1889 as a result of the Treaty of 1868, it was much larger. It is directly across the river from the Lower Brule reservation, and the two were combined for many years, separating administratively in 1971.



Significant Cases

Assaulting a Federal Officer and Discharge of a Firearm During a Crime of Violence

This conviction stems from a standoff the defendant had with law enforcement in October of 2013, at a Pierre residence. The standoff followed a high speed chase that ensued when law enforcement attempted to serve an arrest warrant on an individual. When the individual's car was located, police discovered it was being driven by the defendant. Police attempted to execute a traffic stop on the vehicle, but the defendant led police on a high speed chase, which was aborted on east Highway 34. The Bureau of Indian Affairs (BIA) soon discovered the vehicle on the Crow Creek Reservation, and a new pursuit ensued. While in pursuit, the defendant made multiple phone calls to his cousin, who came to aid the defendant in the pursuit by firing on law enforcement. Two U.S. Marshals' and one BIA officer's vehicles were shot at with one bullet passing between the officer and the steering wheel of the vehicle. This action by the defendant's cousin allowed the defendant to flee the scene. The next day, the defendant was located at a residence in Pierre, and a SWAT team was called in to assist in the defendant's apprehension. When the SWAT team, which consisted of officers from state, local, and federal agencies, entered the residence, the defendant fired multiple shots from a Benelli shotgun and a Hi-Point handgun, injuring two officers. The defendant eventually surrendered and was taken into custody. He was sentenced to 20 years in custody on the federal offenses. This sentence will run consecutive to the 25-year sentence he received on the state charges.

Domestic Assaults by Habitual Offender

- The defendant and victim have been in a dating relationship for several years. They have two young children together and were most recently living together in Fort Thompson. There have been multiple calls to law enforcement when the defendant has assaulted the victim. He has three prior convictions in Crow Creek Sioux Tribal court for assaulting this same victim. The instant offense began at a graduation party when the defendant walked up to the victim and punched her in the face because she did not want to leave the party. Later that night, the defendant and the victim began to argue and again the victim was assaulted. She was able to get away and law enforcement was called. Before they arrived, the defendant smashed out the windows of the victim's vehicle with a baseball bat. The defendant was indicted on federal charges and following a three-day jury trial, was convicted of two counts of domestic assault by an habitual offender and one count of simple assault. The defendant was sentenced to 41 months in custody.

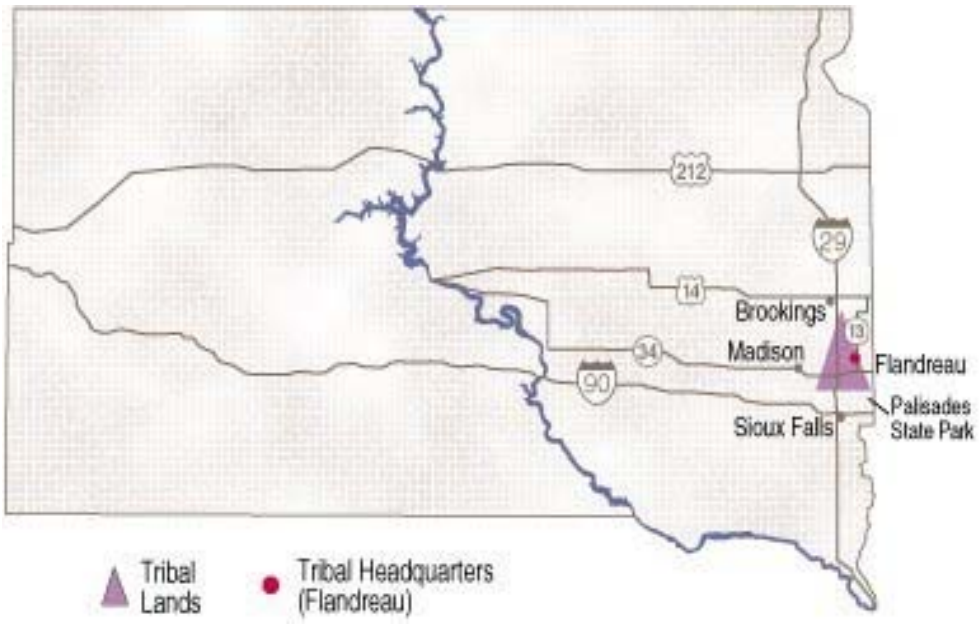
- Law enforcement was summoned to the defendant's home after he assaulted his girlfriend and their toddler-aged children. The assault started after the victim took the babysitter home. When she arrived back home, the children were home alone and crying. The defendant arrived home a short time later, upset, and began hitting and kicking his girlfriend. The defendant also hit the two boys. After hitting the victim and their children, the defendant retrieved a kitchen knife and threatened to kill them and then kill himself. The victim kept trying to protect her children and was yelling at the defendant to stop. At the time of this assault, the defendant had two prior convictions in Crow Creek Sioux Tribal court for assaulting a different girlfriend. The defendant was sentenced to 33 months of custody.

- The defendant and the victim, his girlfriend of three years, were at his grandmother's house in Fort Thompson. While inside the house, the defendant began to assault his girlfriend by punching and kicking her. The victim was seen at the hospital and she was diagnosed with an orbital fracture and three fractures to her nose that would require surgery to repair. At the time of this assault, the defendant had two prior convictions for domestic abuse in Crow Creek Sioux Tribal Court. He was sentenced to 30 months of custody.



Flandreau Santee Sioux Reservation

The Flandreau Santee Sioux Tribe is comprised primarily of descendants of "Mdewakantonwan," a member of the Isanti division of the Great Sioux Nation. They refer to themselves as Dakota, which means friend or ally. The Flandreau Santee Sioux Indian reservation is 5,000 acres of combined trust and fee tribal land located along and near the Big Sioux River in Moody County, South Dakota. The region is known as the Prairie Coteau, which consists primarily of undulating or gently rolling land.



Significant Cases

Assault with a Dangerous Weapon

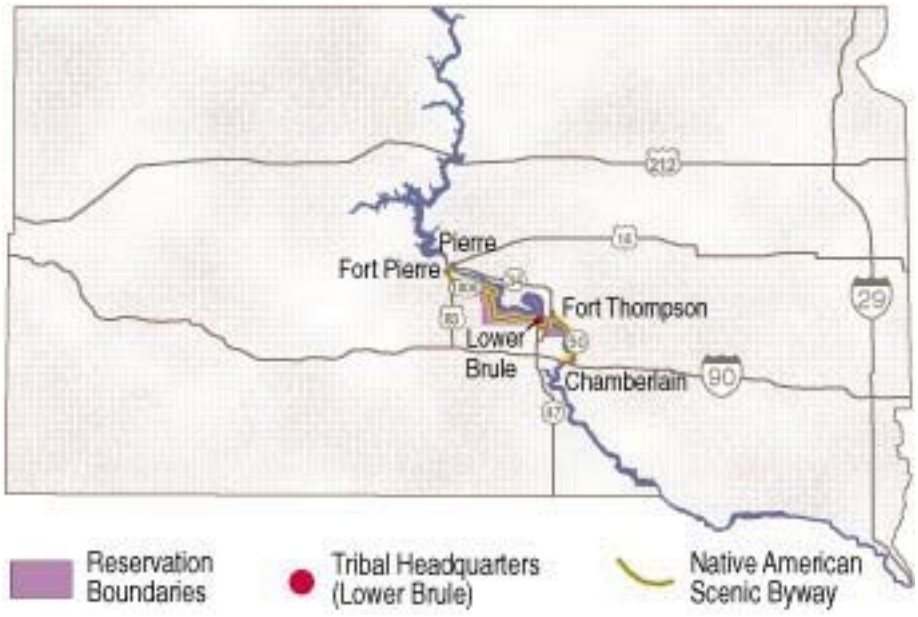
Over the course of a year, the defendant got into a number of fights with his girlfriend, each of which led to her calling the police. During some of these incidents, the defendant broke a window out of her house and other times assaulted her by beating and kicking her. The defendant was indicted in federal court for burglary, assault with a dangerous weapon and aggravated sexual abuse. He pled guilty to assault with a dangerous weapon and was sentenced to 24 months in custody to be followed by 3 years of supervised release.



Lower Brule Sioux Reservation

The Lower Brule reservation is located in Lyman and Stanley counties in central South Dakota and is home to members from the Sicangu band.

The name "Brule" comes from the French word *brulé* (burnt), the name French fur traders used for the Sicangu in the late 1600s. The Sicangu divided into the Lower Brule and the *Heyata Wicasa*, or Upper Brule, in the late 1700s. The Lower Brule favored lands where the White River empties into the Missouri River, while the Upper Brule lived further south and west.



Significant Cases

Sexual Contact with a Minor

This conviction stems from an incident where the victim, who is under the age of 12, was sleeping on a couch at his home while members of his family, including the defendant and the victim's uncle, were drinking alcohol. The victim woke up to the defendant rubbing his crotch area. The frightened victim fled the house and called law enforcement. The defendant followed the victim to a relative's home and attempted to calm him down. He was charged in federal court and sentenced to 30 months in custody.

Assault Resulting in Substantial Bodily Injury to a Dating Partner

The defendant and the victim, who have been in a relationship since 2009, began to argue. The victim gathered up her things and their toddler-aged children and attempted to leave the residence. The two began to argue again. The defendant picked up the victim and threw her to the floor, knocking the wind out of her. He then came up behind her and began to strangle her. He squeezed her neck until she was unconscious. When the victim regained consciousness, she and her children left the residence. The defendant was sentenced to 15 months in custody.

Assault with a Dangerous Weapon and Simple Assault of a Minor

The victims, the defendant's wife and her 11-year-old son lived together in Lower Brule. The defendant is a non-Indian and the two victims are Indians. There have been calls of domestic violence in the past, but due to the jurisdictional issues, tribal law enforcement would drive the defendant to the reservation line and drop him off. During the instant offense, the defendant woke his wife up and dragged her from bed stating he wanted to rape her. The parties then argued. The defendant, who became very angry, grabbed his wife by the hair and began to assault her. He grabbed her by her ears, pinned her on the couch, and head butted her forehead and face. She broke free and ran out the front door. The defendant followed her, shoved her up against a vehicle, and pulled a tool from his pocket and held it under his wife's chin. She continued to fight with him. In an attempt to protect his mother, the victim's son grabbed the defendant and tried to pull him off her. The defendant then turned to the son, grabbed him around the neck with both hands and dug his nails into his neck while squeezing. Eventually, the defendant released the son and the two victims were able to get away. The defendant was sentenced to 18 months in custody.

Statutory Rape

The conviction stems from an incident that happened when the defendant and co-defendant were having a party at the defendant's house. Several adult males invited several juvenile females to the home for a drinking party. At the party, the defendant had sexual intercourse with an underage female victim. The victim testified she felt she was

pressured into having sex with the defendant due to her intoxication level. He was sentenced to 22 months in custody.

Possession of Firearm by a Prohibited Person

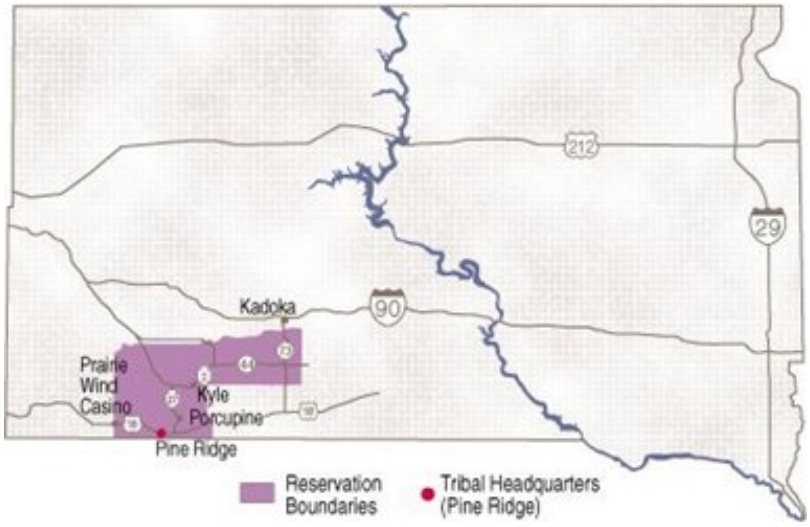
The 25-year-old defendant was sentenced to 17 months in custody after being indicted for possession of a controlled substance analogue, use of a communication facility in causing or facilitating the commission of a felony under the Controlled Substances Act, and possession of a firearm by a prohibited person. The conviction arose when the defendant was arrested for driving without a license. Inside his vehicle, officers found a Fed-Ex package addressed to him with a return address for a location law enforcement recognized as being a distributor of synthetic marijuana. The defendant consented to a search of the package. The package contained a controlled substance analogue. The defendant then consented to a search of his residence where law enforcement discovered controlled substances, drug paraphernalia and a .44 magnum revolver.



Pine Ridge Reservation

The Pine Ridge reservation is the home of the Oglala Sioux Tribe. The reservation is located in Oglala Lakota County (formerly Shannon) and Jackson County in southwestern South Dakota.

The Pine Ridge reservation consists of 3,468 square miles of land area, the eighth-largest reservation in the United States. In fact, the reservation is larger than Delaware and Rhode Island combined.



Significant Cases

Assault with a Dangerous Weapon

After a night of drinking with friends, the defendant went home to get his EBT card from his juvenile girlfriend. When she refused to give it to him, the defendant slapped her. The defendant dragged his girlfriend by her hair from one room to another, and then repeatedly slapped, punched, and kicked her. The assault resulted in the victim receiving a severely bruised eye that was swollen shut and numerous bruises all over her upper body. The defendant was charged with assault with a dangerous weapon and assault resulting in substantial bodily injury to an intimate or dating partner. After indictment, the defendant pled guilty to assault with a dangerous weapon and was sentenced to 30 months of imprisonment and 3 years of supervised release.

Assault Resulting in Serious Bodily Injury

The defendant was riding around and drinking with a friend when they saw the defendant's girlfriend walking down the street. The girlfriend got into the van when the defendant accused her of cheating on him. When the van stopped at a residence, the defendant's friend got out of the van. The defendant became angrier with the victim and proceeded to beat her. The victim suffered multiple fractures to her nose, jaw, and skull. The defendant pled guilty to assault resulting in serious bodily injury and was sentenced to 57 months of imprisonment and 3 years of supervised release.

Assault Resulting in Serious Bodily Injury

The defendant became intoxicated while out with friends. As the group continued to drink, the defendant became angry with one of the women in the group. The defendant kicked the woman in the head and arms, knocking her unconscious. He was charged with assault with a dangerous weapon and assault resulting in serious bodily injury. After indictment, the defendant proceeded to trial, where he was convicted of assault resulting in serious bodily injury. He was sentenced to 46 months of imprisonment and 3 years of supervised release.

Voluntary Manslaughter

A 38-year-old defendant was sentenced to 114 months in custody, 3 years of supervised release and ordered to pay $3,000 in restitution after pleading guilty to the charge of voluntary manslaughter. The defendant and the victim were drinking at a home in Manderson Housing and began to argue. That argument turned into a physical fight where the defendant repeatedly struck the victim in the head with a metal bar. The victim died as a result of his injuries. The defendant pled guilty to the charge of voluntary manslaughter.

Involuntary Manslaughter

- The 26-year-old defendant, mother of the eight-month-old infant victim, was consuming large amounts of alcohol. After becoming intoxicated, she fell asleep on the couch with the child. When the defendant's boyfriend woke her up later, the infant was between the defendant and the rear cushion of the couch, facing the cushion. The child suffocated and died as a result. The defendant was indicted for felony child abuse and neglect and involuntary manslaughter. She pled guilty to involuntary manslaughter and was sentenced to 6 months in custody and 3 years of supervised release.

- The 28-year-old defendant was drinking with his family in Rocky Ford. He got into an argument with his father and fatally stabbed him. The defendant pled guilty to voluntary manslaughter and was sentenced to 72 months in custody and 5 years of supervised release.

Conspiracy to Commit Theft Concerning Programs Receiving Federal Funds

The 32-year-old defendant was sentenced to 14 months in custody, to be followed by 3 years of supervised release. She was also ordered to make restitution of $109,135. She was indicted for conspiracy to commit theft concerning programs receiving federal funds and two counts of theft concerning programs receiving federal funds by a federal grand jury and pled guilty to the conspiracy charge. The defendant, who was the executive secretary for the Tribe's Energy/Low Income Home Energy Assistance Program (LIHEAP), formed an agreement with others to steal funds belonging to the Oglala Sioux Tribe. In her capacity as executive secretary, she and others drafted fake invoices and quotes for contract work purportedly to be completed by co-conspirators. The defendant facilitated the processing of these documents through the Energy/LIHEAP program. In turn, checks were issued by the Tribe's Treasurer's Office to pay for the fraudulent invoices. The defendant and her co-conspirators received the checks, cashed them, and divided the funds among themselves to use for their own purposes.

Theft in Connection with Health Care

The 59-year-old defendant, from Kyle, was indicted by a federal grand jury for theft in connection with health care, health care fraud, false statements relating to health care matters and acquiring controlled substances by fraud. The charges relate to the defendant, while a pharmacist at the Indian Health Services Pharmacy, falsifying pharmacy records and taking Hydrocodone and Codeine for his own use. He was sentenced to 2 years of probation and ordered to pay restitution.

Conspiracy to Distribute Methamphetamine

The defendant was indicted in 2010 with 15 other co-defendants. All but one pled guilty to at least one count. There was an eight-day federal jury trial with over 20 witnesses and 70 exhibits, including approximately 4 pounds of methamphetamine and 7 firearms. The evidence showed that the defendant was bringing methamphetamine from Colorado to South Dakota and recruiting others in both states to obtain and distribute meth for him. He was also obtaining firearms for drugs. He was caught by law enforcement when he crashed his vehicle during a snowstorm after a pursuit with law enforcement. The defendant was convicted of conspiracy to distribute methamphetamine, possession of firearms during a drug trafficking crime, being a fugitive and felon in possession of a firearm, distribution of methamphetamine, and possession of methamphetamine with the intent to distribute. Because the defendant has several prior felony convictions, he is facing a mandatory minimum of 20 years in prison.

Second Degree Murder

The 32-year-old defendant was watching his girlfriend's three children while she ran errands. The defendant, who was intoxicated, became irritated while watching the children, and threw the baby to the ground multiple times, which caused blunt force head trauma and resulted in his death. The baby had been dead for quite some time before the mom came home. The defendant had done nothing to seek help for the baby. The defendant had also abused the two older children, causing severe bruising to their faces. He pled to second degree murder and was sentenced to 365 months in prison.

Felony Child Abuse and Neglect

The 51-year-old defendant was charged with murder for killing her infant grandson while she was extremely intoxicated. The baby died from blunt force trauma to his head. He also had healing head wounds from prior abuse and neglect. The defendant was her grandson's primary caregiver. She pled guilty to second degree murder, was sentenced to 168 months in prison, 3 years of supervised release, and was ordered to pay over $13,000 in restitution.

Conspiracy with Intent to Distribute and
Possession with Intent to Distribute a Controlled Substance

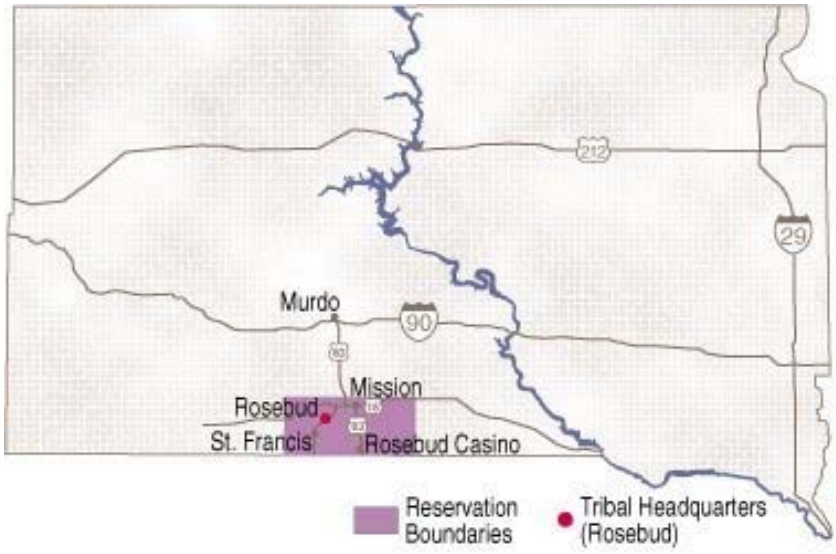
A 53-year-old tribal advocate who worked with the Pine Ridge Tribal Court system for almost 15 years, was charged with conspiracy and possession with intent to distribute cocaine on the Pine Ridge Reservation. The defendant stood trial in federal court on the charges and was found guilty. Evidence at trial showed she was a virtual clearinghouse for distribution of cocaine in Pine Ridge Village. There was also testimony indicating she would occasionally accept cocaine as payment for her advocacy services. She was sentenced to 51 months in custody to be followed by 3 years of supervised release.



Rosebud Sioux Reservation

The Rosebud Sioux reservation is the home of the Sicangu Oyate, also known as the Sicangu Lakota, the Upper Brule Sioux Nation, and the Rosebud Sioux Tribe, a branch of the Lakota people. Sicangu Oyate translates from Lakota to English as "Burnt Thigh Nation." It is located just north of the Nebraska sand hills, with large areas of ponderosa pine forest scattered in its grasslands. Its deep valleys are defined by steep hills and ravines, often with lakes dotting the deeper valleys.

The reservation includes all of Todd County and portions of Mellette and Tripp Counties, with a total land mass of 882,416 acres.



Significant Cases

Second Degree Murder

Defendant #1 was at a home in St. Francis, in the late evening, when he fought with Victim #1, and knocked him unconscious. Defendant #2 was present and saw Victim #1 repeatedly kicked and beaten by Defendant #1. Defendant #3 arrived and saw Victim #1 lying on the floor, unconscious and bleeding. The defendants got help from Victim #2, who had a car and was involved in helping to take the entire group to get help for Victim #1. Defendant #1 objected to taking Victim #1 to the hospital, where authorities would likely be notified. Defendant #1 had second thoughts about getting help, and then strangled and incapacitated Victim #2, who was in the driver's seat of the car. The defendants then drove south of St. Francis towards a rural area. Along the way, Defendant #1 retrieved a screwdriver and stabbed both victims in the chest, murdering them.

The defendants dumped the victims' bodies on a ranch in Nebraska. They talked about getting rid of Victim #1's car, and had plans to steal a different vehicle at a gas station. Defendant #3 later fled from Defendants #1 and #2. Defendants #1 and #2 then discussed cleaning up the vehicle to conceal evidence of where the victims were stabbed and bled in the vehicle. The vehicle was cleaned, but Defendant #2 used the vehicle for several days, until Victim #1's family noticed she was using the vehicle. For a period of time, Defendant #2 falsely claimed that Victim #1 was alive and well and she offered to help authorities find the victim. She took the authorities to locations where she said the victim would be found, but later confessed that the victims were dead. Defendant #1 was apprehended, and he took the authorities to the bodies. Defendant #3 was apprehended, and he later helped authorities find the screwdriver.

Defendant #1 pled guilty to two counts of first degree murder, and was sentenced to two life sentences. Defendant #2 pled guilty to two counts of second degree murder, aiding and abetting, and was sentenced to 25 years in custody, and 3 years of supervised release. Defendant #3 pled guilty to two counts of second degree murder, aiding and abetting and was sentenced to 17-1/2 years in prison, and 5 years of supervised release. All defendants were ordered to pay over $16,000 in restitution.

Attempt to Obtain Controlled Substance by Fraud

The 48-year-old defendant was sentenced to 3 months in custody and 1 year of supervised release after being indicted for attempting to obtain controlled substance by fraud. The defendant fraudulently presented an altered prescription in an attempt to receive 30 Hydrocodone pills from the Rosebud Indian Health Service Pharmacy. A pharmacist

examined the prescription, recognized it could be an invalid and fraudulent prescription, and the matter was reported to law enforcement authorities.

Aggravated Sexual Abuse of a Child

Between May 2006 and November 2007, the defendant sexually abused a young girl at a residence in Milk's Camp. Years earlier, he had also sexually abused a different girl in Rapid City. He was indicted on charges of aggravated sexual abuse of a child and was found guilty of the charges at trial. The defendant was sentenced to 360 months in custody, 5 years of supervised release, and was ordered to register as a sex offender upon his release from prison.

Abusive Sexual Contact

The 26-year-old defendant and the victim were at a house party in Rosebud. The group at the house socialized throughout the evening, and the victim eventually fell asleep. She awoke later and found her pants were down and the defendant was on top of her, touching her genitalia. The defendant fled the residence without saying anything to the victim. The defendant was indicted on charges of abusive sexual contact and pled guilty. He was sentenced to 36 months in custody, 5 years of supervised release, and $43.50 in restitution. He will also be required to register as a sex offender upon his release from prison.

Abusive Sexual Contact by Force

The 21-year-old defendant was in Parmelee, when he had sexual contact with the victim. He kissed her and she attempted to end the encounter. He then held her down, removed her pants, and touched her inappropriately. The defendant was indicted in federal court and pled guilty to abusive sexual contact by force. He was sentenced to 5 years in custody, 5 years of supervised release, and was ordered to register as a sex offender upon release from prison.

Abusive Sexual Contact

The 18-year-old defendant was playing games with some children. One of the children fell asleep on a couch, and the defendant attempted to touch the child's face with his penis. After an evaluation by medical and psychological evaluators, the defendant pled guilty to abusive sexual contact. He was sentenced to 37 months in custody and 8 years of supervised release.

First Degree Burglary

The 19-year-old defendant and two friends kicked open the door of a home in the middle of the night, intending to loot the house of valuables to sell for money to buy marijuana. The homeowner became aware of the intrusion, armed himself with a firearm, and confronted the intruders. When the intruders did not get on the floor as instructed, the homeowner shot at the intruders, mortally wounding one and shooting the defendant in the buttock. The defendant fled but was captured limping down a nearby roadway. When he was taken to the hospital for treatment, a knife was found in his pants pocket. A third juvenile intruder was found several days later. The defendant pled guilty to first degree burglary and was sentenced to 44 months in custody, 2 years of supervised release, and $1,400 in restitution from a different case.

Involuntary Manslaughter

The intoxicated 21-year-old defendant was driving a motor vehicle between 65 and 69 miles per hour on a roadway near Mission. The speed limit was 35 mph. He lost control of the vehicle, and the vehicle rolled. His passenger was ejected during the rollover and killed. The defendant fled the area, but was eventually turned in to law enforcement. He had a blood alcohol level of .178, above the legal limit. The defendant pled guilty to involuntary manslaughter and was sentenced to 30 months in custody and 3 years of supervised release. He was also ordered to pay over $7,500 in restitution.

Assault with a Dangerous Weapon

The 21-year-old defendant was with friends at a gas station in Rosebud. The two victims got into a physical confrontation with the defendant and his friend. The defendant retrieved a baseball bat and struck both men, knocking them to the ground. Neither men had a weapon. While the victims were on the ground, the defendant delivered blows to their backs and to their heads. His friends told him to stop, but he did not. The victims were seriously injured. The defendant pled guilty to two counts of assault with a dangerous weapon and was sentenced to 42 months in custody and 2 years of supervised release.

Assault Resulting in Serious Bodily Injury

The 24-year-old defendant was drinking alcohol and arguing with his girlfriend in their bedroom. The noise woke up a sleeping child in another room, and an adult female came into the defendant's room and told them to be quiet. A physical struggle ensued and the victim tried to intervene. As she did so, the defendant stabbed her in the left thigh with a

military-style sword. The defendant pled guilty to assault resulting in serious bodily injury and was sentenced to 33 months in custody and 2 years of supervised release.

Assault with a Dangerous Weapon

- The defendant was with two friends in the parking lot of an apartment complex, arguing with some other men, when the defendant took out a pistol and pointed the firearm at the other men. He pulled the trigger, shot one of the men in the neck, and fled the area. He was later arrested. The defendant pled guilty to assault with a dangerous weapon and was sentenced to 46 months in custody, 2 years of supervised release and was ordered to pay $900 in restitution.

- The 23-year-old defendant got upset with the victim, a female relative. He knocked her down, attempted to choke her, and slammed a can on the floor next to her head. When she got up, he pushed her onto a couch, threatened her with a screwdriver by stabbing the screwdriver into the couch next to her body and kicking her. The victim tried to call the police, but he took the phone and broke it. The defendant pled guilty to assault with a dangerous weapon and was sentenced to 24 months in custody, and 3 years of supervised release.

- The defendant, a non-Indian, was drinking with some friends and house guests at his apartment in Mission. He became upset and stabbed two people with a knife. The victims were unarmed. He pled guilty to two counts of assault with a dangerous weapon and was sentenced to 47 months in custody and 2 years of supervised release.

Domestic Assault by Habitual Offender

The defendant was at a family member's house in St. Francis, where the victim and her children were staying for the Thanksgiving holiday. The defendant called the victim to sit with him in another room, and she refused. He approached her and struck her several times in the face with his fist before grabbing her by the hair. He pulled her head down and rammed her face with his knee several times. She sustained facial injuries, including welts and cuts to her lips and the inside of her mouth. He had three prior domestic violence convictions from Rosebud Sioux Tribal Court, which convictions occurred in 2007 and twice in 2011. He pled guilty to domestic assault by habitual offender, and was sentenced to 37 months in custody, 2 years of supervised release, and ordered to pay a $100 special assessment.

Criminal Trespass

On June 1, 2011, the defendant, a non-Indian, was convicted and sentenced in federal court for an assault of a female member of the Rosebud Sioux Tribe. On June 10, 2011, the defendant was served with papers seeking to exclude him from the Rosebud Sioux Indian Reservation. On September 22, 2011, the Rosebud Sioux Tribal Court entered an order barring him from entering the lands of the Rosebud Reservation. On September 22, 2011, the Rosebud Sioux Tribal Council also voted to exclude him from its lands. On September 23, 2011, the defendant was located on the reservation by a tribal law enforcement officer. He was served with the exclusionary order and escorted off the reservation. On February 27, 2013, he was convicted in federal court of two misdemeanor counts of criminal trespass after he re-entered the reservation on September 12, 2012 and January 30, 2013. He was ordered to serve 30 days in prison, 1 year of probation, a $25 special assessment. He was also ordered to not re-enter the reservation.

On August 27, 2013, the defendant defied the prior directives and orders and was at a home in St. Francis, Todd County. On September 6, 2013, he was found at the St. Francis Indian School, also in Todd County. Both locations are on the Rosebud Sioux Indian Reservation. The defendant was arrested by tribal officers and transported off the reservation, into the custody of federal agents, and was taken back to federal court. On December 13, 2013, he pled guilty to two criminal trespass charges. That day, he was sentenced to 6 months custody, 1 year of probation, and a $50 special assessment. He was again ordered to not re-enter the reservation.

On March 14, 2014, the defendant again defied the established directives and orders barring him from entering the lands of the Rosebud Sioux Indian Reservation. He was in a car near Two Strike, when he encountered a tribal police officer, was arrested and turned over to the FBI. On September 30, 2014, he pled guilty to a criminal trespass charge. That day, he was sentenced to 9 months in jail, 1 year of supervised release, and a $25 special assessment, and was again ordered to not re-enter the reservation.

First Degree Burglary, Use of a Firearm During a Crime of Violence

The defendant was married to the victim's daughter and they lived next door to each other. The victim had custody of the defendant's daughter. The defendant wanted to move to another state and take the child with him. When he was not allowed to do so, he became irate, went to his father-in-law's home and pounded on the door. While outside the residence, the defendant fired one shot from a .45 caliber Glock 21 pistol. He then returned to his own residence. The defendant later returned to the victim's residence and again began pounding and kicking at the door, and fired a second round from the .45

caliber Glock, while the victim and another individual were inside the residence. The front door to the residence was locked. The defendant forced the door open and entered the residence. He pulled the .45 caliber Glock from the front pocket of his sweater and held it to the neck/throat of the other individual who was in the home, and then pointed the pistol at his father-in-law's forehead. The victim could see that the pistol was cocked and ready to fire, and that the defendant had a finger on the trigger. The defendant left the residence and the victim called law enforcement.

Tribal police went to the defendant's residence in an attempt to locate him. The defendant was arrested the following day. Following the defendant's arrest, he spoke with the victim on the phone and indicated that he would "come up here when he gets out and take care of things." The victim perceived the statement as a threat.

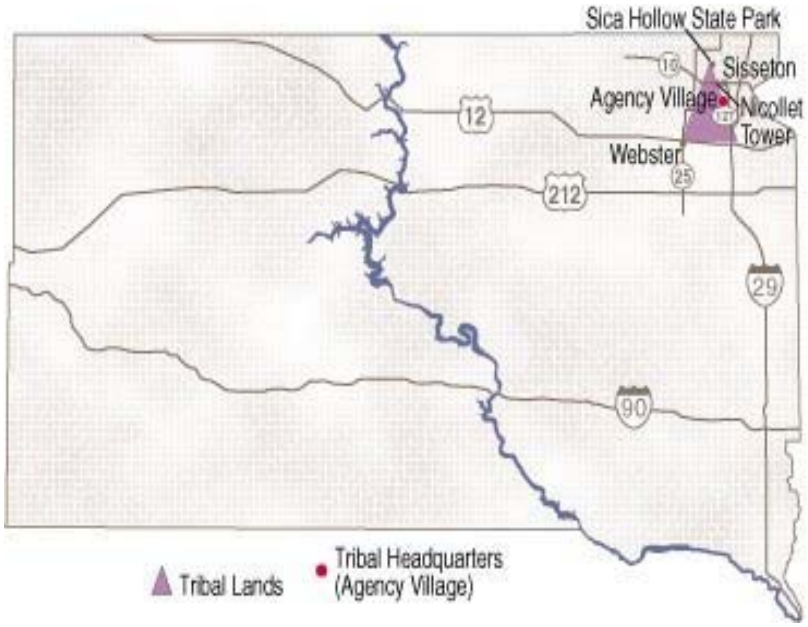
The defendant was charged with two counts of assault with a dangerous weapon, first degree burglary, use of a firearm during a crime of violence, and possession with intent to distribute a controlled substance. He pled guilty to assault with a dangerous weapon. The defendant, who had prior felony convictions, was a career offender under federal law. He was sentenced to 84 months of custody.



Sisseton-Wahpeton Sioux Reservation

Nestled amidst the rolling hills of northeastern South Dakota lies the home of the Sisseton Wahpeton Oyate, consisting of the Sisseton (people of the fish village/peninsula) and the Wahpeton (people among the leaves/leaf shooters). Lush, gently sloping prairies circle the tribal headquarters at Agency Village. Every hill and valley is a testament to the glaciers that once covered this land.

The Sisseton-Wahpeton reservation includes 106,153 acres within the former Lake Traverse Reservation and parts of Marshall, Day, Codington, Grant, and Roberts Counties.



Significant Cases

Murder

The defendant was watching his two-year-old daughter one weekend. He did not have primary custody of her. On Monday morning, he was late for work and was supposed to take the little girl to day care. Running late, he lost his temper and beat the little girl repeatedly about the head and face, knocking her unconscious. The defendant rushed the child to a local hospital, where he concocted a story that the child had fallen from a chair. Due to the contusions on her head, the doctors were suspicious as to how the injuries were received. The girl died a few days later. The defendant, who was indicted for murder and assault resulting in serious bodily injury, was tried in federal court. Three experts opined that the death of the child was due to external trauma consistent with a beating, and totally inconsistent with a fall. The defendant was found guilty of the charges. After the verdict, the defendant claimed he was mentally incompetent and was evaluated by a number of psychiatrists. The court found the defendant competent and sentenced the defendant to concurrent terms of 30 years on each conviction to be followed by 5 years of supervised release.

Assault with a Dangerous Weapon

The victim and the two co-defendants drove around the Sisseton area consuming alcohol. At some point, they went to a remote cabin outside of Sisseton, where an argument ensued regarding money. One of the defendants struck the victim on the side of the head with a board knocking her unconscious. The two defendants then dragged the victim to an area near their pickup truck, and proceeded to run over her causing internal injuries. The victim underwent emergency surgery at a local hospital. Both defendants were indicted for assault with a dangerous weapon and each pled guilty. One defendant was sentenced to 78 months in custody, and the other was sentenced to 46 months in custody.

Aggravated Sexual Abuse of a Child

In the year 2000, the defendant sexually abused a young child a number of times. The child, who was six years old at the time of the abuse, did not disclose the abuse for a number of years, but finally confided in a relative that she had been sexually abused by another person. Fourteen years after the abuse, the defendant was charged with the sexual acts perpetrated on the child in 2000. The defendant was interviewed and admitted to sexually abusing the child. He pled guilty to aggravated sexual abuse of a child and was sentenced to 60 months in custody.

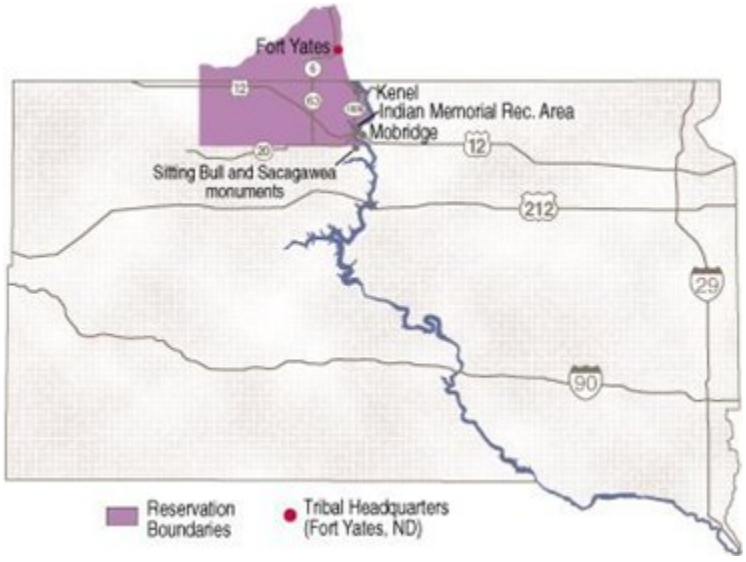
Manslaughter

Several individuals were spending a summer day swimming and drinking near Enemy Swim when an argument ensued. The juvenile defendant threw a wrench at one of the males in the group. The wrench hit the female involved in the argument causing her head trauma. Shortly after that incident, the juvenile defendant approached another individual accusing her of being a snitch and threatening her. The victim went into the house and started chastising the juvenile defendant about throwing the wrench and hurting their friend. The juvenile defendant pushed the victim backwards causing her to fall down the stairs. The victim suffered a broken neck, but was still alive for a short period of time. The juvenile defendant and others at the cabin then made the decision not to seek help for the victim and basically left her there to die. The victim died as a result of her injuries. The defendant was charged as a juvenile and then transferred to adult court. She pled guilty to manslaughter and assault with a dangerous weapon. She faces a maximum sentence of 25 years in custody.



Standing Rock Sioux Reservation

The Standing Rock Sioux Tribe is home to the bands of Hunkpapa and Black Feet of the Lakota Nation and Hunkpatinas and Cuthead bands of the Yanktonias of the Dakota Nation. The reservation straddles the border between North and South Dakota about 40 miles south of Bismarck, North Dakota, with its headquarters in Ft. Yates, North Dakota. The reservation encompasses approximately 562,366 acres. Standing Rock has the sixth largest reservation land area in the United States and includes all of Sioux County, North Dakota, and all of Corson County, South Dakota, plus slivers of northern Dewey County and Ziebach County in South Dakota.



Significant Cases

Sexual Abuse of a Minor, Assault Resulting in Serious Bodily Injury

The defendant was convicted following a four-day jury trial of four counts of sexual abuse of a minor and assault resulting in serious bodily injury. The assault conviction arose out of an incident which occurred in September of 2008, near Wakpala. The defendant assaulted his girlfriend, causing multiple facial fractures and internal injuries to her brain. The surgeon that repaired the victim's face described the bones as "busted up so bad they were like a bag of potato chips." These injuries caused the victim to have a cerebellar infarction. The evidence at trial established that the victim never recovered from the cerebellar infarction and died at Triumph Long-Term Care Hospital in Mandan, North Dakota.

The sexual abuse convictions arose from incidents in 2009 and 2010, when the defendant attempted to engage in sexual acts with a minor, in Wakpala. He was dating the guardian of the minor victim and was convicted of repeatedly sexually abusing her while he was caring for her. The defendant is facing up to 30 years in custody on each count of sexual abuse and 10 years for the assault.

Abusive Sexual Contact

The defendant was helping to care for three children, all under the age of 12, who were staying at his home. While under his care, the defendant touched each of the children, one more than once, in a sexual manner. Once the abuse came to light, the children were removed from the home. The defendant was sentenced to 20 years in custody, a $15,000 fine, followed by 10 years of supervised release.

Sexual Abuse of a Person Incapable of Consent

The defendant was at his residence drinking alcohol with a group of friends that included the victim, a minor female. At some point in the day, the victim began to drift in and out of consciousness due to the amount of alcohol she had consumed. During one of the victim's black-out states, the defendant took her into the bathroom, removed her pants, and sexually abused her. At the time the sexual act commenced, the defendant knew the victim was intoxicated to the point of being unable to consent to the sexual act. The defendant, who was 10 years older than his minor victim, was sentenced to 108 months in custody, followed by 5 years of supervised release.

Assault Resulting in Serious Bodily Injury to a Child

The defendant was convicted of assault resulting in serious bodily injury, following a two-day federal jury trial. The conviction stems from an incident in which the defendant, who was babysitting his wife's three young children, threw one of the children off the bed and across the room after the child woke him up. The defendant noticed the 11-month-old victim was unconscious and called 911. An ambulance arrived and the victim was transported to the Mobridge Regional Hospital, and then airlifted to Sanford USD Medical Center in Sioux Falls. The child's head injuries included bilateral skull fractures, subdural hematomas, and multiple bruises over multiple body areas. The victim was in critical condition for an extended period of time. The defendant was sentenced to 10 years in custody, followed by 2 years of supervised release.

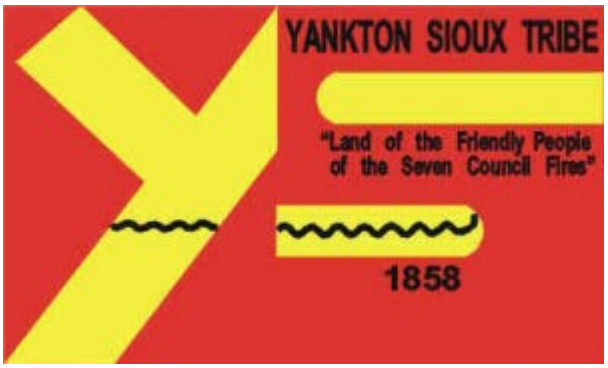
Domestic Assault by Habitual Offender

- The defendant was convicted for two separate acts of domestic violence against two separate women, within a three-month period. The first conviction stems from an incident where law enforcement was advised of a 911 domestic abuse call. An officer responded to the call and spoke with an adult female victim and her mother who informed the officer that the defendant and the female victim were arguing in a back bedroom of the house. During the argument, the defendant jerked the victim's arm, punched her in the stomach, and threw her on the bed. The second conviction stems from an incident when a law enforcement officer was dispatched to the hospital in Fort Yates, North Dakota. The officer made contact with an adult female victim who appeared to have a chunk of her lower lip missing. She also had a swollen eye and bruises on her face. The victim informed the officer that she had been assaulted by her boyfriend, the defendant, when she informed him she wanted to leave and go to her cousin's house. When the victim attempted to use the phone to call for a ride, the defendant pushed her down, causing her to hit her head on the edge of a coffee table. The defendant also hit her several times with an open hand on the side of her face. At the time of these incidents, the defendant had four previous final judgments of conviction in Standing Rock Sioux Tribal Court for offenses that would have been, if subject to federal jurisdiction, an offense against a spouse or intimate partner. The defendant was sentenced to 60 months in custody, and 3 years of supervised release and 77 months in custody, and 3 years of supervised release, to be served concurrently.

- The Fort Yates Police Department received a 911 call reporting that the defendant was assaulting an adult female with a hammer. A BIA officer made contact with the victim in the kitchen of her home. The officer was informed by the victim that as she was walking towards the family home, she was shoved to the ground from behind by the defendant. As she lay on the ground, the defendant struck her several times about the head and body with a hammer. After assaulting the victim, the defendant approached the family van and broke out the windshield with the hammer. The defendant was sentenced to 57 months in custody and 3 years of supervised release.



Yankton Sioux Reservation



The Yankton reservation is located in Charles Mix County near the southeastern corner of the state and bordering the state of Nebraska. Approximately 3,500 enrolled members live within the reservation. The Yankton Sioux constitute one of four distinct branches of the Sioux nation. In their native dialect, they refer to themselves as “Nakota,” differentiating themselves from groups which refer to themselves as “Lakota” or “Dakota,” but all three terms mean “allies.” Officially, the Yankton Sioux Tribe is called "Ihanktonowan Dakota Kyate."



Significant Cases

Felon in Possession of a Firearm

The defendant lived near a residence where a number of people were drinking alcohol and socializing in the front yard. The defendant climbed a fence and entered the yard area where he was immediately told that he was not welcome. The defendant went back to his residence, retrieved a firearm, came back to the neighbor's house, and threatened a number of people with the firearm. Tribal police were called and the defendant was eventually arrested in the basement of the house. The firearm was recovered. The defendant had a prior felony conviction and was charged with being a felon in possession of a firearm. He pled guilty and was sentenced to 37 months in custody to be followed by 2 years of supervised release.

Assault with a Dangerous Weapon

The defendant was consuming alcohol at a private residence when he got into an argument with another individual. He got a hammer and chased the visitor out the house threatening to hit her with the hammer. The defendant pled guilty to an assault charge and sentenced to 38 months in custody and 3 years of supervised release.

Child Abuse

The defendant was babysitting her nieces and nephews for her sister. While babysitting the children, she lost her temper and struck a number of the children causing significant injury. After the mother of the children picked them up, she saw that they had been abused. She called the police and the defendant was arrested for child abuse. Defendant pled guilty and was sentenced to 2 years of probation.

Assault by Striking, Beating and Wounding

The defendant was an overnight guest at a private residence, when she consumed a great deal of alcohol and got into a fight with her nephew. During the fight, the defendant cut her nephew's face with a knife. She was charged with assault by striking, beating, and wounding, and later pled guilty in federal court. The defendant was sentenced to 4 months in custody and was placed on supervise release for 2 years following her release from custody.

Conspiracy to Distribute Methamphetamine

The defendants engaged in a large-scale methamphetamine trafficking ring on the Yankton Sioux Reservation. It is estimated that members of the conspiracy brought several kilograms of methamphetamine to the reservation from Omaha and Norfolk, Nebraska, to sell on the reservation. All of the defendants pled guilty to either conspiracy to distribute methamphetamine or maintaining drug-involved premises. One defendant was sentenced to five years' probation; three defendants were sentenced to 87 months imprisonment, followed by three years of supervised release; and one defendant was sentenced to 151 months in custody to be followed by three years of supervised release. Additional charges are pending.



DEPARTMENT OF JUSTICE GRANTS

The Department of Justice offers funding opportunities to support law enforcement activities in state and local jurisdictions, to provide training and technical assistance and to implement programs that improve the criminal justice system. Listed below are some of the grants that were awarded in 2014. For more information on grant availability, please go to the Office of Justice Programs website at www.ojp.gov.

Grantee	Project Description	Amount
SD Office of the Attorney General	Internet Crimes Against Children Task Force	$236,155
SD Office of the Attorney General	State Justice Statistics Program for Statistical Analysis Centers	$60,000
SD Office of the Attorney General	Justice Information Sharing Solutions Implementation Program	$199,720
SD Office of the Attorney General	DNA Capacity Enhancement and Backlog Reduction Program	$200,000
SD Office of the Attorney General	Paul Coverdell Forensic Science Improvement Grants Program	$63,029
SD Office of the Attorney General	National Criminal History Improvement Program	$440,608
SD Office of the Attorney General	John R. Justice Program	$30,545
SD Department of Social Services	Victims of Crime Act (VOCA) Victim Assistance Formula	$1,631,330
SD Department of Social Services	STOP Violence Against Women Formula Grant Program	$885,991
SD Department of Social Services	SASP Formula Program	$271,911
SD Department of Social Services	VOCA Victim Compensation Formula	$176,000

SD Office of the Governor	Edward Byrne Memorial Justice Assistance Grant (JAG) Program	$542,154
SD Office of the Governor	PREA: Reallocation funds to partially fund a PREA Compliance Manager, who will be responsible for ensuring the Department's juvenile facility operates consistent with PREA standards.	$15,599
SD Department of Corrections	Title II Formula Grants Program	$393,667
SD Department of Corrections	Application Guidance for Prison Rape Elimination Act Reallocation Funds	$6,804
Rosebud Sioux Tribe	Youth With Sexual Behavior Problems Program	$119,107
Rosebud Sioux Tribe	Tribal Governments Program	$900,000
Rosebud Sioux Tribe	State and Community Development Invited Awards – Funds to continue to coordinate, develop, enhance and expand the Defending Childhood Initiative project.	$300,000
Rosebud Sioux Tribe	Edward Byrne Memorial Justice Assistance Grant (JAG) Program	$41,362
Wiconi Wawokiya, Inc.	Tribal Sexual Assault Services Program	$325,000
Wiconi Wawokiya, Inc.	Vision 21 Tribal Community Wellness Centers: Serving Crime Victims' Needs	$660,000
Cheyenne River Sioux Tribe	Tribal Governments Program	$812,373
Sisseton-Wahpeton Oyate of The Lake Traverse Reservation	Support for Adam Walsh Act Implementation Grant Program	$247,291

Oglala Sioux Tribe Department of Public Safety	Edward Byrne Memorial Justice Assistance Grant (JAG) Program	$14,062
Native Women's Society of the Great Plains	Grants to Support Tribal Domestic Violence and Sexual Assault Coalitions Grant Program	$398,545
SD Coalition Ending Domestic Violence and Sexual Violence	Grants to State Sexual Assault and Domestic Violence Coalitions Program	$207,840
SD Network Against Family Violence and Sexual Assault	National Training and Program Development	$160,000
Lutheran Social Services of South Dakota	Second Chance Act Strengthening Relationships Between Young Fathers and Their Children: A Reentry Mentoring Project	$400,000
South Dakota State University	Research and Development in Forensic Science for Criminal Justice Purposes	$780,301
City of Sioux Falls	Edward Byrne Memorial Justice Assistance Grant (JAG) Program	$70,599
City of Rapid City	Edward Byrne Memorial Justice Assistance Grant (JAG) Program	$56,946
Sioux Falls Police Department	COPS – 5 Officers	$625,000

Bullet Proof Vest Grants

Agency Name	BVP Amount	Number of Vests
Aberdeen	$16,081.91	31
Alcester	$302.52	1
Aurora County	$1,436.02	3
Brookings	$655.78	2
Brown County	$1,022.44	3
Custer County	$2,843.31	9
Mobridge	$1,895.54	6
Perkins County	$2,211.46	7
Rapid City	$2,919.90	10
Sisseton	$1,621.27	5
Spink County	$2,680.56	8
Turner County	$3,618.76	9
Union County	$898.87	3
Vermillion	$1,330.71	4
Whitewood	$1,087.06	3
Yankton	$3,509.77	10
TOTAL (16 Jurisdictions)	**$44,115.88**	**114**

ADMINISTRATIVE DIVISION

The Administrative Division of the U.S. Attorney's Office for the District of South Dakota provides consistent and effective administrative services and support to the employees and programs of the USAO.

The Division provides guidance concerning Department of Justice policies and procedures as well as central services support in all areas of Administration, including: Human Resources, Budget and Finance, Information Technology, Facilities Management, Records Management, Purchasing, and Property Management. The Division is responsible for planning and executing a comprehensive range of administrative services that support the mission of the USAO. The Division is managed by the Administrative Officer, who is the principal advisor to the U.S. Attorney and the District on administrative matters. The Administrative Officer provides guidance on the management and use of the District's financial, manpower, and physical resources, and on administrative policies, procedures, and practices.

Employment opportunities include varied legal and administrative jobs. Currently, the District of South Dakota has 62 positions in support of three offices in Sioux Falls, Rapid City and Pierre. In the Criminal, Civil, and Appellate Divisions, these positions are made up of Assistant United States Attorneys, Paralegal Specialists, Legal Assistants, Victim Witness Coordinators, and Debt Collection Agents. In the Administrative Division, these positions are made up of an Administrative Officer, Administrative Support Services Specialist, Human Resource Specialist, Contracting Officer, Budget Analyst, and Information Technology Specialist focusing on litigation support and computer network management.

In addition, the Administrative Division follows internal control practices that ensure proper use and reporting of taxpayer funded assets. At the direction of the U.S. Attorney, the Administrative Division manages an operating plan budget of approximately five-million dollars. The Division also manages equipment and facilities in three locations valued at approximately two-million dollars. The Administrative Division is also responsible for the coordination, development and maintenance of office policies and procedures related to the mission of the U.S. Attorney's Office. In this regard, the Administrative Division works closely with the U.S. Attorney, Assistant United States Attorneys and support staff to ensure compliance with a strong internal controls program.

The Administrative Division is led by the Administrative Officer who supervises a number of subject matter experts, including an Administrative Support Services Specialist, a Budget Analyst, two Information Technology Specialists, a Human Resources Specialist, a Contracting Officer and general Administrative students focusing on litigation support and computer network management.

CIVIL DIVISION

The Civil Division represents the interests of the United States in civil litigation involving the federal government in the District of South Dakota. The mission of the Civil Division is to promote the fiscal integrity of federal aid programs through an active civil fraud initiative, and to justly defend the interests of the United States in all cases where the government is sued. The office investigates and pursues allegations of health care fraud, seeking monetary reimbursement for losses or overpayments related to Medicare, Medicaid, and TRICARE, where appropriate. In addition, this office investigates and pursues civil fraud cases involving a variety of grants or federal programs funded by the U.S. Department of Agriculture, Department of Defense, Department of Housing and Urban Development, Department of Justice, and the Department of the Interior.

Defensive Tort Litigation

There were a variety of lawsuits filed against the United States arising from alleged negligent acts or omissions of federal employees and tribal employees, who are covered under the Federal Tort Claims Act, because they fall under a special law that makes the United States liable for the actions of a tribal entity. Significant defensive cases which were resolved in 2014 include the following:

- The U.S. Attorney's Office successfully defended the Indian Health Service in a case arising from a patient's death at the Rosebud Comprehensive Health Care Center (Rosebud IHS). The patient was an elderly woman with a history of falls. In the middle of the night, minutes after being taken to the bathroom and put back to bed by the nurse on duty, the patient got out of bed to use the bathroom unassisted and without using her call light. She fell and sustained a fatal head injury. Her family sued, claiming the nursing care was negligent, and the hospital should have used a bed alarm to alert the nurses that the patient had gotten out of bed. Evidence produced at trial demonstrated research studies show bed alarms and bedside chair pressure sensors are not effective as a fall-prevention device and have no discernable effect on reducing the number of falls or injuries for inpatients in acute, general hospital settings. The Rosebud IHS nursing staff did not have the benefit of functioning bed alarms, and the only other option would have been for the nursing staff to use a "sitter," which was not ordered by the physician and was not necessary for the patient's care, or to perform more frequent checks on the patient. The district judge found the plaintiff did not sustain the burden of proving a breach of the standard of care. In addition, the court held the patient knew she was at risk of falling and had voiced her knowledge of that risk to Rosebud IHS staff on multiple prior occasions. She had been instructed on multiple occasions to use her call light if and when she

needed assistance. She knew the nurses were there to assist her, and she had consistently used her call light during her four-day hospitalization. The court held, under these circumstances, the patient's contributory negligence was greater than slight in comparison to the claimed negligence of the Rosebud IHS nursing staff. Therefore, the patient's family was barred from recovery due to the patient's contributory negligence.

- A settlement of $25,000 was reached in a case that dealt with tricho-dento-osseous syndrome, a genetic condition that affected the nails, hair, bones, and teeth of the minor plaintiff. Plaintiff's parents sought payment from TRICARE for coverage of a procedure that would crown all of the minor's teeth. TRICARE denied coverage, and suit followed for reimbursement of the costs for the dental procedure. The case was resolved through informal settlement negotiations.

- Settlement in the amount of $85,000 was paid in a case stemming from a car accident between the plaintiff and an Army recruiter who was acting in the scope of his employment at the time of the collision. The Army recruiter ran a red light and collided with plaintiff's vehicle. The plaintiff was seven months pregnant at the time. She was treated for her own injuries, but there were no complications with her unborn child. A settlement compensated the plaintiff for medical bills, her claims of permanent damage to her shoulder, and for emotional distress.

- The government settled a car accident case where a driver employed by the U.S. Census Bureau failed to yield in an intersection and ran into the plaintiff, causing significant injuries to the plaintiff and her husband. Plaintiff's husband subsequently passed away from cancer unrelated to his injuries from the accident. The plaintiff underwent two ankle surgeries with painful complications. In the end, the plaintiff's mobility was significantly impaired and permanently affected her ability to stand, walk, and work as a nurse. The matter was resolved shortly after mediation with the government paying $565,000 to resolve all claims.

- Plaintiff sued the United States under the Federal Tort Claims Act after he alleged he slipped and fell and broke his wrist on the sidewalk outside of the Indian Health Services Hospital in Pine Ridge. There had been a winter storm that weekend, and plaintiff argued the IHS failed to properly clear the walk of snow and ice. At the time of his visit to the hospital, plaintiff was entering hospital grounds to use the restroom and had no specific business purpose or reason for his visit. The government moved for summary judgment on the grounds that plaintiff was not owed any heightened duty of care because plaintiff was not a business invitee of the hospital. While the summary judgment motion was pending, the parties settled the case for $10,000.

- Summary judgment was granted in favor of the United States in a dental malpractice action arising out of the plaintiff's treatment at the Veteran's Administration. The plaintiff failed to designate any expert witness or otherwise comply with the court's scheduling order, resulting in dismissal.

- Following a tragic accident that killed two innocent people and injured two children, the Administratrix of the estates of the deceased individuals and guardian for the surviving children sued the United States claiming that the Rosebud Sioux Tribal Police Department was negligent in failing to stop and arrest a drunk driver prior to the accident. The government filed a motion to dismiss the case for failing to state a claim under South Dakota's public duty rules and laws concerning a private citizen's lack of liability for failing to prevent the misconduct of a third party. The court resolved a factual dispute in favor of the plaintiff and accepted as true the allegation that the tribal police department had actual knowledge of the dangerous driver. However, that knowledge alone did not establish liability because the plaintiffs did not rely upon a personal assurance by the police to protect them from danger. Further, the court examined state and tribal drunk driving laws and found they did not give rise to a special duty to protect a particular class of people, and that the police's conduct did not cause the harm itself or expose the plaintiffs to new or greater risks. The drunk driver was not a tribal employee and was never in the custody or control of the police. The court found there was no special relationship between the third-party drunk driver and the tribal police, and therefore, there was no viable theory under which the police department had a duty to control the drunk driver's behavior and prevent the accident. Judgment was entered in favor of the United States.

Affirmative Fraud

The USAO worked jointly with the State of South Dakota, the Department of Health and Human Services, the Department of Agriculture, and the Department of Defense to recover reimbursement for money fraudulently obtained through false statements made to federal agencies, and for services not rendered or not provided by qualified medical personnel. Highlights of our civil affirmative enforcement efforts in 2014 include the following:

- Obtained a judgment for $1.3 million in damages in a civil False Claims Act case arising out of a scheme to defraud the U.S. Department of Agriculture for wool subsidy payments involving wool that did not exist. This civil judgment was a parallel proceeding filed following the conclusion of the criminal case. Defendants argued that diminished capacity of one of the defendants created a material issue of fact that

precluded summary judgment in the civil case. The court disagreed, holding that by pleading guilty to conspiracy to defraud the government in the criminal case, defendants waived that defense, and thus, in the civil case, the court found the defendants were statutorily estopped from denying they conspired to defraud the United States. It is believed the defendants own land that may be used to collect the damages awarded.

- A $455,000 civil settlement was obtained from five of seven defendants who filed false claims with the United States Forest Service (USFS) pursuant to 35 contracts to thin timber on USFS land in the Black Hills. The false certifications involved statements that no illegal immigrant workers were used as laborers. A federal civil suit has been filed against the remaining two defendants who refused to negotiate a civil settlement. This case is a parallel proceeding following the criminal prosecution of the seven individuals who were involved in the scheme to use illegal, cheap sources of labor to perform federal government contracts.

- Recovered $40,000 after filing suit to recover civil damages and penalties against a man who submitted false claims for unemployment insurance benefits to the United States Railroad Retirement Board. After he was laid off by the railroad, the defendant obtained work for the City of Edgemont. However, when asked on his employment claim form whether he had worked for a non-railroad employer since his last day of railroad work, defendant falsely answered "no" on 23 occasions. The civil lawsuit was a parallel proceeding filed after the conclusion of criminal charges. In the criminal case, the defendant was ordered to pay the Railroad Retirement Board $12,407 in restitution. In the civil case, an additional $40,000 was obtained by a Consent Judgment.

- A $60,000 settlement was received for civil penalties and fines arising out of a case where a woman made false claims for management fees related to a low income housing project funded by the United States Department of Agriculture, Rural Development. This settlement followed her criminal conviction and was in addition to the $38,814 of restitution ordered in the criminal case.

- Voluntary refunds of Medicare overpayments were recovered from Avera Medical Group Surgery in Mitchell ($14,085); Nephrology Associates in Sioux Falls ($3,430); and Core Orthopedics in Sioux Falls ($5,488). The overpayments were the result of multiple billing errors from 2007 through 2013 related to "place of service" codes. These providers were providing outreach services to patients in Gregory, utilizing space in the Gregory Hospital. The outreach providers incorrectly billed patients for the more costly "office" or emergency room place of service codes rather than the "outpatient hospital" code. The billing practice was deemed to be a result of miscommunication between the hospital and the outreach providers. The billing

practice has been corrected. An additional factor in the settlement was that the Gregory area is a medically underserved rural population where outreach services are needed.

- In conjunction with the U.S. Department of Labor, a Consent Judgment was obtained against Remodel King Construction and Scott D. Sogge for taking employee contributions and assets and converting them for his own use rather than remitting them to the company retirement plan. The defendants were ordered to make immediate restitution in the amount of $12,905 and to undertake other corrective measures.

Program Litigation

- FDA Litigation Continues Regarding Selling Unapproved Lasers Upheld On Appeal**:** A Rapid City dentist continues to battle the FDA over the sale of lasers for unapproved use by the public. The dentist filed a second lawsuit, seeking to challenge the issuance of administrative search warrants and to enjoin the FDA from investigating him or his companies' sale of the laser device. The district court granted the government's motion to dismiss this case, and the dentist appealed. The appeal is pending. In the meantime, the FDA affirmatively filed suit to permanently enjoin the dentist from marketing the lasers. The district court granted a preliminary injunction and set a hearing as to whether or not the injunction should become permanent. The dentist has filed an interlocutory notice of appeal challenging the preliminary injunction. The dentist seeks an order from the Eighth Circuit Court of Appeals staying the preliminary injunction. That appeal is also pending.

- District Court Held VA Did Not Engage In Unlawful Invasion of Privacy or Retaliatory Acts Against Veteran: Plaintiff is a Veteran who sued the Veteran's Administration (VA) for invasion of his privacy and retaliation after he was removed from two different VA drug and alcohol treatment facilities. The two cases were consolidated. On the first occasion, he was asked to leave for viewing inappropriate pictures of himself on a VA computer. On the second occasion, he was asked to leave for having a weapon hidden in his personal area. The plaintiff brought suit claiming the VA invaded his privacy by subjecting him to random drug and alcohol tests. The court found this claim invalid because the plaintiff consented to the random tests when he entered the treatment program, and because such tests are not an unreasonable intrusion upon the plaintiff's privacy. The court also dismissed plaintiff's claims that monitoring patients' sleeping areas and emails sent on a government computer did not violate his privacy. There was a sign posted on the computer clearly advising users that computer use would be monitored. As to the monitoring of the sleeping area, the VA Domiciliary Chief explained that the cameras near patients' sleeping areas were focused on common, public areas and

were not used to monitor patients' sleeping areas. The plaintiff failed to offer any proof that any VA employee disclosed his private information or retaliated against him for filing privacy complaints. Summary judgment was granted in favor of the VA.

- Eighth Circuit Court of Appeals Affirmed Dismissal of CRST Individual Landowners' Claim To Tribal Funds: A group of individual Native Americans appealed the dismissal of a lawsuit they filed challenging a planned monetary distribution to the Cheyenne River Sioux Tribe of funds Congress provided to the Tribe as compensation for the loss of Native American ancestral lands that were condemned or sold some 60 years ago for the Missouri River dam system. Plaintiffs claimed that as former landowners or heirs to former landowners, the fund should be used to compensate them individually for the lost value of their lands. The Court of Appeals upheld the district court's dismissal of their case based on the language of the distribution statute, which specifically stated Congress intended the fund to provide compensation only to the Tribe for the benefit of all tribal members, and not to individual landowners.

- U.S. Department of Agriculture Natural Resources Conservation Service's Wetland Determination Upheld: Plaintiffs sought review in federal district court seeking to overturn a final order determining that 0.8 acres of land on plaintiffs' property constituted a wetland. The district court reviewed the evidence in the administrative record concerning "hydric" soils, wetland hydrology, the use of aerial photography, and "color tone differences" to prove wetland status, and the use of a wetland reference site in the same major resource land area as a comparative site since the vegetation at the site in question had been altered or removed by the plaintiffs' farming operation. The court found that the land was a protected wetland and upheld the agency's final decision.

- Lawsuit Against Superintendent of the Pine Ridge Bureau of Indian Affairs Office Dismissed: An internal tribal dispute between the Oglala Sioux Tribe's (OST) Tribal Council and the former Tribal Court judiciary sparked a lawsuit in which former tribal court officials sued OST officials who removed them from office. In addition, the Bureau of Indian Affairs Superintendent was named as a defendant as plaintiffs sought a court order mandating that the BIA Superintendent enforce the civil rights of the people under the Indian Civil Rights Act (ICRA). The federal court held that the only remedial provision in the ICRA involves a writ of habeas corpus to test the legality of an individual's detention by order of an Indian Tribe. Otherwise, the ICRA does not authorize actions for declaratory or injunctive relief against the tribe or tribal officials. It is not directed at the federal government, and therefore does not impose any duties on federal officials such as the BIA Superintendent. The complaint against the BIA Superintendent was dismissed. The court also held that because resolution of the plaintiffs' claims against the

individually named defendants involves interpretation and application of the OST's Constitution and other tribal law, those claims are not within the jurisdiction of the federal court and the plaintiffs should seek review in tribal court or pursue alternative, political remedies.

- Tribal Court Lawsuit Against Cheyenne River Sioux Tribal Police Department and Individual Officer Dismissed: A tribal court judge dismissed a lawsuit against the CRST police department. The case was filed after an officer attempted to stop a speeding vehicle. Eventually, officers forced the vehicle to stop and apprehended the driver and his passenger. The plaintiffs sought money for property damages and personal injury. The tribal court cited to the CRST Law and Order Code indicating that the Tribe and its agencies, departments, and other political subdivisions shall be immune from suit in any civil action. Further, the CRST operates its law enforcement program pursuant to a contract with the Bureau of Indian Affairs, and as such, CRST officers are deemed to be employees of the BIA while acting within the scope of their employment in carrying out the contracts. For this additional reason, the tribal court held that the tribal court lacked jurisdiction, and the case was dismissed with prejudice.

Employment Discrimination

- Alleged Invalid Age Discrimination Waiver Is Possible Basis For Revival of Previously Settled Litigation: The US Attorney's Office continued to defend the Bureau of Indian Affairs in an employment discrimination case arising out of the plaintiff's resignation in 1999. The plaintiff resigned shortly before he would have earned an entitlement to law enforcement retirement. He then attempted to rescind his resignation, claiming, among other things, that he had been discriminated against on the basis of age, veteran status, and a host of other protected categories. This led to over a dozen appeals and suits before the Equal Employment Opportunity Commission, the District Court Office of Federal Operations, the Federal Circuit, South Dakota District Court, the Eighth Circuit Court of Appeals, and the Merit Selection Protection Board (MSPB). The plaintiff entered into a settlement agreement with the MSPB in October of 2008, which resolved all of his pending lawsuits and claims. However, he later filed suit claiming that the Bureau of Indian Affairs breached the MSPB settlement agreement with him, and that his waiver of his age discrimination claims was not valid. The plaintiff sought to revive a lawsuit filed in federal district court related to age discrimination. The district court dismissed plaintiff's complaint based on *res judicata* in September of 2013, and the plaintiff appealed. On appeal, the Eighth Circuit Court of Appeals partially affirmed the dismissal of the claims related to plaintiff's claims of interest and unpaid overtime, but remanded to the district court for findings on the issue of whether the age discrimination waiver was valid.

A court trial was held in October of 2014, and the matter is currently before the court and awaiting a decision.

- Suit Against Indian Health Service Dismissed For Failure To Exhaust Administrative Remedies: Plaintiff was a nurse for the Indian Health Service who claimed she was unlawfully terminated as a result of her bi-polar disorder, anxiety, and depression. Administratively, she was awarded relief under the Rehabilitation Act. She was reinstated with back pay and paid $10,000 in non-pecuniary damages for mental distress. However, the plaintiff failed to show up for work after she was reinstated, and after repeated failures to appear, the IHS terminated her once more. Meanwhile, upset with a disagreement regarding calculations involving her back pay and benefits, the plaintiff filed suit in federal court alleging non-compliance with the ALJ's order in violation of the Americans With Disabilities Act (ADA). However, the ADA does not apply to federal employees. Plaintiff then sought to amend her complaint to allege violations of the Rehabilitation Act instead of the ADA, but in doing so, she added new claims involving her second termination by the IHS, for which she had not yet exhausted her administrative remedies. The court dismissed the case because before the federal court could exercise jurisdiction over the case, the plaintiff must first exhaust her administrative remedies as to compliance with the ALJ's order and her second termination.

Bankruptcy

When a debtor files for bankruptcy and owes student loans to the Department of Education, owes taxes to the Internal Revenue Service (IRS), or when tax liens are filed by the IRS against a debtor, or other debt is owing to a governmental agency, the United States of America is often listed as a creditor. The majority of the bankruptcy cases opened in 2014 by the U.S. Attorney's Office involved the IRS. In 2014, the South Dakota bankruptcy filings decreased by 9 percent from 2013. Nationwide bankruptcy filings were down 12 percent from the previous year. According to the U.S. Bankruptcy Court, District of South Dakota, the total bankruptcy cases filed in South Dakota in 2014 were 1,194. The breakdown by chapter was Chapter 7–1,073; Chapter 11-3; Chapter 12-0; and Chapter 13-118. Our office handled 31 bankruptcy matters in 2014. The majority of the cases opened by the U.S. Attorney's Office involved Chapter 13 cases.

The states with the most per capita bankruptcy filings in 2014 were Tennessee, Alabama, Georgia, Utah, Illinois, and Indiana. The states with the fewest per capita filings were Alaska, North Dakota, Vermont, Hawaii, Texas, and South Dakota.

Freedom of Information Act (FOIA)

In 2014, the USAO opened seven cases relating to requests for information under the Freedom of Information Act (FOIA). FOIA defines when an individual or a third-party

can receive records from a government agency. There are exemptions that require protection of records and there is also the Privacy Act, which requires protection of records. At www.foia.gov, there is information explaining what FOIA is, guidance on how to make a FOIA request, and directions as to where to make a FOIA request.

Food Stamp Redemption Disclosure Case

A large newspaper in Sioux Falls, the *Argus Leader*, sought yearly redemption amounts listed for individual retailers from 2005 to 2010. The *Argus Leader* sought the information by filing a Freedom of Information Act request to the USDA. The USDA's initial position was that the release of this information is prohibited by statute. The district court agreed with the USDA, and the *Argus Leader* appealed. The Eighth Circuit reversed and remanded the case. On remand, there is an additional exemption that protects "trade secrets and commercial or financial information obtained from a person that is privileged and confidential." There is an additional exemption that restricts disclosure of protected information in personnel, medical files, and similar files where release would constitute a clearly unwarranted invasion of privacy. The applicability of those statutory exemptions to individual retailers is at issue and may preclude public disclosure of food stamp redemption information if the food stamp redemption data constitutes private financial information, and if the owners prove they will be harmed by the disclosure. Litigation is ongoing.

Defensive Foreclosures

The U.S. Attorney's Office opened 55 defensive foreclosure files in 2014. This is compared to 82 defensive foreclosure files in 2013, 84 cases in 2012, 86 cases in 2011, and 116 cases in 2010. In most foreclosures, banks or other lending institutions bring the action in state court. The U.S. Attorney's Office becomes involved in a defensive foreclosure when a government agency has a lien on the foreclosed property. The agencies most often involved in these types of cases are the Internal Revenue Service (IRS), Department of Housing and Urban Development (HUD), Farm Service Agency (FSA), and Rural Housing Service (RHS). The majority of the office's defensive foreclosure cases involve tax liens filed by the IRS.

> The Farm Service Agency received payment in full regarding an agricultural loan to a farm debtor that was secured by farm land, livestock, and farm equipment. Eventually, the debtor defaulted on his loans with FSA and another bank. The bank foreclosed on its mortgage upon the farm land, and the bank's interest was superior in priority over FSA's interest. As FSA was preparing to foreclose on its security agreement against the remaining chattels of livestock and equipment, FSA sold its redemption rights related to the farm land foreclosure to a third party. In the

process, FSA recovered and settled the claim related to the underlying debt in its entirety, for a total recoupment of $142,591.

Prisoner Litigation

Because there is a federal prison camp in South Dakota, the U.S. Attorney's Office responds to habeas petitions by inmates incarcerated there. A habeas petition allows inmates to challenge their sentence or conviction on constitutional grounds.

- An inmate of the Federal Prison Camp in Yankton filed a petition for a writ of habeas corpus and stated that the Bureau of Prisons (BOP) improperly denied him eligibility for early release because it classified his underlying conviction of conspiracy to distribute methamphetamine as failing to meet the definition of a "nonviolent offense," which made the inmate ineligible for early release upon completion of the 500 hour Residential Drug Abuse Program (RDAP). The government responded that the writ should be denied because the sentencing court applied an enhancement where the inmate's underlying offense conduct created a substantial risk of harm to human life; thus, the BOP appropriately did not classify his offense as nonviolent. The Magistrate Judge concluded that the BOP is given the statutory authority to determine when an inmate is eligible for early release and it can restrict early release following successful completion of the RDAP program to only certain prisoners who meet BOP's definition of "nonviolent offense." The District Court adopted the Report and Recommendation of the Magistrate Judge, and the application for writ of habeas corpus was denied with prejudice.

- An inmate at the Federal Prison Camp in Yankton filed a petition for writ of habeas corpus and asserted that the BOP's decision making related to the placement of inmates in Residential Reentry Centers (RRC) was not a legitimate exercise of discretion because it was discriminatory, it denied inmates an individualized placement assessment, and it did not afford inmates the greatest likelihood of successful reintegration into the community. The petitioner, therefore, requested that the court grant him a true, individualized assessment, as well as a greater amount of time in an RRC. In response to the habeas petition, the government argued that the BOP had the sole authority to make placement determinations under 18 U.S.C. § 3621(b), and that such discretionary determinations were not subject to judicial review. In the alternative, the government argued that the petitioner had no constitutional or statutory right to be incarcerated at any particular institution, and that his equal protection rights were not violated by the BOP's denial of an additional RRC placement. The district court found the petitioner was not entitled to relief and dismissed the habeas petition without prejudice regarding refiling and allowed the petitioner additional time to file a response or a motion to reopen the case. The petitioner did not respond.

Other Litigation

- The USAO successfully defended the Indian Health Service from an attempt to enjoin the Rosebud IHS from utilizing only air ambulance services who were certified by the Commission on Accreditation of Medical Transport Systems (CAMTS). Plaintiffs claimed the CAMTS certification requirement was invalid because it was not properly published in the *Federal Register*. The case was resolved at a mediation which clarified the Rosebud IHS's policy had always allowed for the use of a non-CAMTS air ambulance service if a medical physician determined it was in the best interest of the patient. A memo to this effect is now posted in the Emergency Room at the hospital until May 15, 2015.

- A compromise settlement was reached in a dispute over the amount of money TRICARE was entitled to recover from a settlement in favor of a plaintiff. The final amount of $6,816 factored in the costs to bring the case and attorney fees.

- The City of Keystone lies at the foot of Mt. Rushmore National Memorial, which attracts millions of visitors every year. A wheelchair bound grandmother, who was unable to participate in her grandchildren's activities, filed a complaint with the Civil Rights Division's Disability Rights Section because the newly renovated Keystone city park was not compliant with the Americans With Disabilities Act (ADA) requirements. The woman had specifically asked the City to comply with the ADA prior to the renovations, but was advised by city officials there was not enough funding. The USAO partnered with the Civil Rights Division's Disability Rights Section to photograph the park and identify areas that were not ADA compliant. Our office then engaged in negotiations with the City Park Board and other city officials to correct the areas identified as being noncompliant with the ADA and continued to monitor progress through on-site visits. The city park was brought into full compliance with the ADA standards. The park underwent a total transformation including providing accessible and clearly marked parking, ramps, landing areas, and sidewalks; placement of engineered wood fiber playground surface material (instead of sand, which is not wheelchair friendly); installation of new ground-level play activities for children in wheelchairs; and ADA compliant seating for picnic tables at the park shelter.

- Social Security disability claims are initially processed through a network of the Social Security Administration (SSA) offices across the nation. Subsequent appeals of an unfavorable determination are decided by an administrative law judge in SSA's Office of Disability Adjudication and Review (ODAR). If an applicant disagrees with the ODAR's decision, an appeal to the federal district court can be filed within 60 days of a final decision. The federal court action is then defended by the U.S. Attorney's Office. The ODAR prepares an administrative record for the court consisting of medical records, disability determinations, and vocational

expert's opinions. The USAO and the SSA jointly defend the action. The federal district court reviews the record and issues a final order/judgment. The federal district court's decision is rendered pursuant to 42 U.S.C. § 405(g) under sentence 6 (lost file) or a sentence 4 (reverse or remand). The decision of the federal district court may also be reviewed by the U.S. Court of Appeals if the losing party files a Notice of Appeal. The Court of Appeals can reverse a federal district court's decision if there is a legal error and/or if the judge's decision was not supported by the medical evidence in the administrative record. The U.S. Attorney's Office for South Dakota defended 58 disability appeal cases in 2014 (15 affirmed, 1 voluntarily dismissed, 16 reversed/remanded, 1 appealed to Eighth Circuit Court, and 25 cases are still pending).

- The United States and Fair Housing of the Dakotas filed complaints against the defendants alleging that five Sioux Falls area multi-family housing complexes were not designed and constructed to be accessible as was required by the Fair Housing Act. The district court ordered the defendants to perform a number of retrofits to the properties that would make all of the complexes accessible as required by federal law. The USAO monitored these retrofits and supervised inspections and reports on the progress of the properties. All retrofits for interior and exterior accessibility were deemed to be completed and in compliance with the court's consent orders in October of 2014.

- A contract dispute arose between the SD Army National Guard (SDNG) and the contractor who installed an expensive transformer switch and generator that failed following a significant winter storm that hit Camp Rapid. The parties agreed to settle their dispute for approximately $51,000, which was close to SDNG's initial demand for its losses.

- The USAO handled multiple cases involving subpoenas issued by state court officials or attorneys seeking testimony of federal employees and official documents. These cases involved the U.S. Marshals Service, the U.S. Bureau of Prisons, and the Indian Health Service. Follow-up depositions of multiple IHS employees were taken in a high profile civil case involving allegations that a non-government surgeon carved the letters "KKK" into a Native American patient's abdomen. The patient/plaintiff received follow up care at the IHS, but was suing the private hospital where the surgery occurred. Some of his IHS care givers were asked to give testimony about their observation of his surgical scars.

APPELLATE DIVISION



The Appellate Division supervises all appellate litigation involving criminal and civil cases in which the U.S. Attorney's Office represents the federal government. Handling appeals represents a distinct form of advocacy. Appellate courts do not take evidence or adjudicate facts like a trial court or a jury. Instead, appellate courts consider only discrete legal issues arising out of one party's challenge to an order or judgment of a trial court.

Appellate lawyers for the U.S. Attorney's Office carefully review the records of trial court proceedings, prepare detailed written briefs, and, in most cases, argue their appellate cases before the United States Court of Appeals for the Eighth Circuit which is based in St. Louis, Missouri. Eighth Circuit appellate decisions are generally precedential and govern the disposition of subsequent similar issues litigated in the trial courts of all seven states within the Eighth Circuit, not just South Dakota's federal district courts.

The Appellate Division's caseload involves a wide variety of legal issues and different types of substantive law. In many cases, it represents the government in appeals filed by criminal defendants who are seeking appellate review of their convictions or sentences. Roughly half of these cases involve violent crimes committed in Indian country. The remaining criminal appeals deal with other federal offenses such as large-scale drug conspiracies, immigration, firearms offenses, human trafficking, and child pornography cases.

The Appellate Division also handles civil appeals which result from civil claims brought by the government or against it. These appellate cases include defending against tort claims brought by individuals or representing federal agencies in challenges to their administrative actions. Civil appeals can also include cases in which the United States has brought an action to advance or enforce a federal right.

Significant Cases

- In *United States v. Picardi*, 739 F.3d 1118 (8th Cir. 2014), following a lengthy jury trial, the Eighth Circuit upheld a Rapid City surgeon's multiple felony convictions for tax evasion, filing a false return, and failing to report his interests in foreign accounts. Picardi engaged in a complicated scheme that involved placing most of his income into a revolving stream of foreign accounts, ultimately bringing back

the money disguised as tax-free "loans." The Eighth Circuit found the district court did not err in dismissing two original jurors and replacing them with alternates, in excluding certain offered evidence, and in rejecting a proposed theory-of-defense jury instruction.

- In *Walking Eagle v. United States*, 742 F.3d 1079 (8th Cir. 2014), a defendant sought to vacate his 20-year sentence for drug offenses, claiming that his defense counsel was ineffective for failing to file an appeal upon his instruction. The district court denied his petition, and the Eighth Circuit upheld that decision, holding the defendant failed to instruct his counsel to appeal and that defense counsel properly fulfilled her duty to consult with him about the possibility of appealing.

- In *United States v. Hummingbird*, 743 F.3d 636 (8th Cir. 2014), the Eighth Circuit affirmed the district court's statutory-maximum sentence of 24 months in prison, representing an upward variance, holding that it was substantively reasonable. The defendant pled guilty to abusive sexual contact after assaulting his victim after driving her home to the Rosebud Sioux Reservation from a Nebraska bar. The appellate court held that it was not error for the district court to emphasize the serious nature and circumstances of the offense when sentencing Hummingbird.

- In *United States v. Zaic*, 744 F.3d 636 (8th Cir. 2014), the defendant was convicted of failing to pay child support, and he appealed the restitution order on the basis of several technical failures. The custodial parent did not present a claim within 10 days of sentencing and the district court also failed to order restitution within 90 days of sentencing. The Eighth Circuit held that these sorts of technical delays preclude the district court from ordering restitution only where a defendant can show he was somehow prejudiced. In this case, Zaic had adequate notice and could not demonstrate prejudice.

- In *United States v. Morrison*, 555 Fed. Appx. 636 (8th Cir. 2014), a jury convicted Morrison of assaulting another man in Eagle Butte. On appeal, Morrison argued that the evidence was insufficient because it consisted of victim testimony. The Eighth Circuit affirmed the conviction, holding that a victim's testimony alone can be sufficient to support a conviction, and a lack of physical evidence alone is insufficient to overturn a jury verdict.

- In *United States v. Martin*, 757 F.3d 776 (8th Cir. 2014), the Eighth Circuit upheld a defendant's 36-month sentence for his second supervised release revocation following a conviction for drug distribution near a playground. On appeal, the defendant questioned whether the district court was impermissibly biased after announcing at the first revocation hearing that, if he was back before the court again, he would receive a 36-month sentence. The Eighth Circuit held that the pronouncement was simply a warning, not an expression of "deep-seated antagonism" that would have warranted recusal. The appellate court also found the sentence to be otherwise procedurally sound and substantively reasonable.

- In *United States v. Day*, 569 Fed. Appx. 476 (8th Cir. 2014), the Eighth Circuit upheld the district court's upward variance at sentencing of a convicted drug dealer after he committed numerous, serious supervised release violations.

- In *United States v. Farlee*, 757 F.3d 810 (8th Cir. 2014), the defendant was convicted by a jury of assault with a dangerous weapon and assault resulting in serious bodily injury. Farlee assaulted a man who was at Farlee's home on the Cheyenne River Sioux Reservation by kicking the man's head with his boots, which left him with severe injuries, including traumatic brain injury. On appeal, Farlee raised numerous arguments ranging from the validity of a search warrant, questioning several of the district court's evidentiary rulings at trial and the propriety of jury instructions, and claiming boots are not a "dangerous weapon" under the meaning of the statute. The Eighth Circuit affirmed the convictions, holding in all respects that the district court had not abused its discretion in its various rulings against the defendant.

- In *United States v. Salgado*, 761 F.3d 861 (8th Cir. 2014), the Eighth Circuit affirmed the district court's denial of a suppression motion regarding a roadside investigation that led to a drug conviction. The defendant's vehicle broke down on the side of a rural highway in the middle of the night, and a passing state trooper stopped to offer assistance. The defendant and his occupants acted suspiciously, trying to wave the trooper away, and then defendant was evasive in answering the officer's questions. The appellate court held that the offer of assistance and the refusal to leave the scene were not seizures; the trooper had probable cause to issue a citation when the driver admitted to having no license; the officer had reasonable suspicion to request a drug-detection dog, and the one-hour delay was not unreasonable given the location and hour. Finally, the court held that the

district court did not abuse its discretion when it conducted an in camera review of the drug dog's field records without providing defendant access.

- In *United States v. Campbell*, 764 F.3d 880 (8th Cir. 2014), the Eighth Circuit affirmed the defendant's multiple jury convictions for sex trafficking by force and sex trafficking of minors, and upheld a sentence of multiple life terms. The court held that the district court acted within its discretion in allowing evidence of defendant's multiple assaults of his primary victim while precluding cross-examination of a minor victim about prior acts of prostitution. The court held that the admission of certain hearsay testimony was harmless. The court affirmed the allowance of a victim's testimony about her background and circumstances, including her personal history of abuse. The court also upheld the issuance of a search warrant, holding that it contained sufficient particularity to satisfy the Fourth Amendment.

- In *United States v. Jensen*, 583 Fed. Appx. 558 (8th Cir. 2014), the defendant admitted violating two terms of supervised release, and the district court sentenced him to 36 months' imprisonment. The Eighth Circuit affirmed the reasonableness of that sentence, noting that the district court weighed various facts, including that the defendant appeared to be reoffending in ways similar to his underlying conviction. The appellate court reiterated that it would take an unusual case for it to reverse a district court sentence as substantively unreasonable.

- In *United States v. Aleff*, 772 F.3d 508 (8th Cir. 2014), the Eighth Circuit affirmed a False Claims Act fine of $1.3 million as not being unconstitutionally excessive. The two defendants had pled guilty to defrauding the United States by submitting false loan-deficiency payments, and they were ordered to pay over $300,000 in restitution. The United States then sued under the False Claims Act, which contains a penalty provision that, in this case, called for a $1.3 million penalty. The Eighth Circuit agreed with the district court that their guilty pleas in the criminal case definitively determined liability for the civil case, that the penalty did not violate the Double Jeopardy clause of the Constitution, and that it was also not a disproportionate, excessive fine. Finally, the court rejected the defendants' claim of diminished capacity.

- In *United States v. Two Hearts*, 585 Fed. Appx. 916 (8th Cir. 2014), the defendant appealed his conviction for aggravated sexual abuse of a child, following a jury trial, for acts committed against his own son on the Cheyenne River Indian Reservation. On appeal, he claimed the evidence was insufficient to support conviction because the evidence tying his acts to the reservation resulting in federal jurisdiction was unreliable and uncorroborated victim testimony. The Eighth Circuit disagreed and affirmed the convictions, holding that a victim's testimony need not be corroborated to support a conviction, and witness credibility assessments are virtually unreviewable on appeal.

- In *United States v. Nyuon*, 587 Fed.Appx. 346 (8th Cir. 2014), the Eighth Circuit upheld defendant's convictions for sex trafficking of a child and also affirmed his 30-year sentences. The appellate court held that the district court did not abuse its discretion in allowing a minor victim to testify about her history of abuse because such evidence was relevant to her victimization and coercion. There was also no merit to Nyuon's race-based challenge to the jury selection process, to his claims of prosecutorial misconduct, violation of his speedy trial right, or to the denial of his suppression motions.

- In *United States v. Yellow Horse*, 774 F.3d 493 (8th Cir. 2014), the Eighth Circuit held that sufficient evidence supported the defendant's conviction for conspiracy to distribute less than 50 kg of marijuana, and for sentencing purposes, that he could have foreseen the conspiracy involved 100 kg or more. The appellate court held that a district court may impose a sentence based on a higher quantity than what the jury found in its conviction, so long as the sentence does not exceed the statutory maximum and is supported by sufficient evidence. That evidence may include all transactions of the conspiracy reasonably known by the defendant or reasonably foreseeable. In this case, Yellow Horse dealt relatively small quantities, but evidence showed he witnessed much larger quantities attributable to the larger conspiracy.

VICTIM RIGHTS AND ADVOCACY

The U.S. Attorney's Office Victim/Witness Assistance Program was developed to assure that victims of federal crimes are treated with fairness and respect as they journey through the federal criminal justice system. This program carries out the mandates of the *Federal Victim and Witness Protection Act of 1982,* the *Victims' Rights and Restitution Act of 1990*, the *Victims of Child Abuse Act of 1990,* the *Crime Victims' Rights Act of 2004* and other victim-related legislation. These victim/witness assistance and protection laws apply to all victims and witnesses of federal crime who have suffered physical, financial, or emotional trauma.

A variety of notification and assistance services are provided to victims and witnesses of federal crime by our Victim/Witness Assistance Program staff, Assistant U.S. Attorneys and other U.S. Attorney's Office staff with the assistance of tribal and federal law enforcement. The U.S. Attorney's Office victim/witness staff work closely with South Dakota's FBI victim specialists who assist victims of federal crime in the period between the reporting of a crime and charges being filed by our office. Our shared goal is to provide a seamless path to assist victims of federal crime.

When a federal criminal case reaches the prosecution stage of the criminal justice process, the victim is notified of the status of the case. Victims are notified of all case events through the Department of Justice Victim Notification System (VNS). They may be notified by letter and/or by calling the VNS automated call center. Notifications that may be made include the release or detention status of an offender pending judicial proceedings; the filing of charges against a suspected offender; the scheduling, including scheduling changes and/or continuances, of each court proceeding that the victim is either required to attend or entitled to attend; the acceptance of a plea of guilty or the rendering of a verdict after trial; the opportunity to present to the court in the presentence report a victim impact statement containing information concerning any harm, including financial, social, psychological and physical harm, done to or loss suffered by the victim of the crime; the date set for sentencing if the offender is found guilty; and the sentence imposed and entry of the victim into the Bureau of Prisons' Victim and Witness Notification Program.

Our victim witness program staff also provides personal support and assistance to victims and witnesses during court appearances by assisting with travel and lodging arrangements, court orientation, trial preparation and support during testimony. Each of our offices has a toll-free number to allow victims and witnesses to easily contact our

victim/witness staff. When needed, referrals are provided to existing agencies for shelter, counseling, compensation, and other types of assistance services.

A variety of informational materials are available to assist crime victims and witnesses through the federal justice process. Topics include:

- Victims and Witnesses – Understanding Your Rights and the Federal Court System
- Dealing With Crisis
- Surviving Sexual Assault – What You Should Know
- Federal Domestic Violence Laws
- What You Should Know About Restitution Payments to Victims
- Preparing To Testify
- Victim Witness Handbook for Child Support Enforcement Cases

There are several videos available that explain the federal court process. *A Journey Through the Federal Justice System* was developed for adult victims and witnesses who must testify in federal court. *BJ Learns About Federal and Tribal Court* is especially for Native American children who must testify in court and has a corresponding activity book, *Learning All About Court*. *Inside Federal Court* is for older children who must be witnesses in federal court and also has a corresponding activity book. Our most recent court orientation video, *Tell the Truth*, was developed as a resource to help young children who must testify in federal court. This video features a trip to *Court Street* and an animated courthouse where the court process is explained in a simple, effective way, with an emphasis on the importance of telling the truth. *Tell the Truth* also has a corresponding activity book. All of these materials are available at no cost from any of our victim/witness staff.

Each victim/witness advocate has been assigned to assist victims and witnesses from specific reservations. Please call the advocates directly if you have questions or need their assistance.

Reservation	VW Advocate/Office	Phone Number
Cheyenne River Crow Creek Lower Brule Rosebud Standing Rock	Marlys Big Eagle Pierre	800-603-3750 605-224-1256, ext. 2211
Pine Ridge	Ace Crawford Rapid City	800-603-3750 605-341-1915
Flandreau Sisseton-Wahpeton Yankton	Marlys Big Eagle Sioux Falls	800-804-6790 605-224-1256, ext. 2211

- Emergency Witness Assistance Program (EWAP). This program allows U.S. Attorneys' Offices to provide financial assistance to threatened witnesses and/or their families during an ongoing investigation or case prosecution. This assistance program was designed to provide short-term help (up to 30 days) to a cooperating witness and has provided relocation funds and transportation expenses. EWAP does not provide protection but does provide very limited financial assistance to witnesses so that they may help themselves. Since this program began in 1997, the District of South Dakota has assisted over 58 witnesses and their families.

- Victim Notification System (VNS). The Department of Justice Victim Notification System (VNS) was implemented in 2002. VNS is a cooperative effort between the Federal Bureau of Investigation, the United States Postal Inspection Service, the United States Attorneys' Offices, and the Federal Bureau of Prisons. This free, computer-based system, provides two important services to victims of federal crimes — information and notification. Victims receive notification of court events by letter and have the ability to call a toll-free number or access a website for current defendant custody and court information. Each victim receives a Victim Identification Number and Personal Identification Number that allows access to the system. In 2014, the District of South Dakota generated over 14,600 notifications. Questions about this program may be directed to our victim/witness staff.

NEW EMPLOYEES

Megan Poppen: Megan is a native of Belle Fourche. She completed her undergraduate degree at Black Hills State University and her Juris Doctorate at the University of South Dakota. While at USD School of Law, Megan served as the President of the Moot Court Board. She was employed as an Administrative Law Judge in Pierre before joining the Pennington County States Attorney's Office in 2010. Megan joined the U.S. Attorney's Office in December 2014.

Alison Ramsdell: Alison grew up in Flandreau. She graduated from Valparaiso University in Valparaiso, Indiana, with degrees in International Economics, Public Relations, and Spanish. She earned her J.D. from the University of Iowa College of Law in Iowa City, Iowa, where she also worked part-time at an immigration law firm. After moving back to South Dakota, Alison practiced for a short time with Murphy, Goldammer, & Prendergast, and then served as pro se law clerk for the Honorable Karen E. Schreier at the United States District Court for the District of South Dakota. She joined the U.S. Attorney's Office in September 2014.

Ben Patterson: Ben has been with the U.S. Attorney's Office since August 2014. He received a B.A. in History from Brigham Young University and attended Creighton University School of Law, graduating in 2011. Following his graduation, he clerked for Magistrate Judge Veronica Duffy and Chief District Court Judge Jeffrey Viken. Ben and his wife, Carrie, have two girls and another girl on the way. In their spare time, they enjoy hiking, camping, fishing and exploring the Black Hills.

Meghan (Woster) Roche: Meghan is a member of the civil division and works out of the Sioux Falls office. Meghan's focus within the civil division is on affirmative cases with a special emphasis on civil frauds and healthcare fraud, in particular. Prior to joining our office, Meghan was in private practice at the Boyce Law Firm in Sioux Falls, where she was a civil litigator who practiced in the areas of legal malpractice, employment law, workers' compensation, family law, and general litigation. Meghan also clerked for the Honorable Karen E. Schreier, who was then the Chief Judge for the United States District Court in the District of South Dakota. Meghan attended the University of South Dakota School of Law where she was a Sterling Honors Graduate, the Editor-In-Chief of the South Dakota Law Review, and a member of the Trial Team. Meghan is a native of Sioux Falls and attended O'Gorman High School and USD for her undergraduate degree in Contemporary Media and Journalism.

Carrie Sanderson: Carrie was raised in Pierre. After graduating from T.F. Riggs High School, she attended the University of South Dakota and received her Bachelor of Arts degree. She went on to obtain her Juris Doctor and her Master of Public Administration degrees at the University of South Dakota in 2010. In the spring of 2010, Sanderson returned to Pierre as the Executive Director for the South Dakota Association of County Officials. In her capacity as Executive Director, she represented SD auditors, treasurers and registers of deeds in front of state and national legislators and industry leaders. Sanderson joined the Moreno, Lee & Bachand Law Firm in 2011, where she pursued a general area of practice with an emphasis on family law, probate, legislative issues, and lobbying. Sanderson began her career with the U.S. Attorney's Office in October of 2014. Sanderson and her husband, Jared, live in Pierre.

CONTACT INFORMATION

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